



Appeal Decision

Site visit made on 19 June 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 02 JULY 2024

Appeal Ref: APP/G5180/W/24/3339626

Danaleigh Farm, Jail Lane, Biggin Hill, Bromley TN16 3AX

- 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 George Picketts against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/04661/CUETC3.
 - The development proposed is conversion of existing barn into 1 No. 3 bedroom dwelling and 2 No. 2 bedroom dwellings to also include alterations to the elevations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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), planning permission is granted for the change of use from commercial, business, and service uses to dwellinghouses, subject to limitations and conditions.
3. The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024 (the 2024 Amendment Order) came into force in May 2024, following the deadline for final comments. Both parties have been consulted on the 2024 Amendment Order. The appellant responded to confirm the use of the building, the Council did not provide comments.
4. Within their appeal statement the Council acknowledged that there was an error on the decision notice. The first reason for refusal should have referred to MA.1.(b) rather than MA.2.(b). Also the Council indicated within their appeal statement that the proposal would be contrary to paragraph MA.1.(a), when they had previously indicated that the proposal complied with it.
5. The appellant has referred to the correct sections of the GPDO within their representations. They have also had an opportunity to respond to the Council's appeal statement within their final comments and chose not to. Therefore, neither party is prejudiced by me considering whether the proposal conflicts with paragraphs MA.1.(a) and MA.1.(b) of Schedule 2, Part 3, Class MA of the GPDO as part of the main issue.

Main Issue

6. The main issue is whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 3, Class MA of the GPDO.

Reasons

7. The existing lawful use of the appeal building is for the manufacture and bailing of sawdust and wood chippings. This use was allowed following an appeal¹ against an enforcement notice. Within the decision letter the Inspector indicated that the use fell within Use Class B2, as defined by The Town and Country Planning (Use Classes) Order 1987.
8. There is no substantive evidence, that following that appeal, the lawful use of the building has changed. As the lawful use of the building is classified as Use Class B2, paragraph MA.1.(b) of Schedule 2, Part 3, Class MA of the GPDO does not permit the change of use of the building to a dwellinghouse.
9. The proposed elevations, proposed ground floor, and proposed first floor plans show the installation of several windows and doors. The installation of new external openings is not permitted under Schedule 2, Part 3 Class MA of the GPDO. Instead, it allows for the change of use of a building and any land within its curtilage from a commercial, business, or service use to a dwellinghouse, only. However, without these openings some of the proposed habitable rooms would not have natural light. Therefore, the appeal proposal would not comply with MA.2(f) of Schedule 2, Part 3, Class MA of the GPDO.
10. The nationally described space standard specifies that to provide two bedspaces a room must have a floor area of at least 11.5m². Given the size of the bedrooms, proposed Flat A is a 3-bedroom, 4-person dwelling. Based on the Council's measurements, Flat A would conform with the space standards set out within the nationally described space standard. For this reason, the proposal would accord with paragraph 9A of Article 3 of the GPDO.
11. Moreover, the proposal would comply with Policy 4 of the Local Development Framework, Local Plan, London Borough of Bromley Planning Division, January 2019. Albeit compliance with local plan policies, or otherwise, is not a determining factor for prior approval applications.
12. The 2024 Amendment Order revoked section MA.1.(a) of Schedule 2, Part 3 Class MA of the GPDO. As such, it is not necessary for me to consider the scheme against this condition.
13. I conclude that the proposed development would not be granted planning permission by Article 3, Schedule 2, Part 3, Class MA of the GPDO, for the reasons given above.

Other Matters

14. Whether the proposal complies with Schedule 2, Part 3, Class MA of the GPDO is a factual matter. The planning merits of the construction of three dwellings, does not alter whether the proposal complies with the limitations and conditions set out within the GPDO. Therefore, this does not alter my assessment of the appeal proposal.

¹ Appeal Ref. T/APP/C/97/G5180/646469/P6, issued 22 May 1998.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR