



Appeal Decision

Site visit made on 10 December 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/H5960/W/24/3351490

Rear of 50 Lower Richmond Road, Wandsworth, London SW15 1JT

- 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 Dr Mohamed Amir against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2024/2094.
 - The development proposed is determination as to whether prior approval is required for change of use from office/surgery (Class E) to 1 x 2-bedroom flat (Class C3).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the decision notice, as this more accurately and succinctly describes the proposal.

Background

3. Article 3(1) and Schedule 2, Part 3, Class G of the General Permitted Development Order (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. Development is permitted under Class G subject to certain conditions set out at paragraph G.1.
4. One of the relevant conditions, set out at paragraph G.1(a) is that some or all of the parts of the building within Class E of Schedule 2 of the Use Classes Order is situated on a floor below the lowest part of the building used as a flat.
5. A further relevant condition set out at paragraph G.1(b) is where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat.
6. Prior approval cannot be granted for a development that does not meet these defined conditions. In such cases, an application for planning permission, or for prior approval under a different Class of the GPDO would need to be made to the Council.
7. Where a proposal meets all requirements under Class G.1(a) – (c), condition G.1(d) requires that, before beginning development, the developer must apply

to the local planning authority for a determination as to whether the prior approval of the authority will be required in respect of several matters. It would only be necessary to consider such prior approval if the proposal meets the other conditions and limitations of the GPDO.

8. The Council considered under G1(d)(iv), that the proposal would not provide adequate living conditions for future occupiers with regard to natural light in all habitable rooms.

Main Issues

9. Accordingly, the main issues are:

- whether the proposal complies with the conditions in paragraph G.1(a) and G.1(b) with regards to the basement and display window; and
- if so, whether any prior approval should be granted in relation to the effect of the living conditions of future occupiers with regard to natural light.

Reasons

10. The appeal property currently comprises a dental surgery on the ground floor with residential flats above. The proposal would see the change of use from the dental surgery to a residential flat on the ground floor.
11. Although there would be a basement at the property, condition G.1(a) stipulates that some or all of the parts of the building being used as Class E should be situated on a floor below the lowest part of the building to be used as a flat.
12. The basement would not be below the proposed flat. The appellant has clarified that the front basement of the building has no connection to the part of the building which would be used as a flat, and that the section of the older part of the building which would be integrated into the proposed flat would not include a basement.
13. Moreover, there is a display window at the front of the appeal property. Condition G.1(b) highlights that where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat.
14. The design and size of the windows of the proposed flat, and their distance from the front display window, has no bearing on the requirements of condition G.1(b).
15. Thus, as the proposed flat would not be located on a floor above part of the building in use as Class E, and on account of there being a display window at the appeal property, the proposal would not comply with the conditions in Paragraph G.1(a) and G.1(b).
16. As the proposal does not comply with the conditions in Paragraph G.1(a) and G.1(b) it is not necessary to consider whether prior approval should be granted, or the effect of the proposal on the living conditions of future occupiers with regard to natural light.

Other Matters

17. My attention has been drawn to an Article 4 Direction in relation to Class MA of the GPDO, and the fact that the appeal site falls outside of an area to which the Article 4 Direction applies. However, the appeal was made against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3 Class G, rather than Class MA, and as such the Article 4 Direction is not directly relevant to this case.
18. The brickwork of the appeal property has no bearing on whether the proposal would meet the requirements of Article 3(1) and Schedule 2, Part 3, Class G.
19. The appellant has drawn my attention to a nearby building which has a newly built entrance behind its commercial area providing access to a residential apartment. However, I have no details before me regarding this development including what was applied for, or whether the development was granted full planning permission or prior approval. Accordingly, it does not provide a strong argument to justify the appeal proposal, which I have considered on the evidence before me.
20. The proposal would be located within a residential street and as such would not be out of character with the area, and it would contribute to the affordable rental market. I have also noted the support from a neighbouring resident. However, I have had to determine the appeal before me, which was against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class G of the GPDO, and have concluded that the proposal, as submitted, would not comply with conditions in paragraph G.1(a) and G.1(b).

Conclusion

21. For the reasons given above, I conclude that the proposed development would not comply with conditions G.1(a) and G.1(b) and I therefore recommend that prior approval should not be granted having regard to the requirements of Schedule 2, Part 3, Class G of the GPDO.
22. For the reasons given above, the appeal should be dismissed.

L C Hughes

INSPECTOR