
Appeal Decision

Site visit made on 4 November 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/C4235/W/24/3346465

7 Sheffield Street, Heaton Norris, Stockport SK4 1RU

- 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 Gee Estates Ltd against the decision of Stockport Metropolitan Borough Council.
 - The application Ref is DC/091681.
 - The development proposed is Change of use from Class E Car Servicing to Class C3 2 No. Apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development has been taken from the decision notice as this more accurately describes the proposal. I note that this has also been used in the appeal form.
3. The name of the applicant and appellant differ between the application form and appeal form. Clarification has been sought on this matter and both the applicant and appellant have been confirmed as Gee Estates Ltd, which is reflected in the banner heading above.

Background and Main Issues

4. 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) provides for a permitted development right for the change of use of a building falling within use class E (Commercial, Business and Service) to class C3 (dwellinghouses). This is subject to limitations and conditions, as set out in subsequent paragraphs of Class MA.
5. Paragraph MA.1. (1) and (2) set out the requirements to qualify for permitted development under Class MA. There is no dispute between the parties that the criteria of Class MA.1 are satisfied, I find no reason to arrive at a different view on this matter.
6. Paragraph MA.2 requires that where any development under Class MA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for its prior approval subject to a number of matters. In this case the matters in dispute between the main parties are the impacts of noise from

commercial premises, transport impacts of the development and the provision of adequate natural light.

7. Therefore, the main issues are whether the development would accord with the conditions of Schedule 2, Part 3, Class MA of the GPDO with regard to:
 - impacts of noise from commercial premises on the intended occupiers of the development; audible noise
 - transport impacts of the development; and
 - the requirement for the provision of adequate natural light.

Reasons

Noise

8. The appeal site is located in a predominantly industrial area. The proposed apartments would be located on the ground floor with many of the windows facing a service yard. Adjacent to the property is a vehicle servicing unit with the Council noting that noise generating activities occur in the external yards in the vicinity of the appeal site. The Council have also indicated that the area is designated as employment land in the Local Plan, accommodating B1, B2 and B8 uses, including industrial, mixed use and vehicle repair. There are therefore numerous sources of noise that could potentially impact the living conditions of future occupiers of the proposed apartments.
9. During my visit, I did observe some noticeable noise in association with the vehicle servicing unit at the adjacent business premises and a steady hum from plant equipment at a mill north of the site. I appreciate that this might not be the case at all times. However, the adjacent garage is stated to operate 9am till 4pm. While these hours may coincide when future occupiers are most likely to be away from the home, they could be shift workers or work from home. Moreover, I note that due to the age of the industrial area many of the businesses have unrestricted operational hours.
10. The appellant has suggested a number of mitigation measures including acoustic sound insulation and plasterboard along with acoustic glazing and enhanced background ventilation to prevent the need for windows to be opened during warm weather. However, no information has been provided with regard to the acoustic specification of the ventilation strategy. Nor has any information been provided within the submitted noise assessment regarding the existing noise levels emanating from the surrounding industrial area, or the effect that the acoustic measures would have on these noise levels. Consequently, it is not possible to ascertain whether the measures would be effective or if further noise insulation measures would be necessary. Given this uncertainty, a condition requiring compliance with the results of a formal noise assessment would not be sufficiently precise nor reasonable to meet the relevant tests in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG).
11. I therefore conclude that it has not been demonstrated that the impacts of noise from commercial premises on the intended occupiers of the development would be acceptable. The proposal therefore fails to satisfy condition MA.2 (2) (d) of Schedule 2, Part 3, Class MA of the GPDO. Furthermore, because of this and the industrial location, it consequently fails to satisfy condition MA.2 (2)

(g) as the proposal does not adequately assess the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

Transport

12. Condition MA.2 (2) (a) of Class MA requires regard to be had to transport impacts of the development, particularly to ensure safe site access. It does not preclude the consideration of other direct transport impacts of the development.
13. The appeal proposal does not provide off-street parking; however, the appeal site is in an accessible location close to a number of amenities and public transport. Should future occupiers own a private vehicle, I observed that there was plenty of on street parking availability, although this was only a snapshot in time, it was when most of the surrounding industrial units were open, thus there would likely be further parking availability when the businesses are closed. Therefore, given the scale of the development, it would be unlikely to adversely contribute to parking pressure.
14. In relation to cycling, the submitted plans demonstrate the provision of 4no foldable bike lockers which would serve both the proposed ground and existing first floor apartments.
15. Whilst the Council require 1 full size storage locker, I must have regard to the Framework so far as relevant to the subject matter of the prior approval. The Framework advocates cycling and that appropriate opportunities to promote sustainable modes of transport can be taken up. Although the appellant identifies that another local authority may be satisfied with foldable bike lockers, I find that they would be prohibitive. Future occupiers with a full-size bicycle would not have any provision for secure cycle storage, potentially discouraging bicycle ownership and the proposed storage could therefore have an impact on the provision of sustainable transport, limiting sustainable transportation choices for future occupiers.
16. The Council state that the proposed two ground floor apartments would require three bins. The submitted plans demonstrate storage for three refuse bins at the rear of the building, however the appellant also asserts that this is where bins are currently located. It is therefore not clear whether the refuse area could accommodate additional refuse facilities. Notwithstanding this, the identified area also lies outside of the red line boundary, and it is unclear if a right of access exists. If the bins cannot be located in the identified location, given the site limitations, it could result in them being positioned either on the footway or on the access road in the yard, hindering the movement of vehicles and pedestrians to the detriment of highway safety.
17. I note the appellant contends that the proposals for refuse storage align with a similar scheme in Leeds, however I have very little information on this and I cannot be sure of the size of the bin store in that location. It therefore does not alter my assessment above.

18. For the above reasons, based on the submitted information I cannot be satisfied that the transport impacts would be acceptable and find that the proposal would not satisfy condition MA.2.(2)(a) of Schedule 2, Part 3, Class MA of the GPDO.

Light

19. Condition MA.2(2)(f) of Class MA requires the provision of adequate natural light in all habitable rooms of the dwellinghouses. Based on the existing window locations there would be insufficient openings to meet this requirement. To mitigate this, the proposal includes a number of new openings to be installed, primarily replacing the existing roller doors.
20. Class MA only permits a change of use of a building and land within the curtilage, but not the operations required to facilitate the change of use. However, the proposed windows have recently been granted planning permission (Ref: DC/091084), although the alterations have not yet been carried out. The proposed windows upon implementation would provide natural light into all of the habitable rooms. No concern has been raised that the light would not be adequate and based on my site observations and the proposed size, location and orientation of the windows, I am satisfied that they would secure adequate natural light within the proposed habitable rooms.
21. I note that the local planning authority cannot force the appellant to implement the extant permission. However, since there is an extant permission and the Council have not raised concerns regarding the adequacy of the light in the room from the proposed windows, a condition could be applied that would prevent occupation of the proposed apartments until the approved works under permission DC/091084 has been completed, to ensure that adequate natural light would be provided. There is nothing in paragraph W (13) of the Order, or in the PPG, to prevent the imposition of a negatively worded condition, relating to occupation. The condition would be also reasonably related to the subject matter of the appeal.
22. For the above reasons, I conclude on this issue that the proposal would provide adequate natural light to all habitable rooms of the dwellinghouses and would satisfy condition MA.2(2)(f) of Schedule 2, Part 3, Class MA.

Conclusion

23. The proposed development would fall within the provisions of Schedule 2, Part 3, Class MA of the GPDO and would, subject to a condition, provide adequate natural light in accordance with MA.2.(2)(f). However, it has not been possible to fully assess the transport impacts in accordance with MA.2.(2)(a), nor has it been demonstrated that the impacts of noise from commercial premises would be acceptable, in accordance with MA.2.(2)(d) and (g).
24. For the reasons given above, I conclude that the appeal should be dismissed.

T Bennett

INSPECTOR