



Appeal Decision

Site visit made on 5 December 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/Q5300/W/22/3296491

47-49 Church Street, Enfield, London EN2 6AN

- 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) and Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Onkar International Limited against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/04029/PMA, dated 25 October 2021, was refused by notice dated 20 December 2021.
 - The development proposed is the change of use of the first floor of the building from offices (Use Class E) to 4 self-contained residential apartments (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An Internal Daylight Assessment was submitted with the planning application which refers to the BRE guidance BS8206:2 ('Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice'). However, the BRE Guide 2011 has been superseded by a 2022 edition which has significantly altered the assessment of daylight and sunlight within new developments. Both the appellant and the Council were given the opportunity to respond on this matter, and I have had regard to the comments raised.

Background and Main Issue

3. Schedule 2, Part 3, Class MA of the GPDO permits the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses). The Council considers that the development complies with the requirements set out in paragraph MA.1 of Class MA, and I see no reason to disagree.
4. Paragraph MA.2 sets out that development under Class MA is permitted subject to an application to the local planning authority for a determination as to whether prior approval is required in relation to the matters set out in paragraphs MA.2(2). This includes matter MA.2(2)(f) which relates to the provision of adequate natural light in all habitable rooms, and it is this matter which is referred to in the Council's reason for refusal.

5. Accordingly, the main issue is whether or not the proposed development would provide adequate natural light in all habitable rooms of the new dwellinghouses (MA.2(2)(f)).

Reasons

6. The appeal site relates to the first floor of a three-storey building. The first floor was formerly used as office space. The ground floor is occupied by a shop and there is a residential use at second floor.
7. The appellant highlights that there are no local policies or guidance that set out standards for measuring or assessing daylight. They have also drawn my attention to paragraph 125c) of the National Planning Policy Framework (the Framework) and the Mayor of London's SPG – Housing Design Quality and Standards (Pre-consultation Draft 2020).
8. The prior approval application was submitted in conjunction with an application¹ for full planning permission for the insertion and enlargement of windows. Planning permission has subsequently been granted for that development.
9. The reason for refusal relates to proposed flat C. As stated above an internal daylight assessment was submitted with the application. This takes into account the proposed windows associated with the granted planning permission. The report concludes that the assessed rooms meet and exceed the recommendations using the Average Daylight Factor (ADF) test. The ADF results show that the living room/kitchen/dining room for flat C would only be marginally more than the target ADF. The assessment also shows distribution of light diagrams.
10. The internal daylight assessment is based on the 2011 edition of the BRE Guide, which as explained previously has been superseded by a 2022 edition. The appellant stresses that the scheme was prepared with input from a daylight and sunlight consultant so to be wholly compliant with the BRE guidance on daylight matters as was relevant at the time of submission and determination.
11. Although I recognise that the appeal was submitted before the guidance was changed, the BRE Guide 2022 is a comprehensive revision, and has significantly altered the assessment of daylight and sunlight within new developments. BS8206:2 is now obsolete and the ADF test (referred to above) for proposed accommodation has been deleted and replaced.
12. The appellant considers that the change in the guidance would not materially impact the overall conclusions that were set out in the report originally and the Council did not raise any concerns on this matter as part of their response to the appeal. In my view, it would not be appropriate to wholly rely on assessments based on guidance which has been superseded.
13. The internal daylight assessment does not reflect the most up to date guidance relating to this main issue. The windows serving flat C would be located under an external staircase and deep in the recess between the first-floor rear extension of the host building and the neighbouring building (51 Church Street).

¹ 21/04002/FUL

14. The internal daylight assessment shows that the light distribution in the living room/kitchen and bedroom of flat C would be poor. Due to the location and size of the windows, the majority of these two rooms would have poor levels of natural light.
15. Having considered the location and size of the windows, the quality of natural light to flat C would be inadequate. Future occupiers of flat C would be reliant on artificial lighting as the scheme would not provide well-lit accommodation. The appellant has not provided sufficient information to demonstrate that the proposal would provide adequate natural light. Although I recognise that the scheme is acceptable in other regards, the proposed development would not provide satisfactory living conditions for future occupants.
16. Even if I agreed with the appellant that a planning condition could be imposed to ensure that the windows associated with the granted full planning application are implemented, I am not satisfied that the proposed development would provide adequate natural light in all habitable rooms of the new dwellinghouses (MA.2(2)(f)). As such, there would be conflict with paragraph 130f) of the Framework which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

17. The appellant has provided a Unilateral Undertaking with the appeal submission to ensure that the development would be 'car-free'. Given my findings in relation to the main issue, I have not considered this matter further as it would not be determinative to my decision.

Conclusion

18. For the reasons given above, I conclude that the appeal does not succeed.

L Wilson

INSPECTOR