



Appeal Decision

Site visit made on 16 July 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2024

Appeal Ref: APP/Z5630/W/23/3331575

300-302 Ewell Road, Surbiton, London KT6 7AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Derek Copeman (Ewell Road Development Ltd) against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/01139/PAMA.
 - The development proposed is change of use of first and second floors (Use Class E) to 2 no. two-bed duplex flats (Use Class C3).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of first and second floors (Use Class E) to 2 no. two-bed duplex flats (Use Class C3) at 300-302 Ewell Road, Surbiton, London KT6 7AQ in accordance with the application ref; 23/01139/PAMA and the details submitted with it including plans: EX 100; PA 201 Rev A; PA 202 Rev A; PA 204, and subject to the following condition:
 - 1) No part of the development shall be occupied until details of the arrangements for the storage and collection of waste and recycling have been submitted to and approved in writing by the local planning authority. Thereafter, the approved waste and recycling facilities shall be provided, permanently retained, and maintained for their designated purpose.

Preliminary Matters

2. For the purposes of the banner heading above, I have taken the site address and description of development from the Council's decision notice as those give a more accurate description of the site and proposal.

Main Issue

3. The main issues are i) whether the proposal complies with the conditions applicable under Article 3(1) and Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO); and if so ii) whether prior approval should be granted having regards to the matters listed under condition G.1(d) of Class G.

Reasons

4. The appeal relates to a three-storey building with vacant commercial units on the ground floor and ancillary space on the floors above. At the rear of No 302 is a large flat roof, single-storey projection, and attached to that is another flat roof, single-storey building known as 3 Sage Yard. It is proposed to create two flats on the first and second floors of the main building.
5. Part 3, Class G of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) permits development consisting of a change of use of a building from a use within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a mixed use for any purpose within that Class and as up to 2 flats, subject to satisfying a number of conditions in Paragraph G.1.
6. The Council refused the application on the basis that part of the ground floor, specifically 3 Sage Yard, is used as a flat, thereby failing to comply with the conditions at G.1(a) and G.1(b) of Class G.
7. I appreciate that the submitted plans show 3 Sage Yard as "living quarters" with a toilet and kitchen. However, this does not, in and of itself, mean that it is in use as a flat.
8. The appellant states that 3 Sage Yard is a separate office building with its own separate title, although it is acknowledged that the building may have been used as temporary living accommodation by the previous owner while he carried out some works at the appeal site. It is also emphasised that the building has its own access from Sage Yard and that there is no connection through to Nos 300-302.
9. Although I was unable to gain access inside 3 Sage Yard during my site visit, I was able to view much of it through the rear windows. I did not see any direct connectivity to the adjoining buildings and the inside was empty apart from a few building materials. It was also in a very poor state of repair, with sections of the ceiling either missing, or hanging down, and there was no window/door present within the opening on the north elevation. Therefore, not only was there no sign of current residential use, it was not in any condition to be used as such. Moreover, it appears to me that 3 Sage Yard is independent of Nos 300-302 and a separate planning unit.
10. For these reasons, I am satisfied that no part of the ground floor of Nos 300-302 is used as a flat. As such, the proposal complies with the conditions at G.1(a) and G.1(b) of Article 3, Schedule 2, Part 3, Class G of the GPDO, and therefore, would be permitted development.
11. In these circumstances, the prior approval matters listed under condition G.1(d) fall to be considered. These concern: (i) contamination risks; (ii) flooding risks; (iii) impacts of noise on intended occupiers; (iv) provision of natural light to habitable rooms; and (v) arrangements for domestic waste.
12. However, there was no suggestion from the Council that the proposal would have any negative effects in relation to these matters. I agree that such effects would not occur and therefore accept that the proposal complies with condition G.1(d) of Class G.

Other Matters

13. I have noted comments that were made by an interested party in relation to parking and traffic, but these are not matters which can be considered under Schedule 2, Part 3, Class G of the GPDO.

Conditions

14. Paragraph W(13) of Schedule 2, Part 3 of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The Council has requested several conditions.
15. A condition requiring details of the refuse and recycling facilities would be necessary to ensure suitable provision and in the interests of visual amenity.
16. However, transport and parking matters are not for consideration under Class G, so I have not imposed conditions requiring further details of car and cycle parking. In addition, the flat roof parts of the building are not part of the proposed flats so a condition preventing their use as a roof garden or balcony is not necessary.

Conclusion

17. For the reasons given above, the appeal should be allowed and prior approval should be granted.

A Caines

INSPECTOR