
Appeal Decision

Site visit made on 22 June 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2022

Appeal Ref: APP/Y0435/W/21/3283517

Marlborough Court, Sunrise Parkway, Linford Wood, Milton Keynes MK14 6DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission required under 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 Mr Issac Rubin of Linford Wood Residential Ltd against the decision of Milton Keynes Council.
 - The application Ref 21/01737/PANB1C, dated 3 June 2021, was refused by notice dated 29 July 2021.
 - The development proposed is change of use from B1(a) office to C3 residential (69 units) on the ground and first floor.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. There is no dispute between the main parties that the proposal meets the requirements of O.1 of Class O of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and is therefore permitted development. I have no reason to disagree with such a conclusion.
3. Paragraph O.2 (1) of Class O of the GPDO indicates that the proposal is permitted development subject to the condition that before beginning the development, the developer must apply for a determination as to whether prior approval is required as to (a) transport and highways impacts of the development, (b) contamination risks of the site, (c) flooding risks on the site, (d) impacts of noise from commercial premises on the intended occupiers of the development, and (e) the provision of adequate natural light in all habitable rooms of dwellinghouses.
4. The main parties agree that the proposal is acceptable in respect of the consideration of detailed matters specified in O.2 (1) (a) to (d). I have no reason to disagree with such a conclusion. The point of contention between the main parties relates to O.2 (1) (e). Therefore the main issue is whether there would be adequate daylight and sunlight in all habitable rooms.

Reasons

5. The appeal site is a detached two and half storey office building within the Linford Wood Office campus. It is proposed to convert the ground and first floor of the building from offices to 69 residential units comprising 52 one bedroom flats and 17 two bedroom flats.
6. The appellant submitted a daylight and sunlight report on 9 June 2021 alongside the planning application. In summary, this concludes that in daylight terms 89% of rooms would meet their average daylight factor (ADF) levels and 85% will meet their daylight distribution (DD) levels set out within the BRE Guidelines. Of the 139 rooms within the proposal 118 (85%) would meet the target values for DD set out within the BRE Guidelines. The remaining 21 rooms that do not meet DD requirements are 11 bedrooms and 10 living/kitchen/dining rooms (LKDs). The 9 June 2021 reports states that the 10 LKDs retain between 49% and 78% daylight distribution and acknowledges that this is below the 80% recommended.
7. The BRE Guidelines state that sunlight is of most importance to main living spaces and require that rooms with a window facing within 90 degrees of due south should be tested. There are 31 LKDs that have a main window that faces within 90 degrees of due south. Of these only 18 meet the levels set out within the BRE Guidelines for both annual and winter sunlight. There are 8 flats facing into the two light wells on the ground floor. These include 8 combined Living Kitchen Dining rooms that will achieve between 1.22% and 1.42% ADF, and hence would be below the appellant's suggested 1.5% ADF target.
8. The appellant has commented, as part of an updated daylight and sunlight report dated 6 August 2021, that it is appropriate, in assessing light for kitchens at the rear of living/dining room areas, that they be excluded from the assessment on the basis that they are designed for food preparation and '*have an expectation of good artificial lighting to the working spaces*'. However, I concur with the Council that the removal of kitchens in order to revise the space assessed within the sunlight and daylight assessment is not appropriate. Indeed, people spend long periods of time in kitchen areas and there is no reasonable justification as to why such areas should be afforded poor levels of natural light. The consequence would be the regular use of artificial lighting to combat an otherwise gloomy internal living environment. In this regard, I have therefore considered the appellant's original daylight and sunlight assessment which includes kitchens.
9. The appellant has referred to examples of approved prior approval development in and around central Milton Keynes and it is suggested that daylight and sunlight impacts were worse than for the appeal development. I do not have precise details in respect of these developments, and, in any event, I have determined this appeal on its individual planning merits and have formed my own judgement in terms of whether there would be adequate sunlight and daylight to habitable rooms in respect of the appeal proposal.
10. I would also add that in respect of Gloucester House, the appellant has not undertaken a full comparison assessment in respect of target values. In terms of Technology House, the evidence is that no quantitative daylight and sunlight analysis was submitted with the application but this in itself does not justify allowing this appeal. As regards Westminster House, the evidence suggests that this development achieved a better daylight distribution target than the

appeal proposal. In respect of Noble House, the evidence is that this delivered better ADF results: while the appellant suggest that no sunlight analysis was undertaken, this does not provide reasonable justification for allowing this appeal where the evidence is that, overall, inadequate natural light would be afforded to all flats.

11. While I acknowledged that the BRE guidance indicates that decision makers should apply a degree of flexibility in terms of the consideration of daylight and sunlight, in this case the evidence is that when appropriate methodology is followed, adequate natural light in all habitable rooms in the proposed dwellinghouses would not be provided. I therefore conclude that the appeal should be dismissed.

D Hartley

INSPECTOR