



Appeal Decision

Site visit made on 16 January 2025

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

Appeal Ref: APP/W2465/W/24/3349769

103-105 Princess Road East, Leicester LE1 7LG

- 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 Singh against the decision of Leicester City Council.
 - The application Ref is 20240774.
The development proposed is conversion of offices (Class E) to self-contained flats (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. Under Article 3(1) and Schedule 2, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), planning permission is granted for a change of use of a building from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses), subject to conditions. One of these, paragraph MA.2(2) of Class MA, requires the developer to apply to the local planning authority for a determination as to whether prior approval will be required in respect of various matters.
3. The Council determined that prior approval was required and was refused, citing seven reasons for refusal. Refusal reason 1 was that the building has a Class F1 use¹, therefore the lawful use of the building does not fall within Class E of The Town and Country Planning (Use Classes) Order 1987 (as amended). Whilst the Council went on to consider the conditions under Class MA.2., development is not permitted by Class MA unless the use of the building fell within one or more of the classes specified, in this case, Class E, for a continuous period of at least 2 years prior to the date of the application for prior approval.
4. Therefore, the main issue is whether the proposal would be permitted development under Class MA, with particular regard to its previous use.

Reasons

5. The appeal site is a pair of semi-detached, period villas, within the New Walk Conservation Area (CA).

¹ Learning and non-residential institutions, Town and Country Planning (Use Classes) (Amendment) (England) regulations 2020

6. The existing use of the building is disputed between the parties. The Council claims that the lawful use of the building is F1, whilst the appellant considers it is Class E. The Council has listed in the officer report several planning applications approved between 2013 and 2016 which all refer to the building being Use Class D1, previously non-residential institutions, and which is now Use Class F1. The development proposal is to change the use of the building from offices to 14 flats over the three floors within the property.
7. The appellant contends that the building has been in continuous use as offices, Class E, for over two years, which they state has been documented through occupancy records and usage. Whilst they refer to additional evidence being submitted; none has been provided.
8. Therefore, on the evidence before me, there is insufficient information that supports the building having been used for a Class E purpose. Consequently, as I have found that the proposal does not meet the requirements of Class MA.1(1) (b) of the GPDO, it is not permitted development.
9. As the matters for prior approval apply only if the use of the building fell within one of the specified classes, there is no need to consider whether prior approval should be granted.

Other Matters

10. Whilst the Council went on to consider prior approval matters under Class MA.2. (2), citing further reasons for refusal, the assessments and revised plans referred to by the appellant to try and overcome the refusal reasons, were not submitted with the evidence.
11. I acknowledge the appellant's points that the proposed development would contribute to housing supply in the city, and it would not harm the character of the CA or the living conditions of future occupiers. However, as the proposal is not permitted development, their relevance is limited.

Conclusion

12. For the above reasons, I dismiss the appeal.

M J Francis

INSPECTOR