



Appeal Decision

Site visit made on 12 December 2025

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 January 2026

Appeal Ref: APP/U5930/W/25/3373898

Graylaw House, 394 High Road Leyton, Leyton, London E10 6QE

- 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 MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ("the GPDO").
 - The appeal is made by Kamry Properties against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref is 251574.
 - The development proposed is prior approval for the change of use of first floor commercial space (Use Class E) into four self-contained residential units (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 MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of first floor commercial space (Use Class E) into four self-contained residential units (Use Class C3) at Graylaw House, 394 High Road Leyton, Leyton, London E10 6QE in accordance with application 251574, and the details submitted with it.

Background and Main Issue

2. The appeal is made pursuant to Schedule 2, Part 3, Class MA of the GPDO which grants planning permission for the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses), of Schedule 1 to that Order, subject to specific restrictions, limitations and conditions, which are set out in Paragraphs MA.1. and MA.2.
3. Article 3(5)(b) of the GPDO provides that the permission granted by Schedule 2 of the GPDO does not apply if, in the case of permission granted in connection with an existing use, that use is unlawful. If the previous use was not lawful or it involved a use not specified in MA.1.(2), the permitted development right granted under Class MA would not apply.
4. The restriction in Paragraph MA.1.(1)(b) states that development is not permitted by Class MA unless the use of the building fell within one or more of the classes specified in sub-paragraph MA.1.(2) for a continuous period of at least 2 years prior to the date of the application for prior approval. It is a condition of Paragraph MA.2. that development under Class MA is subject to an application to the local planning authority for a determination as to whether the prior approval of the authority will be required to those matters set out in MA.2.(2).

5. The procedure for applications for prior approval under Part 3 is set out in paragraph W. Paragraph W.(3) states that the local planning authority may refuse an application where, in the opinion of the authority (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in Part 3 as being applicable to the development in question.
6. In this instance, the refusal reason cites that the appellant has failed to provide sufficient evidence to demonstrate that the site has been in Use Class E for a continuous period of at least 2 years following the cessation of the unauthorised use as a hotel (Use Class C1). The local planning authority refused the appellant's application for prior approval as it was unable to establish whether the proposed development complies with the restriction in Paragraph MA.1.(1)(b) set out above.
7. The main issue in this appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class MA of the GPDO, with particular regard to whether the use of the appeal building fell within one or more of the classes specified in sub-paragraph MA.1.(2) for a continuous period of at least 2 years prior to the date of the application for prior approval.

Reasons

8. The appeal relates to the first floor of a 2-storey building that is thought to date back to the 1970s and built as offices. It has a flat roof and large windows in the front and rear walls. On the first floor are several modestly sized rooms arranged off a long central corridor with associated facilities such as a kitchen and toilets. It seemed to me that the building's internal layout and appearance are indicative of an office building from that period.
9. The evidence indicates that the appellant purchased the building in 2012, and between January 2015 and August 2016, the building, or at least parts of it, were let out on a nightly basis as a hotel without planning permission. An Enforcement Notice (EN) was served against the unauthorised change of use from B1 (Office) to C1 (Hotel) and it required the hotel use to cease and the building to be restored to that of an office. An appeal against the EN was dismissed and there is nothing of substance before me to indicate that the EN was not complied with. The appellant's evidence refers to Council Officers visiting the appeal building in late 2016 to verify compliance with the EN. Therefore, the balance of evidence indicates it was restored to an office.
10. Since then, there is no dispute between the parties that the building has been vacant for the past 8 years or more, save for the use of a ground floor office by the appellant company. This is consistent with the Business Rates Bills issued by the Council and covering nearly all years dating back to 2014, which describe the building as 'Office and Premises'. A local property agent has marketed the building as an office for several years without success, including offering flexible tenancy options such as lease for the entire building or parts of it. There have been unsuccessful planning applications to re-use or replace the building, including as a hotel.
11. The Council contends that the office use of the building has been abandoned following the unauthorised hotel use and that it was not formally reinstated through a fresh planning permission for office use. It contends that the poor condition of the

appeal building, the period of vacancy and the appellant's apparent lack of intention to re-establish the office use are further indicators that the office use of the building has been abandoned. The Council appears to consider the building to have no authorised use.

12. Abandonment is a legal concept used by the Courts to describe the circumstances in which the rights to resume a use which has been lawfully carried on in the past may be lost because of the cessation of that use. Whilst the parties do not refer to any specific court judgments, the factors drawn to my attention and particularly those set out in the Council's Delegated Report are broadly consistent with the 4 tests of abandonment in caselaw, which established four criteria for assessing whether a use had been abandoned. Those are the physical condition of the building, the period of its non-use, whether there has been any other intervening use and the owner's intentions.
13. At the time of my visit the building was weather tight and in generally sound condition with no apparent defects that would clearly prevent occupation as an office. Although somewhat dated, its interior appeared to have all necessary fixtures and fittings for office use and was in a clean and tidy state. There was obvious evidence of occupation of a ground floor office, consistent with the appellant's evidence. In this instance the condition of the building does not indicate that the office use has been abandoned. No alternative evidence has been advanced by the Council to demonstrate otherwise.
14. The intervening use of the building as a hotel covered only a relatively short period of time in accordance with the requirements of the EN and was readily reversible. The appellant advises that it was let on a nightly basis to discourage occupation by squatters whilst an office tenant was found. Since the unauthorised hotel use ceased, the appellant has occupied a ground floor office, but all others in the building have remained vacant.
15. However, following the cessation of the hotel use, I find nothing of substance to support the Council's position that the appellant had to apply for planning permission to use the building as an office. It appears that no such application was pursued by the Council. The EN did not appear to require a fresh application, only that it was restored to office use, and no action appears to have been taken against the appellant's use of the ground floor office, which the evidence indicates has persisted for several years.
16. In this instance, for the reasons given above, it is my judgement that the short-term unauthorised hotel use is not a strong indicator that the long-standing office use of the building, which is likely to date back several decades, has been abandoned. Furthermore, a lack of subsequent occupation of the entire building as an office, during which efforts were made to find a tenant for the parts not occupied by the appellant, does not, on its own, indicate the abandonment of the office use. In accordance with the caselaw it is necessary to consider the appellant's intentions.
17. The evidence before me showing payment of office business rates over a long period of time, together with the duration of the building's marketing as an office by a local property agent, are strong and compelling indicators that the appellant intended to continue its use as an office. The appellant has submitted planning applications for alternative uses for the building. However, it seems to me that it is not unusual for property owners to explore options for reusing their buildings,

particularly in response to changing market conditions. In this instance, the submissions of those planning applications do not amount to strong evidence of an intention to abandon the office use of the appeal building.

18. In having regard to the available evidence on the condition of the building, the intervening hotel use, the period of non-use as an office pending a search for tenants, together with the owner's intentions, I find that on the balance of probability, the building's office use has not been extinguished or abandoned. Therefore, in accordance with Paragraph MA.1.(1)(b) the use of the appeal building fell within a use class specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval.
19. Consequently, the proposal is permitted development under Class MA, subject to the prior approval required to those matters set out in MA.2.(2). The impacts or risks in relation to the prior approval matters were assessed by the Council and found to be acceptable. On the evidence before me I find no reasons to disagree with the Council's conclusions on those matters.

Conditions

20. Class MA and paragraph W.2 of Schedule 2, Part 3 of the GPDO set out standard conditions which apply to all approvals. I have not imposed the time limit condition suggested by the Council as it would duplicate Paragraph MA.2.(5) which stipulates that the development must be completed within a period of 3 years starting with the prior approval date. It is unnecessary to impose a condition listing approved drawings because prior approvals are granted subject to the submitted details, which includes drawings. It is unnecessary to restrict the C3 dwellinghouse use as suggested by the Council as it would duplicate the condition in Paragraph MA.2.(6).
21. The appeal site is well located in relation to public transport and within a designated Controlled Parking Zone. However, the reasons for its designation are not before me. Occupation of the development as car free housing may support the use of sustainable transport modes and limit the use of on-street parking. However, as there is nothing of substance before me to indicate that the area suffers from parking stress or that the proposed development would result in harmful impacts on highway safety or the operation of the transport network, I am not satisfied that requiring the development to be occupied as car free housing would be necessary in this instance.
22. The Council's evidence does not demonstrate that the transport infrastructure has insufficient capacity to meet the demand placed upon it by the proposed development. Therefore, the financial contribution sought by the Council to fund non-specific improvements to sustainable transport modes would not be necessary to make the development acceptable.
23. The proposal would involve only limited physical works to the appeal building. Therefore, on the evidence before me, it would not be necessary or reasonable to impose conditions for a Construction Logistics Plan and a survey of the physical condition of High Road Leyton's carriageway and footway.
24. The Council's evidence indicates that occupation of the appeal development has the potential to adversely affect the nature conservation interests of the Epping Forest Special Area of Conservation (EFSAC), which is a statutorily protected site

of nature conservation importance under EU derived legislation in the Conservation of Habitats and Species Regulations 2017 as amended (“the Regulations”).

25. In the absence of evidence to the contrary, I have therefore proceeded on the precautionary basis that the development is likely to have a significant effect on the EFSAC, alone or in combination with other developments. Therefore, under the Regulations and GPDO Article 3(1), the planning permission granted by the GPDO would be subject to a pre-commencement condition that applies to all relevant development affecting a statutorily protected site of nature conservation importance.
26. In that context the appeal development cannot lawfully begin until the developer has applied to the Council and received written notification that it would have no adverse effect on the integrity of the EFSAC. However, as that process does not need to be completed before the grant of prior approval it has no bearing on my decision, and I can be satisfied that the appeal development would not adversely affect the integrity of the EFSAC.

Conclusion

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

G Sylvester

INSPECTOR