



Appeal Decision

Site visit made on 22 October 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2025

Appeal Ref: APP/N5660/W/25/3371954

32 Brixton Road, Lambeth, London SW9 6BU

- 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 Mr Azriel Asher against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 25/01997/P3G.
 - The development proposed is the change of use from commercial space (Class E) to residential two flats (Class C3).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Azriel Asher against the Council of the London Borough of Lambeth and is the subject of a separate decision.

Background and Main Issues

3. Article 3(1) and Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (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. 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(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.
5. 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.
6. 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.

7. The Council considered under G.1(d)(i) that insufficient information has been provided to demonstrate that the appeal site does not contain contaminated land and G.1(d)(iii) to assess the impacts of noise from the commercial premises on the intended occupiers of the development.
8. Therefore, the main issues are whether the proposed development would:
 - Whether the proposed development would accord with the requirements of Schedule 2, Part 3, Class G of the GPDO with regard to Condition G.1(b); and
 - If the above requirement is met, whether the proposed development would comply with Condition G.1(d)(i) in respect of contamination risks and Condition G.1(d)(iii) in respect of noise impacts.

Reasons

9. The appeal site relates to a mid-terraced, three-storey building, located on Brixton Road.
10. The proposal is for the change of use of the two upper floors to provide two self-contained flats. The proposal also involves reconfiguring and extending the ground floor corridor to provide cycle storage.

Condition G.1(b)

11. Condition G.1(b) of the GPDO states that where the proposed development consists of a change of use of any building with a display window at ground floor level, as is the case for both appeal sites, the ground floor must not be used in whole or in part as a flat.
12. The submitted plans show that an existing staircase would be extended to provide a communal access to the upper floor flats, together with cycle and bin storage. The Council contends that the proposal would fail to meet this condition in that part of the ground floor would be in a residential use.
13. The GPDO provides a definition of a flat which is *“a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally”*.
14. Therefore, whilst I accept that there would be a small reduction in commercial floorspace within the ground floor commercial unit, the corridor and staircase would be solely used to provide a means of access to the proposed upper floor flats and for cycle storage. Therefore, no part of the ground floor would be used in whole or in part as a flat. Thus, I find that the proposed development would comply with the requirement of Condition G.1(b) of Article 3, Schedule 2, Part 3, Class G of the GPDO.

Noise

15. The appeal relates to the upper floors of an existing commercial premises, which although currently a building supplies shop, could be suitable for a range of commercial uses. However, the appeal is not supported by a Noise Assessment.
16. Whilst the GPDO does not mandate the submission of a Noise Assessment in all cases, it does require the decision maker to consider the impacts of noise from

commercial premises on the intended occupiers of the development. Although the appellant states that there is no realistic risk of harmful noise to the future occupiers of the flats as a result of the use of the ground floor as a building supplies shop, I have little substantive evidence to support this claim.

17. In the absence of a noise assessment or other compelling evidence, I cannot be certain that the proposed development would not be adversely affected by noise from the commercial premises below. I have had regard to whether this could be overcome through the imposition of suitably worded planning conditions. However, without any details of the existing noise levels I cannot be certain that any harm could be adequately mitigated.
18. I have had regard to the examples of similar schemes¹ provided by the appellant which impose conditions to deal with matters relating to noise. However, I have not been provided with full details of these schemes. In any event I must assess the likely impacts on the site-specific circumstances of the appeal site.
19. Consequently, I therefore find that the proposed development would fail to meet the criteria set out at Paragraph G.1(d)(iii) of the GPDO with respect to impacts of noise from commercial premises on the intended occupiers of the development.

Contamination

20. The proposed development would involve works to the upper floors of the building and there are no groundworks or excavation works needed. Given the existing use of the upper floors of the building, and the nature of the works required to carry out the proposed development, I am satisfied that the risk of contamination being present is very low.
21. Therefore, whilst I acknowledge that there is no contamination report submitted with the appeal, I am satisfied that a suitably worded condition could be used to ensure that the necessary steps are taken in the event that any potential contamination is found during the conversion.
22. Consequently, I conclude that the proposed development would meet the criteria set out at Paragraph G.1(d)(i) of the GPDO with respect of the contamination risks.

Conclusion

23. For the above reasons, I conclude that the proposal would not be permitted development under Schedule 2, Part 3, Class G of the GPDO having regard to impacts of noise from commercial premises on the intended occupiers of the development. Therefore, the appeal should be dismissed.

K Lancaster

INSPECTOR

¹ 219-233 Coldharbour Lane (Application Ref: 22/03092/P3G) and 25 Mitcham Lane (Application Ref: 25/00634/P3G)