



Appeal Decision

Site visit made on 26 July 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

Appeal Ref: APP/P5870/W/23/3315087

London Probation Centre, 103 Westmead Road, Sutton SM1 4JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr A Islam of ASI Asset Management Limited against the decision of the Council of the London Borough of Sutton.
- The application Ref DM2022/01926, dated 18 October 2022, was refused by notice dated 19 December 2022.
- The development proposed is conversion of office building into 6 self contained residential flats.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of office building into 6 self contained residential flats at London Probation Centre, 103 Westmead Road, Sutton SM1 4JD in accordance with the terms of the application, Ref DM2022/01926, made on 18 October 2022, and subject to the following condition:
 - 1) The development hereby approved shall be carried out in accordance with the following approved plans: AD-OS; AD-30 Rev. C; AD-31; AD-32 Rev. A; AD-35 Rev. D; and AD-36- Rev. A.

Preliminary Matters

2. The appellant has submitted amended plans with their appeal that relocate the secure cycle storage areas from outside the building onto its ground floor, along with a ground floor unit changing from a 2-bed flat to a 1-bed flat. The Council has had the opportunity to comment on these changes, they have not raised objections and have advised that this change has been found acceptable on a subsequent application. In view of this, and the change being relatively minor, and that it would not prejudice interested parties, I have accepted it, and the appeal has been determined on this basis.
3. Class MA of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as amended, permits a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service (including office use)) of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 as amended (UCO) to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

4. Further to this, Paragraph MA.2 of Part 3, Schedule 2 of the GPDO sets out that development under Class MA is permitted subject to a number of conditions which includes the requirement, at MA.2(2), that the developer must apply to the local planning authority for a determination as to whether prior approval is required as to a number of matters. The Council's decision has found conflict on only one of these matters; (a) transport impacts of the development, particularly to ensure safe site access.

Main Issues

5. As I have accepted the amended plans regarding the secure cycle storage changes, there would be no operational development proposed. In all other respects the Council considers that the development complies with all requirements of MA.1 of Part 3, Schedule 2 of the GPDO, and does not contest compliance with the requirements of Paragraph MA.2(2) other than (a). Based on the evidence before me, I see no reason to disagree. Accordingly, the Council's first reason for refusal falls away and the proposal would constitute permitted development under Class MA.1.
6. In view of the above, the main issue is whether prior approval should be granted with regard to the transport impacts of the development, particularly ensuring safe site access.

Reasons

7. The appeal site occupies a corner position, with a frontage onto both Westmead Road and Harold Road, it has an existing pedestrian access onto the public footpath along Harold Road. There are no off-street parking spaces available for the proposed development and there are double yellow lines in front of most of the appeal property. There are unrestricted on-street parking spaces available in the immediate area, which occupiers of the proposed development could use, and the appeal site is not located within a Controlled Parking Zone (CPZ). There are also bus stops located near to the appeal site, and Sutton Station is within walking distance of it, the appeal site has a PTAL rating of 2.
8. Although only a snapshot in time, I saw on my site inspection, which was during the middle of the afternoon, that there were limited on-street parking spaces available along Westmead Road. However, there were a lot more parking spaces available in the nearby area, including on Harold Road, The Crescent, Sutton Grove, Byron Avenue, and Carshalton Grove. Having said that, I do acknowledge that the parking situation could be different during the evenings and night-times when there is likely to be greater demand for spaces.
9. Notwithstanding the additional parking from other recent developments nearby on Westmead Road, the appellant's Parking Stress Survey identified 186 unrestricted parking spaces within 200 metres of the appeal site, and that during the night-time hours, 13 of these spaces were available. Although it is not certain that all occupiers of the proposed 6 no. flats would have a car, in the event that they did, there would be on-street parking spaces available in the immediate area to accommodate them all. Furthermore, the appeal proposal is making provision for secure cycle storage (12 no. cycles) to encourage sustainable travel, and the appeal site is located near to bus stops and within walking distance to Sutton Station and local facilities, allowing opportunities for sustainable travel.

10. I recognise that the proposal would add to the parking stress in the area, stated to be increasing from 93% to 96%. However, based on the evidence before me, there would be parking spaces available in the nearby area to accommodate the likely parking requirements of the proposed development, including during the night-time. Based on the information before me, and my own observations, this increase in parking stress this would not be unacceptable.
11. The Council have referred to a parking stress level above 90% being considered generally unacceptable. Although, I have not been provided with any evidence in this case that such parking within the designated street parking areas on the nearby roads would be detrimental to highway safety, the safe operation of buses and movements along the highway, or pedestrian safety. Consequently, and noting the appeal site's location near the CPZ may add to parking stress nearby, the Council have not justified why the proposed increase in parking stress would cause harm in this particular case. In addition, the appeal site would also have safe pedestrian site access from the existing public footpath.
12. The movements into and out of the designated parking areas are mainly to the front of existing properties with a pedestrian footpath between the spaces and the properties. As such I did not find the additional use of the designated parking spaces to be harmful to the living conditions of existing occupiers near to them. Furthermore, should drivers park in restricted parking areas or on double yellow lines, the Council is able to take relevant enforcement action, if necessary.
13. To conclude, there would be adequate car parking available within designated parking areas on nearby roads to accommodate the proposed development, without being harmful to highway safety or the living conditions of nearby occupiers. Consequently, the proposal would be acceptable in terms of its transport impacts and safe site access would be provided. The proposal would satisfy criteria (a) of Paragraph MA.2 of Class MA, Part 3, Schedule 2 of the GDPO.
14. Although not determinative, the proposal would also comply with the relevant parts of Policy 36 and Policy 37 of The London Borough of Sutton Local Plan, Sutton Local Plan 2016 -2031, dated February 2018 (SLP), that amongst other things, seeks that development proposals are located to minimise any adverse impact on the highway network, on-street parking, traffic flow including bus movements, residential amenity, and highway safety, and to maximise the use of sustainable modes of transport and provide secure cycle parking. In addition, I did not find the proposal to be contrary to paragraph 111 of the National Planning Policy Framework (the Framework), which states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

15. I note the comments raised regarding whether the windows on the rear elevation of the appeal property are to be obscure glazed. These windows are annotated to be obscure glazed on the approved plans, and would be secured as such by condition 1 above.

16. I acknowledge that the appellant has submitted a fall-back position in terms of the parking that could arise from the existing use of the building. However, as I found the transport and highway related effects of the proposal to be acceptable in my decision above, it has not been necessary for me to assess this.

Conditions

17. Planning permission is granted for development under Schedule 2, Part 3, Class MA of the GDPO subject to conditions set out in paragraph MA.2 of that Class. At Paragraph MA.2(5) it specifies that the development must be completed within a period of 3 years starting with the date prior approval is granted. In addition, paragraph MA.2(6) specifies that any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of the UCO and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.
18. The Council have suggested a condition to control the hours of construction works to protect the living conditions of surrounding occupiers. However, such a condition would not be necessary in this case given the relatively limited scale of the proposal, and that it would be a change of use of the building and most of the works would be internal. A condition has been imposed regarding the approved plans which is necessary for clarity.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

A Hunter

INSPECTOR