

Appeal Decision

Site visit made on 21 November 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2023

Appeal Ref: APP/K0235/W/23/3318820

11 & 13 Silver Street, Bedford, Bedfordshire MK40 1SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior 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 GPDO).
 - The appeal is made by Mr R Ahmed against the decision of Bedford Borough Council.
 - The application Ref 22/02088/CPNMA, dated 9 September 2022, was refused by notice dated 9 January 2023.
 - The development proposed is conversion of first and second floors to residential (flats) use.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. 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 provisions of the GPDO require the local planning authority to assess the proposed development on the basis of the conditions, limitations or restrictions specified in paragraphs MA.1 and MA.2. My determination of this appeal has been made on the same basis. The GPDO does not require I have regard to the development plan. Therefore, I have had regard to the policies of the Bedford Borough Local Plan 2030 (LP) only in so far as they are a material consideration relevant to the prior approval matters.
3. Such conditions of paragraph MA.2 require determination of the transport impacts of the development, particularly to ensure safe site access, and the provision of adequate natural light in all habitable rooms of the dwellinghouses. The Council's reasons for refusal relate to these issues, and its assessment of the proposal suggests the development would comply with the other requirements set out in this paragraph.
4. It is my understanding that Bedfordshire Fire and Rescue Service has confirmed it would not object to the scheme, provided the flats are fitted with a domestic sprinkler system to compensate for access issues. The Council suggests the installation of the sprinkler system could be secured through a planning condition and is therefore no longer pursuing the first reason for refusal, as set out in its Decision Notice. Consequently, I need not consider further the scheme's transport impacts in regard to the accessibility of the site to a Bedfordshire Fire Engine.
5. On this basis, the main issues in this appeal are:

- whether the proposal would provide adequate natural light in all habitable rooms of the dwellinghouses; and
- whether the proposal would ensure safe site access, with particular regard to pedestrian users.

Reasons

Natural light

6. The appeal site includes a three-storey, mid-terrace building within a pedestrianised shopping area of the town centre. At the ground floor, the building comprises retail units. The proposal would involve the development of four, two-bedroom flats across the first and second floors of the building.
7. Paragraph X of Part 3 of the GPDO defines "habitable rooms" as any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms. On the basis of this definition, for each proposed flat, the bedrooms and the combined kitchen/living area would constitute habitable rooms.
8. From my site visit, I found that many habitable rooms would experience low daylight due to the small size and off-centred arrangement of the window openings. The close proximity of adjacent buildings within the row would limit the amount of daylight reaching some windows at the flank walls. Notably, bedroom 2 of proposed Flat 11A would have a single, small window tucked into a corner and oriented to face along the building's flank wall, thus providing low light to the room. At bedroom 1 of proposed Flat 13A, bedroom 1 at Flat 13B, and bedrooms 1 and 2 at Flat 11B, the size and arrangement of the window openings and presence of neighbouring buildings would result in low daylight levels in those habitable rooms.
9. The appellant has provided an Internal Daylight Report (IDR) providing assessment of natural daylight and sunlight levels in proposed habitable rooms. The GPDO does not define what level of daylight is considered adequate for the purposes of Class MA development and the IDR indicates there are no minimum mandatory requirements for daylighting in Building Regulations.
10. However, the IDR provides assessment of daylight provision and sunlight exposure in accordance with BS EN 17037-2018 *Daylight in Buildings* and the procedures detailed by *Site Layout Planning for Daylight & Sunlight* published by the Building Research Establishment (BRE). The IDR suggests that such guidance is widely accepted as the approved methodology when calculating light levels in habitable rooms, and therefore is relevant and appropriate for the purposes of assessing the proposal.
11. The IDR's assessment data indicates that no habitable room at proposed flats 11A or 13A would meet the daylight requirement. At proposed Flat 11B, neither bedroom would meet the daylight requirement. At Flat 13B, the daylight requirement would not be achieved at bedroom 1 or the kitchen/living area.
12. The IDR suggests that all proposed flats meet the BRE guidance for sunlight exposure. However, on examination of the IDR's data, not all habitable rooms would achieve the recommended target for minimum hours of direct sunlight.

For example, the IDR indicates neither bedroom at proposed Flat 11A would receive the suggested minimum duration of sunlight exposure.

13. The IDR suggests that within urban locations expectations for natural daylight in all habitable spaces would not be as great as in more open locations. However, the conditions of the GPDO do not suggest a lesser requirement for natural light in urban areas.
14. Therefore, based on the assessment provided by the IDR, and from my own observations during the site visit, I consider the proposal would not provide adequate natural light in all habitable rooms of the proposed dwellings. In this circumstance, paragraph W (2A) of the GPDO indicates that prior approval must be refused.

Pedestrian safety

15. The proposed flats would be accessed from the rear of the building at Hawes Court, a service yard providing access and waste storage at the rear of existing shops, commercial properties, and existing flats. Hawes Court adjoins a pedestrianised shopping street via a narrow access between buildings and is not a through route. Whilst it has no pedestrian footway, the roadway serves as a pedestrian access to many existing buildings. Due to the constrained nature of the service yard, vehicle movements appeared to be infrequent and at low speed.
16. In its delegated report, the Council concludes the proposed boundary treatment, comprising a 0.6m high boundary wall with metal railings above, would assist pedestrian safety through enabling views of vehicles within Hawes Court. Therefore, the proposed boundary treatment would not result in harm to pedestrian safety at the proposed gated access.
17. The proposal includes domestic and commercial bin storage within the site boundary. The Council's recycling officer indicates the proposed development would require a total combined waste storage capacity of 720 litres for general waste and 960 litres for recyclable waste storage. The plans indicate the proposal would exceed this requirement, providing waste storage of 1100 litres for each waste type, with an additional area for future storage of electrical waste.
18. The volume of commercial waste storage required to serve the existing retail units is not specified. However, the volume and location of commercial bin storage is indicated on the plans along with an additional area reserved for future electrical waste storage. Consequently, the submitted evidence does not suggest the bin storage provision would be insufficient nor result in the storage of bins or waste outside the appeal site boundary.
19. Hawes Court is inaccessible to a domestic refuse vehicle, and waste collection arrangements are unclear. However, I note that there are existing flats served by Hawes Court. If I were allowing the appeal, waste collection arrangements could be secured through a planning condition.
20. Therefore, having particular regard to pedestrian safety, the proposed access and bin storage would not result in harm to highway safety. Having regard to the development plan insofar as it is relevant to matters of highway safety, the proposal would accord with LP Policies 29 and 31 which together require proposals to integrate functional needs such as waste storage, give particular

attention to highway safety, and provide suitable access arrangements to and within the development.

Other Matters

21. At time of my site visit, construction work had commenced on site. However, since I am dismissing the appeal on other grounds it is not necessary for me to conclude whether such construction works would result in failure to adhere to the requirements of the prior approval conditions, as set out at Schedule 2, Part 3, paragraphs MA.1 and MA.2 of Class MA of the GPDO.
22. The appeal site is located within the Bedford Conservation Area (CA). S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Since the ground floor of the building would be retained in retail use and no changes are proposed to the external appearance of the building, I am satisfied the proposal would preserve the character and appearance of the CA.

Conclusion

23. Whilst I have not identified harm in respect of pedestrian safety of the site access, as set out above, the proposed development would not provide adequate natural light in all habitable rooms of the dwellinghouses. For this reason, I conclude the appeal should be dismissed and prior approval should not be granted.

E Dade

INSPECTOR