



Appeal Decision

Site visit made on 18 June 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/H5960/W/23/3332310

Ground Floor, 49 Trinity Road, Wandsworth, London SW17 7SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant approval required under Schedule 2, Part 3, Class MA (Class MA) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Humzha Memon against the decision of the Council of the London Borough of Wandsworth.
 - The application is Ref 2023/2725.
 - The development proposed is described as "change from Insurance Offices to One Bedroom, 2 Person Flat. One extra obscured glazed window to be added to rear annex for extra light to room. The property will be sound proofed and landscaped to give a better outlook. It will also have fencing that will be able to absorb sound from neighbouring properties. The kitchen area will have a change from large window to double opening door for access to garden area. It will have a decent outlook and also let light into the kitchen area. Generally the flat will be a comfortable property to live in for owner or tenants."
-

Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. The name of the appellant in the header is taken from the appeal form. The application form gives the name of the applicant as Mr Roy Gladwell but the submissions indicate that they are an agent acting on behalf of the appellant. I am satisfied the appeal has been made by a legitimate person.
3. The description of development in the header is taken from the application form. The Council's decision notice provides a different description but the appeal form states the description has not changed from that given on the application form. As such, my assessment is based on the original description.
4. Since the Council's decision, the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 has come into force. This amends sub-paragraph (1) of paragraph MA.1 under Class MA by omitting paragraph (a). I have not sought the main parties' view on this change as I am dismissing the appeal on other grounds. However, this amendment removes the need for a unit to have been vacant prior to the date of any application under Class MA. As such, the Council's first refusal reason is no longer relevant. Nonetheless, in light of the third refusal reason, the main issue is whether the proposal would constitute permitted development as defined under Class MA.

Reasons

5. Class MA defines as permitted development the change of use of a building and any land within its curtilage from a use falling within Class E of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a use falling within Class C3 (dwellinghouses). There is no dispute between the parties that the proposed change of use would be permitted under Class MA, subject to compliance with the various clauses and conditions as set out therein. I find no reason to arrive at a different view on this matter.
6. However, the development as described on the application form refers not just to the change of use but to alterations to the building including an extra window to the rear annex as well as change of a kitchen window to double opening doors. The plans included with the application also show other alterations including the removal of an existing timber lean-to extension. The submissions indicate that all doors and windows would match existing but the drawings show windows of a different shape and position to the current openings on the external walls.
7. As such, the proposed alterations would affect not just the interior of the building but would also materially affect its external appearance. Accordingly, they would represent building operations and so they would be development in themselves when having regard to the provisions of Section 55 of the Act.
8. Class MA does not define alterations to buildings as permitted development. Consequently, the extent of the development proposed goes beyond that allowed under Class MA. As such, I conclude the proposal when considered as a whole would not constitute permitted development as defined in Class MA of the GPDO. There is no need for me to go on and consider whether or not prior approval should be required and granted having regard to impacts of noise on the intended occupiers of the development as it would not alter the outcome of the appeal.

Other Matters and Conclusion

9. The appellant raises concern over the lack of communication from the Council when processing the application. Moreover, it is suggested that the development would improve the appearance of the property. However, these factors fail to influence the question as to whether the proposal would represent permitted development under Class MA. Accordingly, they do not affect my views on the appeal.
10. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR