



Appeal Decision

Site visit made on 12 June 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/E5900/W/24/3337585

Isle of Dogs Police Station, 160 Manchester Road, London, E14 3BN

- 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 Milegate Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/23/01402/NC.
 - The development proposed is described as the "conversion of the first, second floors form commercial (offices) space to provide 12 self-contained residential dwellings."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Planning Practice Guidance states that permitted development rights are a national grant of planning permission, which allow certain building works and changes of use to be carried out without having to make a planning application. Permitted development rights are subject to conditions and limitations to control impacts and to protect local amenity. This is effectively a 2-stage process, it is necessary in the first instance to determine whether or not the proposal is permitted development.

Main Issues

3. The main issues are:
 - whether the proposal would be permitted development under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and if so;
 - transport impacts of the proposal, with particular regard to cycle storage provision, accessible parking spaces, and the effects of construction works.

Reasons

4. The appeal property is a three-storey building mainly clad in brick, that sits alongside both Manchester Road and the pedestrianised Glenworth Avenue.
5. Schedule 2, Part 3, Class MA of the GPDO 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) to a use falling within Class C3 (dwellinghouses). In order to satisfy Class MA, paragraph MA.1 (1) (b) requires the building to have

been in Class E use for a continuous 2 year period prior to the application, or, if prior to 1st September 2020, to fall into one or more of the following uses; Class A1 (shops); Class A2 (financial and professional services); Class A3 (food and drink); Class B1 (business); Class D1(a) (non-residential institutions – medical or health services); Class D1(b) (non-residential institutions – crèche, day nursery or day centre); or Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink.

6. There is no apparent dispute between the parties that the building in question was used as a police station until 2013, when its public facing counter was closed¹, and that use would be outside of the defined uses within The Town and Country Planning (Use Classes) Order 1987 (as amended). As such a police station use is a sui generis use, and not part of a use within Class E or any of the uses specified in the paragraph above. The parties dispute relates to whether the building's use changed to an office (Class E and Use Class B1 before 1st September 2020) following the closure of the front counter. I am not aware of planning permission being granted for any change of use of the building.
7. The front counter is only part of the collective operations that can take place at a police station, others can include holding cells, custody suite, evidence storage, and interviewing rooms. Despite the appellant's statements to the contrary and the extracts of information and photographs provided, there is no substantive evidence of the use of the building as solely offices from the time the front counter was closed. Nor is there any substantive evidence from the Metropolitan Police of how it used the building during this time, including how much of it was offices. The appellant's limited information when considered collectively, does not demonstrate an office use within the whole building following the closure of the public counter.
8. The appellant indicates that the building has mainly been vacant since they purchased it, which was consistent with my observations made on my site inspection, which does not indicate it has a current operational office use. Moreover, as there is less than 10 years between the closure of the public counter (24/6/2013) and the sale of the building by the Metropolitan Police to the appellant (said to have occurred in either 2021 or February 2022), there is doubt as to whether all of the building was used continuously as offices for a period of 10 years to justify such a change being immune from enforcement action, as suggested by the appellant. A lawful development certificate would ultimately be required to demonstrate this.
9. I have been referred to extracts of an appeal decision² by the appellant, which is said to relate to a prior approval under Class MA for a former police station elsewhere in London, that was said to be dismissed. I have not been provided with a full copy of that decision, the information submitted about it is very limited, so I am not aware of the precise details of that case, including the evidence of use provided. Nevertheless, it appears that the Inspector in that case found that it could be possible for an office use to be undertaken in part of a police station, separate to a public counter use, which could give rise to a mixed use of part office/ part sui generis. Although it is noted that this would not give the whole building an office use to satisfy the requirements of Class

¹ The appellant's Freedom of Information request to the Metropolitan Police stated that the front counter closed to the public on 24/6/2013.

² Ref.no: APP/Y5420/W/17/3166428 at no. 287 High Road, London, N22 8H.

MA. On this appeal, there is insufficient evidence to show the whole building has been used as offices continuously for a period of 10 years, and whether the building in this case has a mixed office/sui generis use or solely a sui generis use, it would not enable me to conclude the building has a lawful office use for the purpose of this Class MA proposal. As such, my findings above would not be inconsistent with the Inspector's comments in that earlier appeal decision.

10. It is noted that Class MA refers to a requirement for a 2-year period of continuous use of the building from a use within Class E, or one of the uses specified above before 1st September 2020. However, for the reasons set out above, based on the information provided, I am not certain that any of these specified uses lawfully occurred within the whole building in question, to enable the 2-year continuous use requirement to be met in this case.
11. Consequently, I conclude that the proposal is not permitted development and does not comply with paragraph MA.1 (1) (b) Class MA of the GPDO.
12. As considerations in relation to highway and transportation matters in relation to prior approval are a follow-on condition stage under paragraph MA.2, they can therefore only apply if the proposal is otherwise permitted development. As the proposal would fail to constitute permitted development under Class MA, it would not be necessary or appropriate to proceed to consider the prior approval matters.

Conclusion

13. For the reasons given above, the appeal is dismissed.

A Hunter

INSPECTOR