



Appeal Decision

Site visit made on 28 June 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2022

Appeal Ref: APP/K2230/W/21/3287787

15 Manor Road, Gravesend, DA12 1AA

- 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(1), Schedule 2, Part 3, Class O of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Singh against the decision of Gravesham Borough Council.
 - The application Ref 20210849, dated 2 July 2021, was refused by notice dated 26 August 2021.
 - The development proposed is described as a change of use from office to flat on first floor.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GDPO') (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.
3. The Council's decision indicates that in its opinion the proposed accommodation would not provide adequate natural light.
4. However, the Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020 came into effect on 6 April 2021. These Regulations brought about an amendment to Article 3 of the GDPO. As a result, Article 3(9A) now states that "*Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse - (a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015*".
5. Article 2 of the GDPO clarifies that for changes of use under Schedule 2, Part 3 of the GDPO, the definition of a dwellinghouse includes a building containing one or more flats, or a flat contained within such a building. The proposed flat would therefore constitute a dwellinghouse for the purposes of this appeal.

Main Issue

6. I consider that the main issue is therefore whether or not the appeal proposal constitutes permitted development by virtue of Schedule 2, Part 3, Class O having regard to the space standard.

Reasons

7. The appellant acknowledges that the proposed two-bedroom flat would have an internal floor area of approximately 25m², or some 26.4m² if the stairs were to be included. This would be below 37m², which is the minimum floor area set out in the space standard for a one bedroom/one person flat. The proposal would therefore be significantly below the minimum 61m² set out in the space standard for a two-bedroom flat.
8. As the proposal would not accord with the space standard, it would be in conflict with Article 3(9A) of the GPDO. The proposal would not therefore be development for which permission can be granted under Schedule 2, Part 3, Class O. Accordingly, the appeal must be dismissed.
9. As the development is not permitted development for the reason I have set out above, it is not necessary for me to make any determination on the prior approval matter of natural light in all habitable rooms.

Other Matters

10. Amended plans have been submitted in support of the appeal. 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. Regardless of this, the amended plans would not change the overall floor area and thus would not overcome the reason for dismissing the appeal.

Conclusion

11. For the reasons set out above, and having regard to all the matters raised, the appeal should be dismissed.

Stewart Glassar

INSPECTOR