



Appeal Decision

Site visit made on 01 April 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2025

Appeal Ref: APP/Z5630/W/24/3352498

Highwood House, 18 Park Road, Kingston Upon Thames KT2 6BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required 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 Ajmera Corporation UK Ltd against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/01089/PAMA.
 - The development proposed is Prior notification of change of use of part of an existing building from Use Class E to 5nos dwelling (Class C3) at ground floor, first floor and second floor.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. 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 (Dwellings). The main issue is whether the proposal would fall within the provisions of permitted development under Schedule 2, Part 3, Class MA of the GPDO.

Reasons

3. The appeal site comprises a 3-storey building which was granted planning permission under application 16/12324/FUL as part of a mixed-use development which included 585m² of employment floorspace. This appeal relates to the change of use of part of the employment floorspace.
4. Under Paragraph MA.1(1)(b) of the GPDO development is not permitted unless the use of the building falls within one or more of the classes specified for a continuous period of at least 2 years prior to the date of the application for prior approval. The building has been fitted out to enable occupation for Class E use and, whilst it has never been occupied, based on my observations and the information submitted there is nothing substantive to suggest that this permission was not lawfully implemented in accordance with the planning permission. Therefore, I am satisfied that the building use falls under Class E.
5. The prior approval application to which this appeal relates was submitted to the Council on 30 April 2024. The last of the pre-commencement conditions relating to the appeal property were discharged on 29 June 2022 and I have not been

provided with any substantive evidence that the use was implemented prior to that date. Therefore, it has not been evidenced that the use was implemented at least 2 years prior to the date of the application for prior approval. Given this, there is no compelling evidence that the building was in use for Class E uses for a continuous period of at least 2 years prior to the date of the application.

6. I therefore conclude that the proposed change of use is not permitted under the GPDO. The appellant has made comments on prior approval matters and has provided a Unilateral Undertaking in support of the proposal. However, in light of my above conclusions, the prior approval matters do not fall to be considered in this case.

Conclusion

7. For the reasons given above I conclude that the appeal should be dismissed.

N Robinson

INSPECTOR