



Appeal Decision

Site visit made on 10 August 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2022

Appeal Ref: APP/G5180/W/22/3292845

8-12, Bromley Road, Beckenham BR3 5JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Shaf Rahman of CDC Enterprise Ltd against the decision of London Borough of Bromley.
 - The application Ref DC/21/05392/CUETC3, dated 22 November 2021, was refused by notice dated 17 January 2022.
 - The development proposed is Change of use from Commercial Business and Service (Use Class E) to Dwellinghouses (Use Class C3) under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – Schedule 2, Part 3, Class MA to change to the use of the ground floor Class E unit to 5 self contained dwellinghouses.
-

Decision

1. This appeal is dismissed.

Preliminary Matters

2. This is an application for Prior Approval. Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) grants planning permission for a change of use from Class E to Class C3. The Council concluded that the proposal would comply with the conditions and limitations for Class MA, such that it would fall within the scope of permitted development rights, subject to consideration of relevant matters of prior approval. On the evidence before me I see no reason to take a different view.
3. The provisions of the GPDO also require the local planning authority to assess whether Prior Approval for proposed development is required, solely on the basis of transport impacts, contamination, flood, conservation area impacts, noise from commercial premises, light, living conditions in certain areas, loss of health or nursery services and fire safety. This appeal will be determined on this basis.
4. During the course of the consideration of this appeal, updated BRE guidance has been published Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice 2022 (2022 BRE Guidance). I have sought comments from the main parties on this matter.
5. There is another appeal made by the appellant for planning permission for the change of use of ground floor to provide 5 x self-contained dwellings on this

site¹. For the avoidance of doubt, I have determined these appeals on their individual merits

Main Issue

6. Taking the above into account, the main issue is whether or not prior approval should be granted having regard to whether adequate natural light would be provided in all habitable rooms of the dwellinghouses.

Reasons

7. I am provided with an assessment of the rooms against the Housing, Health and Safety Rating System which is used for the purposes of the Housing Act 2004 Part 1. I understand that in relation to light, a glazed window and or door equivalent to at least 1/10th of a habitable room's floor area should be provided. Against these standards all five flats would have at least one room that did not receive adequate natural light or ventilation. However, this method of assessment does not take into account room sizes, uses or layouts. As such, I afford limited weight to these findings.
8. Notwithstanding, three of the flats have long and narrow living/dining/kitchens. Although they have large windows facing the road, due to the shape of the rooms it is likely that, away from the window, the majority of the room would be dark. Also, the bedrooms to flat 1 and 2 face towards a narrow enclosed passage. Combined with the size and position of the small window to bed 1 it is likely that the majority of this room would not be well lit.
9. I am also provided with evidence regarding the tests in the 2011 and 2022 BRE Guidance. These tests provide an indication as to whether a room is well lit. However, they are not mandatory or planning policy. The submitted daylight and sunlight assessment for planning shows that the rooms would pass the Average Daylight Factor (ADF) test from the 2011 BRE Guidance². However, this test is no longer recommended in the 2022 BRE Guidance. The appellant's daylight and sunlight consultants state that while it is expected that the majority of the proposed habitable rooms will meet the new minimum targets set out in the 2022 BRE guidance, it is possible that a minority of the proposed habitable rooms will fall below the standards of the new guidance.
10. Consequently, although all the rooms would pass the out of date ADF test, the evidence does not satisfy me they would pass the current, recommended tests for proposed dwellings. Therefore, this does not alter my findings above.
11. As such, adequate natural light would not be provided in all habitable rooms of the dwellinghouses.

Other Matters

12. In the case of this appeal the subject matter relates to light. Paragraph W (10) requires that I must have regard to the National Planning Policy Framework in so far as relevant to the subject matter of the prior approval, as if the application were a planning application. The London Plan (2021) is also a material consideration in so far as it relates to light. However, I am not provided with detailed evidence in this regard. Consequently, considerations of

¹ APP/G5180/W/21/3288297

² Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011)

the supply of new housing and 5 year housing land supply are not determinative in this case.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

H Miles

INSPECTOR