



Appeal Decision

Site visit made on 25 October 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Appeal Ref: APP/Y0435/W/21/3288959

**Tecton Centre, 46a Church Street, Fenny Stratford, Milton Keynes,
Buckinghamshire MK2 2NY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Anthony Keller, Building Tectonics Ltd against the decision of Milton Keynes Council.
 - The application Ref 21/02850/PANB1C, dated 5 October 2021, was refused by notice dated 26 November 2021. The development proposed is change of use to allow the conversion of half of the building into 2x Class C3 (dwellinghouses). Rest of building to remain a class E (business).
-

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order, is permitted by Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO') subject to limitations which are specified at paragraph MA.1, and conditions which are set out at paragraph MA.2.
3. The conditions at MA.2 establish a requirement for developers to apply to the local planning authority for a determination as to whether prior approval will be required in relation to a number of specified matters, including at part (2)(f) 'the provision of adequate natural light in all habitable rooms of the dwellinghouses'.
4. The Council has raised an objection in relation to the prior approval matter concerning the provision of adequate natural light in all habitable rooms of the dwellinghouses. The Council has not argued that the proposal fails to comply with Class MA in other respects, and I have no compelling reasons to find otherwise.
5. The main issue is therefore whether or not prior approval should be granted having regard to the requirement for the provision of adequate natural light in all habitable rooms of the proposed dwellings.

Reasons

6. At present the ground floor of the host building comprises a reception, offices and service areas. The first floor is occupied by a large workspace.
7. Based on my observations, because of the siting and limited sizes of the existing side facing windows to the ground floor offices, these are afforded extremely poor levels of natural light.
8. The appeal property does incorporate a number of rooflights. Because of these and the largely open-plan arrangement, the first-floor workspace receives adequate natural light. Indeed, staff were working at desks with the rooflights providing the main source of light. Some of the rooflights along with the existing side and larger front facing windows also provide adequate levels of natural light to the existing ground floor reception area which does not incorporate a first floor above it.
9. The onus is on the appellant to show the provision of adequate natural light in all habitable rooms of the proposed dwellings. In this case, the appellant intends to rely on the existing rooflights to provide natural light for the habitable rooms of the proposed dwellings.
10. To facilitate natural light to the proposed ground floor accommodation, the appellant proposes to remove parts of the ceiling to this space to enable daylight to filter down to the ground floor. Based on this, reference to BRE guidance¹ and submitted measurements for existing illumination, the appellant asserts that all habitable rooms would receive adequate natural light.
11. However, other than being taken at 850mm above floor level, it is unclear which part of the building the submitted measurements were taken from. This is relevant, given that the level of natural light received within different parts of the building varies significantly. Notwithstanding this, the proposed arrangement would not reflect the existing arrangement. Therefore, I am not persuaded that the submitted evidence provides a suitably robust assessment for the proposal and attach limited weight to this.
12. I have not been referred to any specific methodology for determining the adequacy of natural light. Therefore, and in the absence of a robust technical assessment this remains a subjective matter for the decision maker, having regard to site specific circumstances and the proposal.
13. Given the siting and proximity of the existing rooflights relative to the proposed bedrooms, and because the proposed kitchen area for Unit 1 would utilise part of the existing reception area, these areas would receive adequate natural light.
14. However, because the floor area above Unit 1 would be retained for first-floor bedrooms, it is unlikely that the lounge and dining area for this dwelling would receive adequate natural light. Although the proposed scheme would incorporate a void above the ground floor lounge, dining and kitchen area for Unit 2, given the separation of the rooflights from this area and the requirement for some new walls, I cannot be certain that this arrangement would provide adequate natural light for this area.

¹ BRE Site Layout Planning for Daylight and Sunlight (2011)

15. Paragraph W(3)(2A) of the GPDO, is clear that where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses. Based on my findings, I am required to take the same approach.

Conclusion

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

M Aqbal

INSPECTOR