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# Appeal Decision

Site visit made on 28 March 2024

**by S Brook BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 April 2024**

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**Appeal Ref: APP/J2373/W/23/3328424**

**8A Palatine Road, Blackpool, FY1 4BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Stuart King of Barsham West Limited against the decision of Blackpool Council.
  - The application Ref is 23/0545.
  - The development proposed is Change of use of premises to one self-contained flat.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Schedule 2, Part 3, Paragraph W(10) of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended, (GPDO) requires the local planning authority to assess the proposed development taking into account any representations received and having regard to the National Planning Policy Framework (the Framework) so far as it is relevant to the subject matter of the prior approval, as if the application were a planning application. My determination of this appeal has been made on the same basis.
3. Prior approval applications must not be determined, expressly or otherwise, on the basis of section 38(6) of the Planning and Compulsory Purchase Act 2004 or as though the development plan must be applied. I have had regard to the policies of the development plan referred to in the evidence only in so far as they relate to the subject matter of the prior approval as material considerations. However, these have not been decisive in my determination of the appeal.

## Main Issue

4. Under Article 3(1) and Schedule 2, Part 3, Class MA of the GPDO, planning permission is granted for 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, subject to limitations and conditions.
5. Paragraph MA.2(2) of Class MA requires the developer to apply to the local planning authority for a determination as to whether prior approval will be required in respect of various specified matters. The Council refused the

application for prior approval solely on the basis of the impact of noise from commercial premises on the intended occupiers.

6. The main issue is therefore whether prior approval should be granted, having particular regard to the impact of noise from commercial premises on the intended occupiers of the proposed development.

## **Reasons**

7. The appeal site comprises the ground floor of a three-storey end of terrace property. A high proportion of the properties within the terrace provide holiday accommodation, either as self-contained units, or as part of managed hotels and bed & breakfast facilities. The terraced housing opposite includes self-contained residential flats and holiday accommodation, as well as accommodation specifically for students. A surface car park is located to the immediate west, with a mix of commercial uses at the junction with Central Drive, which leads towards Blackpool's centre.
8. The appeal site lies within a designated holiday accommodation area (HAA). The comings and goings and activities of holiday makers can differ from those associated with permanent residential occupiers and so it is reasonable to consider whether future occupiers of the proposed residential use would be adversely impacted in this context. The Council states that the upper floors of this end of terrace building are holiday flats and this has not been disputed, while the adjoining property (No 10 Palatine Road), are used as self-contained holiday flats also.
9. The Council acknowledges that residential accommodation has been granted planning permission to the opposite side of the road, but makes the distinction that these approved residential uses fall outside of the designated HAA. However, external sources of noise generated by the comings and goings of holidaymakers along the road, could impact on the living conditions of residents to either side of the road, regardless of the HAA boundary.
10. The Council goes on to state that none of the residential units granted planning permission to the opposite side of the road adjoined unmanaged holiday accommodation, while the appeal scheme would adjoin holiday accommodation that does not benefit from on-site management, both above No 8A and at No 10.
11. I have been provided with the acoustic assessment and management plan produced for the use of self-contained holiday apartments at No 10. The Council confirms that conditions have been attached to the planning permission for this use, to secure the noise attenuation/management measures put forward. I also note that a hallway lies along part but not all of the party wall between No 10 and No 8A.
12. The Council considers that the mitigation measures for No 10 would provide adequate protection for holiday makers within adjoining premises, but not for sensitive permanent residential occupiers. However, the acoustic assessment indicates that the noise attenuation measures have been designed on the basis that neighbouring properties are in residential use. It states that all party walls will be fitted with stud walling and fibreglass insulation that will be sufficient to attenuate noise levels far in excess of anything likely to occur. The management plan provided, particularly the measures to control anti-social

behaviour, would assist in safeguarding the living conditions of holidaymakers and permanent residents alike. As such, the evidence before me suggests that the commercial use of No 10 would not give rise to harm by way of noise disturbance on future occupiers of the appeal scheme.

13. However, I have not been provided with any information or assessment of the potential for noise transmission from the holiday flats within the upper floors of this terraced property on the proposed ground floor flat. There is no detail of any noise attenuation measures that may presently exist, or whether any could be installed, including the level of noise attenuation that could be achieved. Nor have I been provided with any details of any management arrangements that are presently in place for these upper floor holiday flats.
14. As such, the evidence before me does not allow me to conclude that the commercial use of the upper floors of the appeal building would not harm the future occupiers of the proposed flat. Consequently, the requirements of paragraph 135 of the Framework to provide a high standard of amenity for future users would not be met. Insofar as they are a material consideration, the proposal would be contrary to the aims of policy CS7 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027, adopted January 2016, and policies DM5 and DM36 of the Blackpool Local Plan Part 2: Site Allocations and Development Management Policies, Adopted February 2023, which collectively seek to ensure that new development is compatible with existing uses, while the amenities of potential occupiers are not adversely affected.

### **Other Matters**

15. The proposal would bring a vacant building back into beneficial use, while residential use would contribute to housing supply. However, my consideration of the case is solely limited to matters set out in the GPDO. Any suggestion that the Council has a personal vendetta against the appellant, is not a matter for consideration as part of this decision.

### **Conclusion**

16. For the reasons outlined above, it has not been demonstrated that the impact of noise from commercial premises on the intended occupiers of the proposed development would be acceptable, and so I conclude that the appeal should be dismissed.

*S Brook*

INSPECTOR