



Appeal Decision

Site visit made on 16 July 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2024

Appeal A Ref: APP/X0415/W/23/3334687

90 Broad Street, Chesham, Buckinghamshire HP5 3ED

- 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 A Jain against the decision of Buckinghamshire Council.
 - The application Ref is PL/23/1496/PAPCR.
 - The development proposed is a 1 person studio dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are three appeals relating to this site. Due to the differing issues raised, appeals B¹ and C² are the subject of separate decision letters.
3. The Council indicated its objections to the proposed development in relation to paragraphs MA.1.(a) and MA.2.(f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). For the purposes of this appeal, I have taken this to mean paragraphs MA.1.**(1)**(a) and MA.2.**(2)**(f) [my emphasis].
4. The Town and Country Planning (General Permitted Development) England Order 2015 (the Order) was amended by the Town and Country Planning (General Permitted Development) England (amendment) Order 2024 (S.I. 2024/141) and this came into force on 5 March 2024. The amendments affected MA.1.(1)(a) of Class MA of Part 3 to Schedule 2 only.
5. The Council was consulted on how the new interpretation of the amendments would affect their decision. It subsequently withdrew its objection insofar as it related to there being insufficient evidence to demonstrate that the building had been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. I have, therefore, not considered this matter any further in relation to this appeal.
6. An Internal Daylight Assessment (IDA) assessment was submitted with the appeal. I am satisfied that the Council has had the opportunity to view and comment on this document and indeed has done so.

¹ APP/X0415/W/23/3334688

² APP/X0415/W/23/3334689

7. Before prior approval under Class MA can be evaluated, it is necessary to determine whether or not the proposal falls to be considered as permitted development. The Council accept that the building qualifies as permitted development under this class, and I find nothing that contradicts this conclusion.

Main Issues

8. Paragraph MA.2 of Schedule 2, Part 3, Class MA of the Order requires prior approval to be sought for the matters listed in that paragraph. The Council is content that the development is acceptable in all respects, except in relation to paragraph MA.2.(2)(f). Therefore the main issues are:
 - a) Whether the appeal scheme provides adequate natural light in all habitable rooms, and
 - b) The effect of the development on Beechwoods Special Area of Conservation (SAC).

Reasons

Natural light

9. Paragraph MA.2.(2)(f) of the Order states that prior approval of the authority will be required as to the provision of adequate natural light in all habitable rooms of the dwellinghouse.
10. As a terraced building with no existing unblocked side windows, the existing premises has two elevations to provide natural light. The eastern elevation addressing the road offers a large window which allows light into much of the front of the unit, however this diminishes significantly towards the interior due to its depth. The western aspect would offer one small, heavily shadowed window to the kitchen and one window to the bedroom. The window to the bedroom would be shadowed by an overhanging balcony and external stairwell, significantly reducing the amount of natural light being received from this aspect.
11. An IDA was provided with the appeal, but this was after the Council's decision, and upon which it has commented. The IDA suggests that the proposed bedroom would receive adequate levels of natural light. However, the IDA did not reference or consider the effect of the overhanging balcony to the upper floor flat or the external stairwell on light levels to this room. Equally, as has been indicated by the Council, the IDA did not fully explain the reasoning and show its results. I am therefore not persuaded by its findings.
12. Therefore, given the aspect of this bedroom, the external influences upon it and the lack of any other sources of natural light; I conclude that the bedroom in the proposed development would not benefit from adequate natural light.

Effect on SAC

13. I have noted the Council's reference to the Beechwoods SAC. Notwithstanding the decision on this appeal, which relates to an application for Prior Approval, development cannot be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 (as amended). This, however, does not need to precede the prior approval process and whilst

it is a prerequisite for the development to occur, it is not determinative in this appeal.

Conclusion

14. For the reasons given above I conclude that the appeal scheme would not provide adequate natural light in all habitable rooms and the appeal should therefore be dismissed.

Nick Bowden

INSPECTOR