



Appeal Decision

Site visit made on 4 February 2025

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th February 2025

Appeal Ref: APP/Z0116/W/24/3346111

40 Cranmore Crescent, Southmead, Bristol BS10 5RQ

- 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 M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr D Hoang against the decision of Bristol City Council.
 - The application Ref is 24/00259/COU.
 - The development proposed is described as ‘the development was formerly a Hot food takeaway at ground floor level with an owners accommodation/flat upstairs. The intention is to provide a separate and further flat at ground level, making two flats in total. All living rooms of the proposed development will be provided with natural light via windows in each of the rooms.’
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the applicant as Mr Andrew McLurg. However, the appeal is made in the name of Mr D Hoang. It has been confirmed that Mr D Hoang was also in fact the original applicant. I am therefore satisfied that the appellant can make the appeal.

Background and Main Issue

3. Schedule 2, Part 3, Class M of the General Permitted Development Order (GPDO) grants planning permission for the change of use of a building from a hot food takeaway to a use falling within Class C3 (dwellinghouses), subject to compliance with its requirements and subject to the Council’s prior approval in respect of certain matters. The application seeks prior approval for the change of use of the appeal building, as a former fish-and-chip shop, to result in two flats.
4. Regulation 3 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Regulation 2020 amended the GPDO such that, relevant to the appeal application, it does not grant permission for any new dwellinghouse that does not comply with the Government’s Nationally Described Space Standard (NDSS). The main issue is therefore whether the proposal complies with the GPDO and in particular the NDSS.

Reasons

5. The NDSS states that its requirements are relevant only for new dwellings and have no other meaning or use. The appeal building already had residential accommodation at ground and first floor level. However, the submitted existing plans show the access, floorspace and kitchen of the accommodation as being

shared with the fish-and-chip shop use. Consequently, on the evidence available to me, such residential use seems to have been an inherent part of the commercial use, as part of a single planning unit, rather than a separate, self-contained flat.

6. The appeal application seeks to subdivide the floorspace internally, to create two separate flats, each with their own separate entrances, floorspace and kitchens. On this basis, effectively both of the flats would be 'new', even though bedrooms have previously existed at first floor level.
7. As new dwellings, it is therefore necessary that the proposal meets the NDSS for it to be permitted development. However, there is no dispute that the flat proposed over two storeys would have a floorspace below the 70 square metre minimum required by the NDSS, as a two-bed unit.
8. The appellant has referred to possible alternative arrangements for that unit, such as relocating one of the proposed kitchens to the lounge, or not designating the box room as a bedroom. Nevertheless, these are not the proposal before me, and I must base my decision on the submitted plans. Accordingly, it would not comply with the NDSS or, it follows, the GPDO. As such, regardless of any other matters, I could not lawfully grant prior approval.

Other Matters

9. The Council also considered that the proposal does not accord with the GPDO because of insufficient clear information about the date of the previous use. In addition, it refused to give its prior approval because of the absence of information about cycle and bin storage. However, as I have found that the proposal is not permitted by the GPDO, my decision does not turn on these matters and so I shall not consider them further. The appellant may have intended to apply for full planning permission rather than prior approval, but the application was clearly made using the Prior Approval form, and so I have determined the appeal on this basis.

Conclusion

10. For the reasons given above, and taking into account all other matters raised, the appeal is dismissed.

O Marigold

INSPECTOR