
Appeal Decisions

Site visit made on 2 June 2025

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th June 2025

Appeal A Ref: APP/K0235/W/24/3357070

16-18 Harpur Street, Bedford MK40 1LB

- 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 Lipa Fried against the decision of Bedford Borough Council.
 - The application Ref is 24/01962/CPNMA.
 - The development proposed is the change of use from commercial floorspace (Class E) to provide 12 x self-contained flats (Class C3).
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Appeal B Ref: APP/K0235/W/24/3353545

16-18 Harpur Street, Bedford MK40 1LB

- 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 Lipa Fried against the decision of Bedford Borough Council.
 - The application Ref is 24/01201/CPNMA.
 - The development proposed is the change of use from commercial floorspace (Class E) to provide 12 x self-contained flats (Class C3).
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Decision

1. In respect of Appeal A, the appeal is dismissed.
2. In respect of Appeal B, the appeal is dismissed.

Applications for costs

3. Applications for costs were made by Mr Fried against Bedford Borough Council. These applications are the subject of a separate decision.

Preliminary Matters

4. As set out above there are two appeals on this site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. The descriptions of development in the headings above have been taken from the application forms. In Part E of the appeal forms it is stated that the descriptions of development have not changed but, nevertheless, different wording has been entered. Neither of the main parties has provided written confirmation that revised descriptions of development have been agreed. Accordingly, I have used the ones given on the original application forms.

6. During my site visit, I noted that there were partitions within the upper floors that were not shown on the existing floor plans. However, there was no evidence that the upper floors were being used as dwellinghouses and I have proceeded with the appeal on this basis.

Main Issues

7. Article 3 (1) and Schedule 2, Part 3, Class MA of the GPDO grants planning permission, subject to certain limitations and conditions, for a change of use of a building and any land within its curtilage from a use falling within Class E of Schedule 2 to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.
8. The prior approval matters for Class MA includes, amongst other things, the transport impacts of the development, particularly to ensure safe site access and the provision of adequate natural light in all habitable rooms of the dwellinghouses.
9. There is no dispute that the other criteria of Class MA are satisfied. As such, there is no need to give them further consideration within this decision.
10. The main issues in respect of both Appeal A and Appeal B is whether the transport impacts of the development are acceptable, particularly to ensure safe site access. In respect of Appeal A only, whether adequate natural light would be provided to all habitable rooms of the dwellinghouses. In respect of Appeal B only, whether the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

Reasons

Transport

11. The appeal site comprises a four-storey building forming the end of a row of properties fronting Harpur Street. Paradine Court is a narrow cul-de-sac to the side of the site that provides access to an enclosed service yard to the rear of the site and the delivery entrances of neighbouring commercial properties. The existing building has pedestrian access from the service yard via a set of double doors and from Harpur Street to the ground floor unit.
12. The proposals are for the change of use of commercial floorspace to twelve dwellings. The flats would be spread across the upper three floors of the building and would be accessed by stairs from the ground floor. The ground floor layout in respect of both proposals would be altered and would make provision for the internal storage of refuse bins. In respect of Appeal A, the internal refuse storage area would be accessed from the existing doors via the rear service area. In respect of Appeal B, access would be gained directly from Paradine Court via a new door to the side of the building.
13. The appeal site is confined and includes only a limited curtilage. Consequently, and as detailed on the ground floor plan in respect of Appeal A, the bin presentation areas would be positioned outside of the appeal site within Paradine Court. The siting of several large refuse bins within the highway would reduce the space for vehicles and pedestrians to access Paradine Court and the service area to the rear of the site. Due to the limited width of Paradine Court, which would be further reduced by the bin presentation area, I cannot be certain that vehicles and

pedestrians would be able to safely access Paradine Court, including the rear service area and delivery entrances to neighbouring premises.

14. The management of refuse can in some cases be dealt with by planning condition. However, there is insufficient clarity regarding how the storage and collection of refuse would operate given the constraints of the site. Moreover, given that any bin presentation area would be outside of the appeal site, I would not be able to impose a such a condition. In view of this, I cannot be certain that safe access could be provided, or that refuse collection arrangements would not give rise to unacceptable transport impacts.
15. The existing commercial premises has an access from Harpur Street, as well as from the service area to the rear. The proposals would utilise a new pedestrian entrance door directly from Harpur Street, separate to the existing access to the commercial premises. The new entrance would provide safe and suitable pedestrian access to the dwellings, but is dependent upon other works being completed, for which planning permission has been granted under application reference 24/00726/S73.
16. A condition could be included requiring that the appeal scheme is not occupied until the new entrance has been created. The Council has provided two appeal decisions¹, where the Inspectors state that planning conditions cannot be used to require the implementation of other operations to facilitate a change of use. Nonetheless, there is nothing in the wording of paragraph W(13) or within the Planning Practice Guidance to prevent a negatively worded condition preventing occupation until the works have taken place. Such a condition would reasonably relate to the subject matter of the prior approval. In addition, I note that there were no extant planning permissions relating to each of the proposals referred to in the appeal decisions before me.
17. While safe and suitable pedestrian access to the proposed dwellings could be achieved to the front of the site, the refuse storage and collection arrangements, particularly in respect of any bin presentation area, would cause a hazard for persons presenting the bins and inhibit the flow of traffic within Paradine Court. This would include delivery vehicles associated with the commercial premises at ground floor level and in neighbouring buildings, as well as refuse collection vehicles associated with the proposed dwellings.
18. I conclude that the proposals would have an unacceptable transport impact, including in relation to highway safety and the flow of traffic in the locality. As such the proposals would not satisfy condition MA.2. (2) (a) of the GPDO.

Natural light

19. Condition MA.2. (2) (f) of Class MA requires the provision of adequate natural light in all habitable rooms of the dwellinghouses. The term 'habitable rooms' is defined in Part 3, paragraph X of the GPDO as meaning '*any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms*'.

¹ APP/T2215/W/23/3318539 and APP/Z5060/W/23/3320273

20. The habitable rooms within Flats 04, 05, 09, 10 and 11 would be served by existing window openings. In addition, the living, dining and kitchen room of Flat 12 would be served partly by existing openings. The habitable rooms of the remaining flats would not be provided with any existing openings. Consequently, not all habitable rooms would be provided with adequate natural light.
21. Nonetheless, planning permission has been granted under application reference 23/01289/FUL for alterations to the building, including the insertion of new windows at first, second and third floor levels. The Council state that the planning permission is extant. The windows would provide the habitable rooms in Flats 01, 02, 03, 06, 07 and 08 with adequate natural light and would also supplement the existing openings within Flats 11 and 12. A condition requiring that the appeal scheme is not occupied until the windows have been inserted would ensure that ensure that adequate natural light would be provided.
22. I conclude that the proposals would provide adequate natural light to all habitable rooms of the dwellinghouses. As such the proposals would satisfy condition MA.2. (2) (f) of the GDPO.

Residential use

23. In respect of Appeal B, condition MA.2. (2) (g) of Class MA requires consideration of the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.
24. The Council states that the appeal site is within Bedford town centre location. Development in the area is typically used for retail purposes. There is no substantive evidence before me that demonstrates that the area within which the site is located is used for general or heavy industry, waste management, storage and distribution, or a mix of such uses, or that there are any such uses close to the site.
25. I conclude that the site is not in an area that is important for general or heavy industry, waste management, storage and distribution, or a mix of such uses. As such the proposals would satisfy condition MA.2. (2) (f) of the GDPO

Other Matter

26. I have had regard to concerns raised by the appellant about the way that the Council handled the applications. Nevertheless, this is a procedural point between the main parties, which is not relevant to my consideration of the cases before me.

Conclusion

27. For the reasons given above the appeals should be dismissed.

J Pearce

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/K0235/W/24/3357070	Mr Lipa Fried
Appeal B	APP/K0235/W/24/3353545	Mr Lipa Fried