



Appeal Decision

Site visit made on 2 April 2025

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/N1730/W/24/3358092

1 Avondale Road, FLEET, GU51 3BH

- 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 Ms Janet Pettifor against the decision of Hart District Council.
 - The application Ref is 24/02027/GPDCOM.
 - The proposal is to convert this office space into a two-bedroom flat with kitchen, lounge and bathroom.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is made under Schedule 2, Part 3, Class MA, of the GPDO¹ for a change of use of part of the first floor of the building from commercial business and service use (Class E) to a dwellinghouse (Class C3).
3. I have used the Council's description of the development proposed rather than that set out in the application forms as it is more precise.

Main Issues

4. The main issue is whether the Council's decision to refuse Prior Approval was well founded.

Reasons

Background

5. The appeal site involves two storey premises which lie on the corner of Avondale Road and Fleet Road. There is commercial use on the ground floor.
6. Normally the change of use proposed would be 'permitted development' however the Council advises that when planning permission was granted for the extension of the property to form a store (under reference 97/00432/Ful) a condition (No.3) was imposed which states that the store then approved shall only be used for uses ancillary to the retail use of the building. The reason why the condition was imposed should be clearly set out in the document. The Council has not forwarded a copy of decision 97/00432/Ful but I have no reason to doubt what the Council says. The restriction is not based on a covenant as the appellant believes.

¹ The Town and Country Planning (General Permitted Development) (England Order 2015 as amended.

7. In effect the condition takes away permitted development rights for other uses within the building. Therefore, the proposed change of use can only be achieved through the submission of a full planning application to the Council rather the 'Prior Approval' application that has been made. The two procedures are separate in planning law and unfortunately it is not possible to switch between the two at the appeal stage.
8. For this reason I have to conclude that the Council's decision to refuse Prior Approval was well founded.

David Murray

INSPECTOR