



Appeal Decision

Site visit made on 15 December 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/J0405/W/22/3295024

Hampden House, High Street, Aylesbury HP20 1RF

- 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 and Schedule 2, Part 3, Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Quotetime Limited against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 21/03196/COUOR, dated 28 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is determination as to whether prior approval (Class O) is required in respect of transport & highway impact, contamination risk, flooding and noise for the conversion of B1 offices to form 111 residential units (C3).
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for determination as to whether prior approval (Class O) is required in respect of transport & highway impact, contamination risk, flooding and noise for the conversion of B1 offices to form 111 residential units (C3) at Hampden House, High Street, Aylesbury HP20 1RF in accordance with the terms of the application Ref 21/03196/COUOR, dated 28 July 2021 and the plans and details submitted with it including plan Nos 130303 3DR XX XX DR A 08800, 130303 3DR XX XX DR A 08801, 130303 3DR XX 00 DR A 08000, 130303 3DR XX 01 DR A 08001, 130303 3DR XX 02 DR A 08002, 130303 3DR XX 03 DR A 08003, 130303 3DR XX 04 DR A 08004, 130303 3DR XX B1 DR A 08005, 130303 3DR XX ZZ DR A 08100, 130303 3DR XX ZZ DR A 08101, 130303 3DR XX ZZ DR A 08102, 130303 3DR XX ZZ DR A 08200, 130303 3DR XX 00 DR A 08010, 130303-3DR-XX-01-DR-A-08011 Rev F, 130303-3DR-XX-02-DR-A-08012 Rev F, 130303-3DR-XX-03-DR-A-08013 Rev E, 130303-3DR-XX-04-DR-A-08014 Rev E, 130303 3DR XX B1 DR A 08015, 130303 3DR XX ZZ DR A 08110, 130303 3DR XX ZZ DR A 08111, 130303 3DR XX ZZ DR A 08112 and 130303 3DR XX ZZ DR A 08210 subject to the development being completed within a period of 3 years starting with the prior approval date and following conditions:
 1. Prior to occupation glazing and ventilation will be upgraded, as a minimum, to meet the specifications detailed in section 8 of the RPS Report, Hampden House, Aylesbury Acoustics Report on the Potential Impact of Existing Noise Sources on a proposed New Residential Development, dated 26th July 2021. Any departure from the specifications in section 8 will be submitted to, and approved in writing by the Local Planning Authority, prior to installation. Details submitted

will include an acoustic assessment to show that the proposed glazing and ventilation will allow the internal ambient noise levels within the dwellings, shown in table 4 of BS8233:2014, to be met and that adequate whole dwelling ventilation, meeting the requirements of Building Regulations, can be maintained without compromising acoustic attenuation.

2. No development shall commence until a Construction Transport Management Plan, to include details of:
 - parking for vehicles of site personnel, operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials
 - programme of works (including measures for traffic management)
 - HGV deliveries and hours of operation
 - vehicle routing
 - measures to prevent the deposit of materials on the highway
 - before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused
 - on-site turning for construction vehicles

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Preliminary Matters

2. The description of development in the heading above has been taken from the Council decision notice. The appellant at Part E of the appeal form refers to an alternative description of the development being agreed upon. Accordingly, I have used the description agreed upon as this is more concise and still accurately reflects the scheme proposed.
3. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force and amended various use classes as set out in the schedules to the Use Classes Order¹ (UCO). This included use Class B1, which has been subsumed into the new Use Class E. However, the amendment included transitional arrangements for the period between 1 September 2020 and 31 July 2021. These specified that any references to uses or use classes specified in the UCO should be read as meaning the uses or use classes that applied on 31 August 2020 for the purposes of making a prior approval application. As such, given that the application was submitted prior to 31st July 2021, the previous use classes apply and the appeal should be considered under Class O even though this has now been superseded by Class MA.
4. Amended plans were submitted as part of the appeal, these plans show minor internal alterations to the proposal for rooms in flats 119, 120, 220, 221, 320, 321, 420 and 421, and the resulting bedrooms would exceed the nationally described space standard (NDSS) issued by the Department for Communities and Local Government on 27th March 2015. The Council were afforded the opportunity to comment on these as part of the appeal, and it has referred to them in its appeal statement. I am satisfied that no injustice would be caused

¹ The Town and Country Planning (Use Classes) Order 1987, as amended

to any parties by the amended plans being taken into account as part of the appeal.

Main Issue

5. The main issue is whether the proposed development would achieve a suitable standard of living conditions having particular regard to the nationally described space standards.

Reasons

6. Article 3(9A) 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 (NDSS) issued by the Department for Communities and Local Government on 27th March 2015.
7. The revised plans, which include minor internal changes to bedroom sizes, show the total floor areas of each unit and the arrangement of rooms within them. They demonstrate that the proposed units are capable of meeting minimum space standards and technical requirements set out in Table 1 of the NDSS for 1-bedroom and 2-bedroom dwellings.
8. Based on the amended plans showing compliance with bedroom sizes, flats 119, 120, 220, 221, 320, 321, 420 and 421 would comply with the NDSS meeting the required sizes set out in Table 1. The Council's appeal statement reaches the same conclusion, and I have no reason to disagree. I, therefore, find no conflict in this regard.

Other Matters

9. I acknowledge the concerns raised by the Town Council on services and schools. However, Class O of the GPDO itemises a closed list of considerations. It is therefore not before me to make an assessment on matters outside the scope of Class O. Furthermore, concerns for car park safety are not supported by any evidence of any past or existing issues or that there would be an increased risk from the appeal scheme. This is consistent with the findings of the Council's Highway Officer.
10. The provisions of Class O of the GPDO also require the local planning authority to assess the proposed development on the basis of, the contamination risks on site and flooding risks on the site. The Council, or any consultees, have not raised any concerns, in respect of these prior approval matters and I see no reason to take a different view.

Conditions

11. Under Class O, development is permitted subject to a condition that it must be completed within 3 years starting from the date of this decision. The development must also be carried out in accordance with the approved details.
12. Prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The impact of noise from commercial premises on the intended occupiers of the development and highway safety are prior approval matters.

13. The acoustic assessment recommends mitigation measures to the building to mitigate noise levels. A condition to secure this is necessary to ensure satisfactory living conditions for future occupiers. A condition requiring a Construction Transport Management Plan is also required during the construction phase of the development to prevent any adverse impact on highway safety during construction.

Conclusion

14. For the reasons given above, I conclude that the appeals should be allowed.

A Hickey

INSPECTOR