



Appeal Decision

Site visit made on 6 August 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2024

Appeal Ref: APP/D5120/W/23/3335702

9A Welling High Street, Welling, Bexley DA16 1TR

- 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 the Estate of Brian Francis Michael Pollard C/O Chattertons against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 23/02360/PRIORM.
 - The development proposed is a notification for prior approval for change of use of the first floor ancillary office space (Class E (c) (ii) to provide a residential flat (Class C3).
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Decision

1. The appeal is allowed and prior approval is granted for a notification for a prior approval for change of use of the first floor ancillary office space (Class E (c) (ii) to provide a residential flat (Class C3) at 9A Welling High Street, Welling, Bexley DA16 1TR in accordance with the terms of the application, Ref 23/02360/PRIORM, subject to the following conditions:
 - 1) The development hereby approved shall only be carried out in accordance with the following approved plans: site location plan – ref. serial no.260316; plan ref. 9366 _ 2 - block plan; and plan ref. 9366 _ 1A - existing and proposed plans (with measurements submitted with the appeal).
 - 2) Precise details of refuse and recycling storage facilities (including any means of enclosure) shall be submitted to, and approved in writing by the Local Planning Authority before the development hereby approved is occupied, together with a timetable for its implementation. The development shall be undertaken in accordance with the approved details and timetable, and retained as such thereafter.
 - 3) Precise details of secure cycle parking (including any means of enclosure) shall be submitted to, and approved in writing by the Local Planning Authority before any part of the development hereby approved is occupied, together with a timetable for its implementation. The development shall be undertaken in accordance with the approved details and timetable, and retained as such thereafter.
 - 4) The soundproofing shown on plan ref. 9366 _ 1A (existing and proposed plans (with measurements submitted with the appeal) shall be fully implemented prior to the first occupation of the dwelling hereby approved.

Preliminary Matters

2. The description of development used in the decision and banner heading above, is the same as that stated on the Council's notice of decision, as the appellant has indicated within the appeal submission of their agreement to its change, from that stated originally on the application form.
3. The appellant has submitted an additional floor plan with their appeal, showing internal measurements, and a proposed internal storage area. The Council has been provided with a copy of the additional plan and they have been able to comment on it through the appeal process. In view of this, and the relatively limited additional information, I am content that there would be no unfairness to any parties by accepting this information. The appeal has been determined on this basis.
4. Class MA of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as amended, 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 (including office use)) of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 as amended (UCO) to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.
5. Further to this, development under Class MA is permitted subject to meeting the limitations set out within Paragraph MA.1 of Part 3, Schedule 2 of the GPDO. In addition, there are a number of conditions as set out within Paragraph MA.2, which includes the requirement that the developer must apply to the local planning authority for a determination as to whether prior approval is required as to a number of matters. The Council's decision has not found conflict in terms of these limitations or conditional matters, and on the evidence before me, I see no reason to disagree.

Main Issues

6. Section 3, Paragraph (9A) of the GPDO, states "Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—(a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015". The Council's notice of decision stated that the proposal conflicts with this requirement. Accordingly, the main issue is whether the proposal is permitted development in regard to its compliance with space standards.

Reasons

7. The proposal relates to a proposed new single storey 2-bedroom dwelling, said to be for 3 no. persons, which The Technical Standards - Nationally Described Space Standards, published 27 March 2015, (NDSS) state should be a minimum of 61 square metres in terms of its gross internal floor area, including internal storage provision. The NDSS amongst other things, requires for such a proposal; 2 square metres for internal storage be provided; a double bedroom should be a minimum of 11.5 square metres with a minimum width of 2.75 square metres; and that a single bedroom should be a minimum of 7.5 square metres, with a minimum width of 2.15 metres.

8. The Council stated it measured the proposed floor area of the proposed dwelling at 60.6 square metres with no internal storage area, and that the larger bedroom measured 10.8 square metres, and the single bedroom measured 6.95 square metres.
9. Following this, the appellant submitted an additional plan with their appeal submission with detailed room measurements, which state; the floor area of the proposed dwelling is 61.77 square metres; the larger bedroom is 11.62 square metres in size with a minimum width of 3.1 metres; and the single bedroom is 7.55 square metres in size, with a minimum width of 2.76 square metres. In addition, the appellant's additional plan shows an internal storage area of at least 2 square metres in area. All these sizes exceed the minimum requirements of the NDSS for a 2-bedroom, 3-person dwelling.
10. Other than repeat some of its earlier measurements, the Council has not specifically disputed the appellant's measurements or provided any breakdown of its own measurements or calculations. As such there is an absence of any substantive evidence to dispute the detailed measurements provided by the appellant with the appeal, or to demonstrate why the proposal would not meet the required space standards.
11. I therefore conclude on the basis of the appellants submission that the proposed development would meet the minimum sizes for a 2-bedroom 3-person dwelling as set out within the NDSS, and comply with Section 3 paragraph 9A of the GPDO. As such, the proposal would be permitted development in accordance with Class MA, of Part 3, Schedule 2 of the GPDO.

Conditions

12. Planning permission is granted for development under Schedule 2, Part 3, Class MA of the GPDO subject to conditions set out in paragraph MA.2 of that Class. At Paragraph MA.2(5) it specifies that the development must be completed within a period of 3 years starting with the date prior approval is granted. In addition, paragraph MA.2(6) specifies that any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of the UCO and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse. In view of the conditions as set out above, a separate implementation condition as recommended by the Council would not be necessary.
13. A condition has been imposed regarding the approved plans which is necessary for clarity. Although the approved plans are annotated with areas for secure cycle parking and bin storage, there are no precise details of these facilities, as such it is necessary to impose conditions with respect to both refuse storage, and secure cycle parking provision, to ensure all such facilities are provided within the appeal site and not on the highway. In addition, such conditions are necessary to ensure adequate facilities are provided within the appeal site for intended occupiers, and in terms of cycle parking, to promote sustainable travel.
14. A condition requiring the adherence to the proposed soundproofing shown on the approved plans, is also necessary to ensure it is undertaken prior to the first occupation of the dwelling hereby approved, to protect the amenity of the intended occupiers of the proposed development from any noise from the ground floor commercial use.

15. A condition regarding details of internal storage areas has been suggested. However, this is shown on the proposed floor plan referred to within the approved plans condition (condition 1), as such an additional condition would not be necessary.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

A Hunter

INSPECTOR