



Appeal Decision

Site visit made on 2 December 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Appeal Ref: APP/H1840/W/24/3349042

**R. Holloway Agricultural Drain, 47A Winchcombe Road, Sedgeberrow
WR11 7UZ**

- 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 Richard Holloway against the decision of Wychavon District Council.
 - The application Ref is W/24/01073/GPMAE.
 - The development proposed is notification for prior approval for the proposed change of use from commercial, business and service to dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development has been taken from the Council's decision as this more accurately describes the proposed development and also reflects the description on the appeal form.
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by this.

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 (Class MA) provides for a permitted development right to change the use of a building within Class E (commercial, business and service) of the Use Classes Order¹ as amended (UCO) to a use within Class C3 (dwellinghouses) of the UCO.
5. Paragraph MA.1. (1) and (2) set out the requirements to qualify for permitted development under Class MA. Paragraph MA.1. (1) requires the use of the building to fall within paragraph MA.1. (2) for a continuous period of at least two years before the date of the application for prior approval. Whether or not the appeal proposal relates to a building that meets these qualifying criteria is disputed by the main parties.

¹ Town and Country Planning (Use Classes) Order 1987.

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 relating to the development. This includes the transport impacts, contamination risks, flooding risks, impacts of noise and the provision of adequate natural light in habitable rooms.
7. Therefore, the main issues are:
 - whether the proposed development would constitute permitted development as defined under Class MA; and if so,
 - the effect of the proposed development with regard to the prior approval matters specified in paragraph MA.2. (2) under Class MA.

Reasons

8. Number 47A Winchcombe Road (No 47A) is accessed via a narrow road that leads to a large area of hardstanding used for parking with an office, steel portal framed building, metal containers and various other items located on the land. It is located to the rear of houses that front onto Winchcombe Road. The appeal site relates to part of No 47A which contains the office.
9. Planning permission for an office was approved in 1991 (original 1991 permission) as part of a development at No 47A for a drainage contractors' business². The appellant indicates that the office was relocated to the position of the appeal site in 2008. A photograph of the office subsequently taken in 2019 shows that the office comprised a portacabin, raised above the ground with an external metal staircase. This differs in appearance to the office subject of the appeal proposal. The Council suggest that this is because the office was replaced. However, the appellant states that the altered appearance results from repairs and alterations undertaken in 2020.
10. My observations on site confirm that the office comprises a building physically fixed to the ground with a brick plinth and blockwork foundations. Its external surfaces comprise grey cladding above the plinth with a flat roof membrane. It is not within the remit of an appeal under Class MA to determine whether or not this building operation is lawful. This would be a separate matter for the Council to investigate.
11. However, Class MA does require the use of the building to fall within one of the uses specified for a continuous period of at least two years before the date of the application for prior approval. Whilst the Council suggest that the adjacent commercial use may no longer be used as a drainage contractors' business and may now be used for insect farming, they do not dispute that the office remains in use under the terms of the original 1991 permission. The evidence indicates that this use originally fell under Use Class B1 of the UCO. Therefore, the use of the office currently falls under the Commercial, Business and Service uses set out in Class E of the UCO as amended.
12. Even though the appellant indicates that there are no external changes to the office building proposed, I saw on my site visit that the existing and proposed

² Council Ref 91/01132 Continuation of use of storage of pipes and equipment and use of building in connection with drainage contractors' business and office.

elevations shown on the submitted drawings do not correlate with the office building currently in situ.

13. The proposed evacuation ramp shown on the plans comprises a raised platform construction and is not present on the appeal site. Whilst flooding risks of the proposed development is a prior approval matter that would need to be considered under the second main issue, the main parties do not suggest that this ramp is not required. In particular, it is clear from the evidence including the appellant's Flood Risk Assessment and Drainage Strategy (2024) that the ramp is required to provide a flood escape route to enable safe access/egress to the site due to the site's location in flood zone 2. The requirement to show how occupants would be able to access/egress the building safely during a flood event is also set out in the Environment Agency comments.
14. The proposed ramp would represent a building operation and would constitute development having regard to the provisions of Section 55 of the Town and Country Planning Act 1990. As such, the proposed development includes a building operation required to facilitate the proposed change of use.
15. Furthermore, the proportions of the windows on the front elevation and the gradient of the land differ between the submitted drawings and what was seen on my site visit. It is not clear whether further building operations are required in these respects. If they are, this would further add to the building operations already identified as being required to facilitate the proposed change of use.
16. Class MA permits a change of use of a building but not operations required to facilitate the change of use. Consequently, the extent of the development proposed goes beyond that allowed under Class MA. On this basis, I conclude the proposed development would not constitute permitted development as defined under Class MA.
17. There is no need for me to go on and consider the effect of the proposed development with regard to the prior approval matters specified in paragraph MA.2. (2) under Class MA under the second main issue as it would not alter the outcome of the appeal.

Conclusion

18. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR