



Appeal Decision

Site visit made on 29 August 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/W1905/W/23/3316196

223A Turners Hill, Cheshunt EN8 9DG

- 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).
 - The appeal is made by Mr George Nicolaou against the decision of the Council of the Borough of Broxbourne.
 - The application Ref 07/22/1191/P4D, dated 13 December 2022, was refused by notice dated 23 January 2023.
 - The development proposed is prior approval for proposed change of use from office (use class E) to a one bedroom dwelling house (use class C3).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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) for a proposed change of use from office (use class E) to a one bedroom dwelling house (use class C3) at 223A Turners Hill, Cheshunt EN8 9DG in accordance with the terms of application ref 07/22/1191/P4D, dated 13 December 2022 and the plans submitted with it, including 1847-CoU-P02-00 Revision P1, subject to the standard conditions set out in Schedule 2, Part 3, Class MA, paragraph MA.2 of the GPDO.

Preliminary Matters

2. I have used the Council's description of development as this more accurately and concisely describes the proposal. I note that this was also used in the appellant's appeal form.
3. I am mindful of the previous appeal decision on the same site under reference APP/W1905/W/21/3288899 and have had regard to this in making my decision.

Background and Main Issue

4. Class MA of the GPDO permits a 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 does not dispute that the proposal could benefit from Class MA permitted development rights and I see no reason to disagree.
5. The prior approval matters for Class MA of the GPDO include: (a) the transport impacts of development, particularly to ensure safe site access; (b) contamination risks; (c) flooding risks; (d) impacts of noise from commercial

premises on the intended occupiers of the development; and (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses.

6. The Council has raised objections in relation to the prior approval matters concerning the transport impacts of development (a) and the provision of adequate natural light (f). The Council has not argued that the proposed development fails to comply with Class MA in other respects, and I have no compelling reasons to find otherwise.
7. The main issue is therefore whether or not the proposal would accord with Class MA of the GPDO with regard to transport impacts and the provision of natural light in all habitable rooms.

Reasons

Transport impacts

8. The application was refused on the grounds that the safety of future occupants would be at risk upon entering and exiting the site.
9. Whilst I accept that the position of a residential unit within a service yard is atypical, the dwelling would not be the only of its type in this location. I also acknowledge the service yard's use and opening hours would be outside the control of the future occupiers and that no dedicated footway exists along the service lane.
10. During my mid-week site visit I noted that the access lane and yard were used by cars and vans. However, I experienced no vehicle movements. Whilst my site visit was only a snapshot in time, I am not of the view that the service lane or yard would be significantly more busy or dangerous at any other time. This is due to the nature and reasonable width of the access lane, together with the type and small-scale nature of the commercial premises being accessed by commercial vehicles here. Moreover, there is no objection from the highway authority in respect of highway safety or parking provision. From the evidence before me, I have no substantive reason to conclude otherwise.
11. In conclusion, I find that the proposal would be acceptable in respect of transport impacts and would not result in any unacceptable safety risk to future occupiers when accessing or exiting the appeal site, in accordance with the relevant provisions of Class MA of the GPDO.

Adequate light

12. The application was refused on the grounds that future occupiers of the proposed unit would experience inadequate daylight to habitable rooms.
13. Based on the submitted plans, the proposed kitchen/living/dining area would be served by three windows within the north elevation and two rooflights. The proposed bedroom would be served by two windows, one to the north elevation and one to the west, together with a rooflight. In my judgement, both of these areas would comprise a habitable room.
14. I acknowledge that due to the nature of the service yard that exists to the immediate front of the property, large or high-sided vehicles could park close to the proposed dwelling. This has the potential to limit levels of light to the proposed habitable rooms. However, this would not block daylight levels entirely and would not be permanent.

15. Moreover, an internal daylight and sunlight assessment was submitted in support of the proposal. The assessment uses the daylight factor test and has regard to the Building Research Establishment's (BRE) '*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*'. The assessment demonstrates that daylight levels to the proposed unit would meet the criteria of the above guidance, both with and without the presence of vehicles near to the yard-facing windows. I have no compelling evidence before me to suggest that the assessment is inaccurate or otherwise misleading.
16. Based on the evidence before me and my observations on site, I have no reason to doubt the conclusions of the submitted internal daylight assessment, that the daylight to the habitable rooms of the proposed dwelling would be above the values recommended by the BRE, both with and without the presence of high-sided vehicles. I am satisfied that the assessment demonstrates that natural light levels to the proposed units would be provided and would be acceptable.
17. Overall, I conclude that the proposal would provide satisfactory levels of natural light in all habitable rooms, in accordance with the relevant provisions of Class MA of the GPDO.

Other Matters

18. I note that the Council raises matters of outlook from the proposed unit and privacy for future occupiers. These matters are outside the scope of my considerations against Class MA.
19. A number of matters have been raised by neighbours including in respect of overlooking, parking, the quality of the access road, queries over ownership and the overdevelopment in the area. The position and nature of the proposed dwelling relevant to established dwellings in this urban setting are such that no harmful overlooking or loss of privacy would occur. In any case, matters of privacy are outside the scope of considerations against Class MA. I have no compelling evidence before me to lead me to an alternative conclusion on transport impacts, which have been dealt with above. Legal and ownership matters more generally are not for me to consider under this appeal. That there are other developments within the wider area is not reason to automatically refuse this application where it is found to be acceptable under Class MA.
20. Ultimately, these are not matters which alter my conclusions on the main issues, which I have considered based on the evidence before me and my observations on site.

Conditions

21. Development permitted under Article 3(1) and Schedule 2, Part 3, Class MA is subject to standard conditions, including a time limit for completion and a requirement that development is carried out in accordance with the submitted details.
22. In respect of a suggested condition relating to noise and disturbance during construction, I have insufficient evidence before me to demonstrate that such a condition would be reasonably necessary in this particular instance given that the building is already in-situ. I have not therefore imposed this condition. No further conditions are necessary.

Conclusion

23. For the above reasons, I conclude that the appeal should be allowed and prior approval granted.

A Price

INSPECTOR