

Pre-hearing note

Appeal ref: Appeal Ref: APP/R5510/W/21/3280015

Appeal by Universities Superannuation Scheme Limited in respect of the Change of use of offices to residential use to include 64 residential units comprising 6 x studio units, 33 x one-bedroom units, 19 x two-bedroom units and 6 x three-bedroom units at Hayes Park North, Hayes Park, Hayes End Road, Hayes, UB4 8EE.

Hearing Date: 27 January 2021.

1. Although the event is being conducted as a virtual hearing, it will be run in an essentially similar manner to a conventional face to face hearing.
2. However, as the event is being run remotely, there will be differences in the ways some matters are dealt with, in particular the handling of any additional documents or evidence which in the normal course of events might be submitted at the hearing itself.
3. I have received some additional documents from the appellant namely:
 - An updated version of the Unilateral Undertaking
 - A copy of the *Blackbushe Airport* judgement
 - A copy of the *Debenhams* judgement
 - A copy of the 2011 consultation document

These were all referred to in evidence and I understand that the Council have also received copies of these.

4. This notwithstanding, whilst I am not inviting the submission of any further documents or new evidence, it would be helpful if the parties could review their respective cases in advance of the hearing and, if it is considered necessary to introduce further documents that would assist the hearing, please ensure that any additional documents that you intend to refer to are submitted via the case officer **no later than 17:00 on Tuesday 25 January**. This will allow them to be provided to myself and the other parties prior to the hearing opening. Any additional documents should be accompanied by an explanation of why they are relevant, and why it was not possible for them to be submitted with the main evidence.
5. An agenda for the hearing is included with this note which sets out the general structure of the event. This is purely to guide and provide an order to the proceedings and is not intended to be a definitive list of the matters that can be discussed.

List of those appearing

6. As the event is being held virtually, it would be extremely helpful if both the appellant and the Council could provide me with a list of those who will be representing them at the hearing, and their respective roles, in advance of the hearing.

7.

Description of the proposed development

8. The application form described the proposed development as "The proposed development seeks to convert the office use on all three floors into a total of 64 residential units comprising 6 x studios, 33 x one-bedroom, 19 x two-bedroom and 6 x three-bedroom". The decision notice issued by the Council uses the slightly different description "Change of use of offices (Use Class E(g)) to residential use (Use Class C3) to include 64 residential units comprising 6 x studio units, 33 x one-bedroom units, 19 x two-bedroom units and 6 x three-bedroom units".
9. I have noted that the appellant has adopted the Council's description on the appeal form. I consider that the description used by the Council is slightly more precise in its terms. Consequently, at the hearing, I would be grateful if the main parties could confirm that they are content for this latter description to be used for the purposes of the appeal.

Relevant Plans

10. I have been provided with copies of the following drawings and, from the submitted documents and in particular the Decision Notice, the plans on which the Council made its decision on the application appear to be as follows:

Drawing Number	Title
21-T066 01	Site Location Plan
21-T066 02	Site Location Plan
22519LH	Existing Basement Plan
22519LH	Existing Ground Floor Plan
22519LH	Existing First Floor Plan
22519LH	Existing Second Floor Plan
21-M011-D00-001	Proposed Basement Floor Plan
21-M011-D00-002	Proposed Ground Floor Plan
21-M011-D00-003	Proposed First Floor Plan
21-M011-D00-004	Proposed Second Floor Plan
21-M011-D00-010	Typical Unit Plan
Not Listed on Decision Notice	
22519LH 1 of 3	Existing and Proposed North Building Elevations
22519LH 2 of 3	Existing and Proposed North Building Elevations
22519LH 3 of 3	Existing and Proposed North Building Elevations

11. Can the main parties please check this list so that the relevant plans can be confirmed at the hearing?

Statement of Common Ground

12. Whilst a draft Statement of Common Ground has been provided, I do not appear to have a definitive, agreed, Statement of Common Ground that has been signed by both parties. Accordingly, I would be grateful if this could be jointly agreed and provided **by Wednesday 26 January**.
13. I have noted in the version of the Statement of Common Ground that I have, the appellant's name is given as "SHALL DO HAYES DEVELOPMENTS LIMITED" (this name is also used in the most recent version of the Unilateral Undertaking). As you will be aware, an appeal can only be made and pursued by the original applicant which, in this case, is given as "Universities Superannuation Scheme Limited". I would be grateful for clarification on this point.

The main issues

14. From the decision notice issued by the Council and the other evidence, it appears to me that the principal disputed matter between the main parties is whether the proposal is permitted development having regard to the provisions of Schedule 2, Part 3, Class O, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and, in particular, whether the building is within the curtilage of a listed building.
15. The lack of a planning obligation in respect of various highways matters formed the subject of a second reason for refusal. A draft Unilateral Undertaking has been submitted and the Council's evidence indicates that that it considers this Undertaking to be acceptable. Unless I am advised otherwise, I am intending to proceed on the basis that the Council is no longer explicitly defending the second reason for refusal. Consequently, I have not identified that as a main issue.
16. It will, however, be necessary to discuss the need for the Unilateral Undertaking and the obligations therein as part of the hearing. It would also be helpful if a timescale for the finalising of the Unilateral Undertaking could be provided at the hearing in the event that it is not completed beforehand.

Arrangements for the site visit

17. Ordinarily, the site visit would normally take place on the same day as the hearing. However, as this is a virtual appeal hearing, and because of the distance and travel time involved in my getting to the site, it is my intention to undertake the site visit in the following week. As it is not known at present whether it will be necessary for the hearing to remain open to allow any matters to be discussed at the site visit, can the parties,

therefore, please ensure that their appropriate respective representatives are available to attend the site visit at **13:00 on Monday 31 January 2022**.

18. If the hearing can be closed on 27 January, as the site is private land, I will still need to be accompanied by a representative of both main parties.

John Dowsett

INSPECTOR
20 January 2022

Agenda

Appeal Ref: APP/R5510/W/21/3280015

Hearing date: 27 January 2022

Appeal by: Universities Superannuation Scheme Limited

Change of use of offices to residential use to include 64 residential units comprising 6 x studio units, 33 x one-bedroom units, 19 x two-bedroom units and 6 x three-bedroom units at Hayes Park North, Hayes Park, Hayes End Road, Hayes, UB4 8EE.

1 Opening and preliminary matters

- Description of the proposed development.
- Plans that were determined by the Council.

2 Discussion on the main issue

- Whether the proposal is permitted development having regard to the provisions of Schedule 2, Part 3, Class O, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and, in particular, whether the building is within the curtilage of a listed building.

To include:

- The Legal test and factors
- Physical Layout
- Function: past and present
- Ownership and occupation: past and present
- The extent of the Listing and what is covered

3 Other matters

4 Conditions and planning obligations (without prejudice)

5 Costs

6 Site visit arrangements

7 Closing of hearing