



Appeal Decision

Site visit made on 16 April 2025

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2025

Appeal Ref: APP/M4320/W/24/3355410

9B Aughton Road, Southport, Merseyside, PR8 2AF

- 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 GPDO).
 - The appeal is made by Mr Kelvin Bacon (Kel Holding Ltd) against the decision of Sefton Council.
 - The application Ref is DC/2024/01487.
 - The development proposed is the prior approval submission for the proposed conversion of 6 no. light industrial units (Class E) to 6 no. self contained studio flats (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the absence of a full planning application form, I have used the description of development from the decision notice.
3. The date of the application is provided as 25 July 2024, but the required fee was not received by the Council until 12 August 2024. As the application was not complete until the date the fee was paid, the 56-day period for determination starts from this latter date. The Council, having issued the decision on 4 October 2024, made the determination within the statutory 56-day period, and I have proceeded to determine this appeal accordingly.
4. Class MA of Part 3 of Schedule 2 to the General Permitted Development Order (the GPDO) permits a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to a use falling within Class C3 (dwellinghouses) of Schedule 1. My determination has been made on this basis.

Main Issue

5. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class MA of the GPDO.

Reasons

6. The existing light industrial units were granted planning permission¹ on 24 June 2022, with the appellant setting out that they were completed using a fast-track building contract around 24 July 2022. Paragraph MA.1. (1) requires the use of the

¹ LPA Ref: DC/2021/02632

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.

7. Despite the appellant's submissions, building control records have been provided dated 2 September 2022. This includes the submission of the initial notice by an approved building inspector to Local Authority Building Control (LABC), which needs to take place in advance of works commencing, and the response from LABC, also of the same date, which explicitly references a site visit and works not having commenced. Even if the final certificate of completion, issued by the approved building inspector is disregarded as not being conclusive, the evidence relating to the initial notice is clear that works on the light industrial units had not commenced as of 2 September 2022.
8. In addition to the building control submissions, an application² for the approval of details reserved by condition on the permission DC/2021/02632 was submitted to the Council with a date of 23 September 2022. The application form completed by the appellant's agent stated that the development had not commenced.
9. Furthermore, business rates records, based on information provided by the appellant set out that the first of the units was not occupied until 28 March 2024, with a second unit not occupied until 1 April 2024. Whilst noting the appellant's reference to the commercial unviability of the units which has led to void periods, the building control and the business rates submissions before me indicate that these units could not have been available to let and were not let on or around the 24 July 2022.
10. As such, given it has not been demonstrated that the use of the building fell within a specified use for a continuous period of at least two years before the date of the application for prior approval, I conclude that the proposal would not be permitted development under Schedule 2, Part 3, Class MA of the GPDO.

Other Matters

11. As I have concluded that the proposal is not permitted development, it is not necessary for me to make a determination on MA.2, including in relation to the provision of adequate natural light or to consider other prior approval matters such as flooding. The proposal would not have a harmful effect on the setting of the adjacent Conservation Area, but this is a neutral matter and not one which weighs in favour of the proposal.
12. The appellant has raised concerns that they only became aware of the Council's reasons for refusal when the decision notice was issued. The Council have however referenced extensive email contact with the appellant's agent. Nevertheless, this matter does not affect my decision, which I have assessed in relation to the relevant provisions of the GPDO.
13. Reference has been made to the shortage of residential accommodation in Southport, as well as the lack of commercial viability of the existing units. These are not however factors which are relevant in the determination of appeals for the refusal of prior approval of permitted development rights set out in the GPDO.

² LPA Ref: DC/2022/01847

Conclusion

14. I conclude, for the reasons given above, that the appeal should be dismissed.

F Rafiq

INSPECTOR