

**IN THE MATTER OF GREAT BRIGHAMS MEAD, VASTERN ROAD, READING,
RG1 8DJ**

AND IN THE MATTER OF THE TOWN AND COUNTRY PLANNING ACT 1990

**AND IN THE MATTER OF THE TOWN AND COUNTRY PLANNING (GENERAL
PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015 (SI 2015/596)**

OPINION

Introduction

1. I am asked to advise on the applicability of s73 of the Town and Country Planning Act 1990 (“TCPA”) to approvals given pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (SI 2015/596) (“the GPDO”).
2. In 2021, Reading Borough Council (“the LPA”) granted an application pursuant to Schedule 2 Part 3 Class O of the GPDO (office to residential conversion) relating to land at Great Brighams Mead, Vastern Road, Reading, Rg1 8DJ (“the Site”) (Ref: 210567).
3. The LPA determined that prior approval was required and granted prior approval on 1 June 2021 (“the Prior Approval”).
4. The decision notice issued by the LPA gave as a ‘reason’ for the decision:

“This development under Class O is permitted subject to it being completed within a period of 3 years starting with the prior approval date on this decision notice.

REASON: To comply with the requirement of paragraph O.2. (2) of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.”

5. This was not strictly necessary, given that the above is of no material legal consequence since the Prior Approval was automatically subject to a condition that the development must be completed within a period of three years starting with the prior approval date (by operation of GPDO Schedule 2 Part 3 Paragraph O.2(2)¹).
6. The conversion authorised by the Prior Approval is conditioned therefore to be completed by 1 June 2024.
7. I am asked whether s73 TCPA can be used to vary the condition imposed by GPDO Sch 2 Part 3 Paragraph O.2(2).

Opinion

8. Section 73 TCPA can be used to vary conditions imposed by a General Development Order (such as the GPDO).
9. The authority for this is the case of *Pressland*² which was itself an application concerning the applicability of s73 TCPA to a Class O prior approval. The High Court ruled that s73 TCPA was not limited to express grants of permission by planning authorities, but was also applicable to conditions imposed on grants of prior approval:

*“For the reasons given an application may be made under section 73 of the 1990 Act for the development of land without complying with conditions subject to which a previous planning permission was granted by a development order. Those conditions include those subject to which any prior approval required under the development order was granted.”*³

10. Paragraph O.2 of Schedule 2 Part 3 is headed “*Conditions and Reasons*” and is clearly entirely concerned with applying conditions to grants of prior approvals (and the conditions at Paragraph O.2 are applied automatically by operation of that paragraph).

¹ As it was when the Prior Approval was granted; the same condition is applied in the current form of the GPDO by Sch2 Part 3 Paragraph O.2(2)(a) (as amended by the Town and Country Planning (General Permitted Development etc) (England) (Amendment) Order 2021 (SI 2021/428))

² *Pressland v. London Borough of Hammersmith and Fulham* [2016] EWHC 1763 (Admin)

³ *Pressland* (above) at 53 per John Howell Q.C. sitting as a Deputy High Court Judge

There is, per *Pressland*, no bar to an applicant using s73 TCPA to vary conditions imposed by the GPDO.

11. An application to extend the time by which completion is required does not contravene the limitation imposed by s73(5) TCPA:

“(5) Planning permission must not be granted under this section for the development of land in England to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which–

(a) a development must be started;”

12. This is because the limitation at s73(5) TCPA applies to extending the time for *commencing* development; the application here is to extend the time for *completion* of development. They are wholly different and an application to extend time for completion is not caught by s73(5) TCPA.

13. Accordingly, my firm advice to those instructing is to make a s73 TCPA application to vary the condition imposed by GPDO Schedule 2 Part 3 Paragraph O.2(2). In my view, there would be no reasonable basis for the LPA to refuse to accept a s73 application. I would expect such an application to succeed.

SIONED DAVIES

No5 Chambers

LONDON – BIRMINGHAM – BRISTOL

14 July 2024