



Appeal Decision

Site visit made on 6 June 2022

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2022

Appeal Ref: APP/T0355/W/21/3283130

Belmont Place, Belmont Road, Maidenhead SL6 6TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Millie Boffey of Threadneedle Portfolio Services Ltd against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/01855, dated 14 June 2021, was refused by notice dated 9 August 2021.
 - The development proposed is change of use from offices (Class B1(a)) to dwellinghouses (Class C3) to create x 18 flats.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Millie Boffey of Threadneedle Portfolio Services Ltd against the Royal Borough of Windsor and Maidenhead. That application is the subject of a separate decision.

Procedural Matters

3. The provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 Order) (as amended) under Schedule 2, Part 3, Class O, require the local planning authority to assess the proposed development on the basis of its impact on transport and highways; contamination risk; flooding risk; noise and adequacy of natural light in all habitable rooms taking into account any representations received.
4. The Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020 (the 2020 Regulations) brought about an amendment to the 2015 Order Class O. Paragraph (9A)(b) amendment of the 2020 Regulations does not grant permission for, or authorise any development of, any new dwellinghouse that does not comply with the nationally described space standard (the space standard) issued by the Department of Communities and Local Government on 27 March 2015.

Main Issue

5. I consider the main issue in this appeal to be whether the proposed development would be granted planning permission by Schedule 2, Part 3, Class O having regard to the space standard.

Reasons

6. The proposed development's compliance with the space standard is informed by the plans accompanying the application to fulfil Schedule 2, Part 3, Paragraph W(2)(bc) of the 2015 Order: *"a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room"*.
7. The space standard requires that a dwelling provides at least the gross internal floor area and built-in storage area set out in Table 1; as per footnote 1, built-in storage areas are included within the overall gross internal area. Paragraph 8 of the space standard indicates the gross internal area is only the floor space between the internal faces of the perimeter walls that enclose a dwelling.
8. Using the plans that supported the application the Council have found that flat 17, having a gross internal floor area of 62m², does not equal or exceed the minimum gross internal floor area of 70m² required by the space standard for a 1 storey, 2 bedroom, 4 bed space dwelling, as specified in Table 1. This flat would, therefore, not comply with the space standard.
9. Paragraph 7 of the space standard indicates minimum floor areas for storage are also an integral part of the space standard; they cannot be used in isolation from other parts of the design standard or removed from it. Storage units have been proposed in the basement, however built-in storage areas are required to be included within the overall gross internal area of the units themselves. Fourteen of the flats have no identified built-in storage. The storage that would be provided within flat 13 would not equal or exceed the minimum storage of 1.5m² as required for a 1 bedroom, 2 bed space dwellings, as specified in Table 1. These flats would, therefore, not comply with the space standard.
10. The majority of the flats would not comply with the space standard, either by not providing adequate gross internal floor space or built-in storage within the units. This brings the proposal into conflict with Article 3 paragraph (9A)(b) of the Regulations 2020. Therefore, the development is not permitted by Schedule 2 and Article 3 of the 2015 Order as amended by the 2020 Regulations. It follows that the development proposal would not fall within the definitional scope of Class O, therefore, the prior approval application should be refused.
11. The appellant contends that amended floor plans should have been accepted by the Council for consideration and that the Council had the ability to add conditions to a prior approval permission in order to ensure compliance with the space standard. Procedure W.(13) indicates that prior approval may only be granted '*subject to conditions reasonably related to the subject matter of the prior approval*'. The Council say that the amended plans they received were aimed at changing the lawfulness status of the proposed development, not in relation to the prior approval matters of Class O and for this reason the Council declined to accept the plans.
12. Amended plans have been submitted in support of the appeal. Amended plans can be accepted and taken into account by Inspectors on prior approval appeals. However, this is subject to the relevant parties having opportunity to comment in the interests of natural justice. Under the prior approval process statutory consultees and the public are consulted and/or notified of the scheme

at application stage. Accepting amended plans at appeal stage would obviate the required consultation and notification requirements relating to the amended proposals. This would conflict with the prior approval process and could prejudice interested parties who may wish to comment.

13. If the appellant wishes amended plans to be considered the appropriate procedure would be to submit a new Class O prior approval application to the Council or a planning application. This would enable statutory consultees and the public to be consulted/notified of the scheme and prevent any interested parties from being disadvantaged.
14. I acknowledge that the proposed floor plans may be constrained by the existing building footprint and all flats would host bedrooms of sizes that would meet the standard. It is also put forward that internal alterations could take place as they would not constitute development and that the use of a room is an assumption with the flats being designed in the spirit of the space standard. It is contended that the flats could comfortably accommodate the required level of built-in storage regardless of whether this is shown on the floor plans.
15. Nonetheless, compliance has not been fully illustrated on the plans and this, therefore, does not clearly illustrate that the proposal would satisfy the space standard. This is the requirement of the prior approval process. As such, it would not be appropriate to impose a planning condition requiring the provision of plans showing built-in storage space and restriction to occupancy of flat 17.

Other Matter

16. The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 came into force for prior approval office conversions submitted after 31 July 2021. This is not directly relevant to the case and does not obviate the appropriate assessment of the prior approval that is before me against the space standard.
17. One of the Governments key objectives is to significantly boost the supply of homes. Whilst this may be so, the prior approval process limits those matters to be considered as part of the process to those set out in the procedural matters section above.

Conclusion

18. I conclude that the requirements of Class O have not been demonstrated to have been sufficiently met as it has not been sufficiently demonstrated that the proposal would be acceptable in respect of the space standard. As such the change of use from office (Use Class B1a) to residential (Use Class C3) does not benefit from Class O permitted development rights.
19. For the reasons given above, the appeal should be dismissed.

Nicola Davies

INSPECTOR