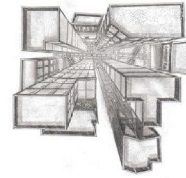


KR PLANNING
CHARTERED TOWN PLANNER
183 SEAFIELD ROAD, BOURNEMOUTH, BH6 5LJ



23 December 2015

Development Control
London Borough of Camden
Town Hall
Argyle Street
London WC1H 8ND

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT (GENERAL PERMITTED DEVELOPMENT) ORDER 2015
CONVERSION OF WAREHOUSE TO C3 RESIDENTIAL
SITE AT: 1A HIGHGATE ROAD, LONDON, NW5 1JY

I am instructed by my Client IDM Land to submit this Prior Approval Determination Application for the proposed conversion of the existing building of the above named premises from B8 to C3.

My Client's address is as follows:

IDM Land
Office B
West Gainsborough
1 Poole Street
N1 5EA

They prefer electronic communications to be via myself at:



The Site

The site is 0.07ha in size, and is located to the rear of the properties on the south side of Highgate Road in the north of the designated Kentish Town town centre. The site is accessed via a cobbled alleyway between the 3-storey Bull and Gate public house and 4- and 5-storey mixed use properties with residential use on upper floors (nos. 1-7 odd) fronting onto Highgate Road.

The application building comprises a single-storey double height, late 19th Century brick-built warehouse which has a floor area of 481 square metres. The adjoining garage is not part of the application. The building is neither statutorily nor locally listed, nor is it a non-designated heritage asset. The site is not part of any industrial or employment land designation.

The land is subject to an Article 4 Direction which restricts the change of use pursuant to Class O of the 2015 Order.

The Legislation

Section 55 of the Town and Country Planning Act 1990 ("the 1990 Act") defines "development" for the purposes of the Act to cover both operational development (i.e. building work) and material change of use.

Section 57 provides that planning permission is normally required for any development of land. Under section 58, planning permission may be granted on application to a local planning authority or by way of a development order under the 1990 Act. The Order is made under sections 59, 60, 61 and 333(7) of the 1990 Act. These provisions give the Secretary of State power to grant planning permission for categories of development specified in a development order.

The General Permitted Development Order is made under these powers and grants planning permission for many different types of development, subject to certain limitations and conditions. Development granted planning permission under the General Permitted Development Order is known as “permitted development”, and the effect is that no application needs to be made to the local planning authority to obtain planning permission, although in some cases the permitted development right will require the local planning authority to approve certain matters (a process generally referred to as “prior approval”).

The permitted development rights rely on new subsection (2A) inserted into section 60 of the 1990 Act by section 4 of the Growth and Infrastructure Act 2013. This primary legislation allows development orders to provide that the local planning authority or Secretary of State may be required to determine matters that relate to the new use and are specified in the order.

Those matters that require such prior approval in relation to Class P are clearly set out in paragraph P.2. They are limited entirely in accordance with the scope of the enabling provision (section 60(2A)) which states that the order may require the approval of the Secretary of State or local planning authority to be obtained (a) for the use of the land for the new use; (b) with respect to matters that relate to the new use and are specified in the order

Pursuant to the Town and Country Planning Act (General Permitted Development) Order 2015 the proposed development proposal comprise a 'Class P' development where conversion is proposed from existing past use as B8 Warehouse to class C3 residential dwellings

The Town and Country Planning Act (General Permitted Development) Order 2015 states:

Class O development is permitted subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (i) impacts of air quality on the intended occupiers of the development;*
- (ii) transport and highways impacts of the development,*
- (iii) contamination risks in relation to the building,*
- (iv) flooding risks in relation to the building,*
- (v) noise impacts of the development, and*

(vi) *where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services, and the provisions of paragraph W (prior approval) shall apply in relation to any such application.*

Paragraph W restricts the consideration of the Local Planning Authority to those heads listed above, with reference to the NPPF.

The proposal is permitted development under Class O of The Town and Country Planning Act (General Permitted Development) Order 2015. The proposal is permitted by Class O for the following reasons:

- the building is not on article 2(5) land;
- the building was used as Class B8 of the Schedule to the Use Classes Order—
- the site is not near, nor forms part of, a safety hazard area;
- the site is not, nor forms part of, a military explosives storage area;
- the building is not listed building nor within the curtilage of a listed building; or
- the site doesn't contain a scheduled monument.

Impacts of air quality on the intended occupiers of the development

A recent planning application (2014/1689/P) was not required to provide any detail in relation to air quality. The words are not mentioned within the 37 page long Committee Report, no condition was recommended to deal with it nor was it a matter the subject of a S62(3) request or Article 12A notice.

When members determined to overturn the Officer recommendation, no mention of air quality was made in the reason for refusal. Indeed, the reason for refusal raises no issue with the principle of residential development on the site.

Highways and Transport Impacts

The sustainable site location within the town centre reflecting the excellent access to the public transport, pedestrian and cycle infrastructure therefore meets the first and second test of the NPPF.

A transport assessment has been prepared which highlights the benefit of moving to a residential use on the site.

The Applicant will sign a S106 to remove rights to parking permits.

Contamination

A Phase 1 Study is enclosed with the application and it concludes:

*Given the known history of the Site it is considered likely that significant contamination is present within the subsurface. However, given that the proposed development comprises hardstanding across the entire Site, the preliminary risk assessment suggests that the risks posed by in situ land quality to human health is therefore likely to be **low**.*

Flood

A FRA is included with the application, and it provides that the site does not lie within Flood Zone 2 or Flood Zone 3, nor does it lie within an area in Flood Zone 1 which has critical drainage problems.

The London Borough of Camden Surface Water Management Plan flood mapping shows that the site has not been subject to any historical flooding

Noise

A noise report is included with the application material. It recommends noise attenuating glazing and the Applicant is happy to discharge a condition relating to this consideration.

Locational Criteria

The GPDO reflects that in certain locations it may not be appropriate for premises to change use, which is why this permitted development right is subject to prior approval. Local planning authorities are able to take account of the impact of the loss of a warehouse unit on the sustainability of the employment park, and to ensure that an adequate provision of warehouse services of the sort provided is retained, provided there is a

reasonable prospect of the building being used to provide such services, or on the sustainability of the area where the building is located in an employment zone.

The aim of the Class P of the GPDO is to enable local planning authorities to protect valued and successful employment sites, and adjacent site from potential nuisance claims.

The site is not identified on a proposals map as lying within a defined Industrial/Warehouse (such as Regis Road. None of the adjacent uses can be categorised as B8 storage and distribution.

In the context of the very recent S70 determination, Officer comment was:

The proposed scheme would result in the loss of storage (Class B8) accommodation. The site is used for the storage of pianos and associated equipment. The site is compromised due to existing access which cannot be widened as it is flanked by listed buildings either side. Due to the width of the alleyway vehicular access is not possible.

And concluded:

With regards to the introduction of residential on this site it is noted that housing is the priority land use of the LDF

Members did not disagree with the determination to permit the Class B8 use to cease on the site, and this has established the principle that the B8 use can be permitted to cease and that no detrimental impacts would arise on surrounding land use from the introduction of residential use.

This author is conscious that the determination was underpinned by marketing evidence. However, there is no requirement to provide marketing evidence for the premises as the Development Plan is not a consideration for the determination of a Prior Approval application. It would make a nonsense of a 'light-touch', as made explicitly clear by the NPPG (inter alia):

The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of

the development has already been established. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.

Conclusion

Class P already grants planning permission for the change of use from B8 Storage and Distribution to C3 Residential. The decision to permit the development that is the subject of this application has therefore, as a matter of principle, already been made through the provisions of the GPDO (albeit subject to the prior approval process set out in paragraph W).

There is no harm identified by the material submitted in support of the application in respect of transport and highways, contamination risks, flooding risks, air quality and noise.

The aim of the Class P of the GPDO 2015 is to enable local planning authorities to protect valued and successful employment site in employment lead areas. It is the Applicant's firm submission that its conversion will not undermine the sustainability of B8 sites within the local or wider area.

We trust that the application will be dealt with expeditiously, but as always, I can be contacted

[REDACTED]

Yours Sincerely

[REDACTED]

Kieran Rafferty

BA(URP) CUKPL MPIA MRTPI