



Appeal Decision

Site visit made on 5 December 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 January 2023

Appeal Ref: APP/L5810/W/23/3323044

68 Priory Road, Richmond Upon Thames, Hampton TW12 2PN

- 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) Order 2015 (as amended) (the GPDO’).
 - The appeal is made by Miss Susan Green against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 23/0254/GPD26, dated 25 January 2023, was refused by notice dated 17 March 2023.
 - The development proposed is conversion from nursery school to two flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As the description of the proposal is unclear from the application form, I have taken this from the Council’s decision. This is also consistent with the description provided on the appellant’s appeal form.

Background and Main Issues

3. The above class in the GPDO permits 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.
4. When I visited, the appeal property had already been converted to two flats, one on the ground floor and the other at first floor. The layout of the flats at the appeal property also reflect the proposed plans submitted as part of the appeal scheme before me. Indeed, the application form identifies that the change of use was expected to be completed in May 2023. Given that the change of use has already been undertaken, this is an important consideration in determining whether the proposed development falls within the terms of permitted development under Schedule 2, Part 3, Class MA of the GPDO.
5. Schedule 2, Part 3, Class MA of the GPDO, under Paragraph MA.2.(2) requires that: Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to, a number of matters.
6. The matters in dispute between the main parties are: (a) transport impacts of the development, particularly to ensure safe site access, and (h) where the

development involves the loss of services provided by (i) a registered nursery, the impact on the local provision of the type of services lost.

7. Against this background the main issues are:

- whether the proposed development falls within the terms of permitted development rights under Schedule 2, Part 3, Class MA of the GPDO, with regard to the change of use having already been undertaken; and,
- if so, whether prior approval should be granted in respect of (a) transport impacts of the development, particularly to ensure safe site access, and (h) where the development involves the loss of services provided by (i) a registered nursery, the impact on the local provision of the type of services lost.

Reasons

Whether the proposal would be permitted development

8. The GPDO lays down various conditions that apply, these include those set out under Part W-Procedure for applications for prior approval under Part 3, of the GPDO. One of these condition states that, for a proposal of the type before me, the development must not begin before the receipt of a written notice either giving prior approval or saying such approval is not required.
9. Therefore, and on the information before me, because the proposed change of use had been undertaken before the receipt of a notice saying prior approval is either not required or is given, the submitted scheme cannot now be given prior approval. Therefore, the proposal does not constitute development permitted under Schedule 2, Part 3, Class MA of the GPDO.

Prior approval matters

10. Given my findings above, which lead me to dismiss the appeal, there is no need for me to go on to consider the prior approval matters subject of this appeal or the evidence submitted in support of these matters.

Conclusion

11. For the reasons set out above, I conclude that the proposal would not comply with the requirements of permitted development under the provisions of Class MA of the GPDO and therefore the appeal should be dismissed.

M Aqbal

INSPECTOR