



Appeal Decision

Site visit made on 12 June 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 July 2025

Appeal Ref: APP/E3335/W/25/3360599

59A Broadway, Chilton Polden, Bridgwater, Somerset TA7 9DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Aytekin Sen (Adams Building Ltd) against the decision of Somerset Council.
 - The application Ref is 19/24/00006.
 - The development proposed is: application for prior approval of a proposed: Demolition of buildings and construction of 1 No. dwellinghouse in their place.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under the provisions of Article 3(1) and Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), planning permission is granted for the demolition of a single detached building that has been established for certain uses, and its replacement by a purpose built dwelling, together with any operations reasonably necessary for the purpose of those works, subject to various conditions and limitations.
3. In determining applications for prior approval, paragraph B.1 (15) of Part 20 of the GPDO requires the local planning authority to take into account any representations made to them as a result of any consultation or publicity, and to have regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. I have considered the appeal on the same basis.

Main Issues

4. The main issues are: (i) the effect of the proposed development on protected species; (ii) whether the existing lawful use meets the requirements of Class ZA; and (iii) whether information should have been provided in relation to the installation of services and the use of scaffolding.

Reasons

Protected Species

5. Although the impact of development on protected species is not specifically referred to in the GPDO, consideration is nonetheless required under the duty imposed by Regulation 9 of the Conservation of Habitats and Species Regulations

2017. This requires deliberation as to whether there is a reasonable likelihood of protected species being present and affected by a development proposal, including those requiring prior approval.

6. The appellant has noted that no reports pertaining to protected species were provided as part of the original application. However, a Preliminary Roost Assessment (PRA) and a Bat Emergence Survey (BES), both undertaken by Quantock Ecology, were submitted as part of a planning application for a similar scheme in 2023¹. The PRA was undertaken in May 2023 and concluded that the building that is the subject of this appeal had moderate habitat value. Two emergence surveys were recommended. These took place in July and August 2023 as part of the BES and no roosts were identified. As a result, the Council's ecologist did not object to the proposed development.
7. I understand that the Council did not raise this matter during the course of the current application, and that the lack of any such information did not form a reason for refusal. I also acknowledge that the BES was undertaken only nine months before the current application for prior approval was registered.
8. However, as the decision maker in this case, I have a statutory obligation in relation to protected species which I must discharge. The Chartered Institute of Ecology and Environmental Management published an Advice Note in April 2019 regarding the lifespan of ecological reports and surveys. The Note sets out that, where surveys are between 18 months and 3 years old, an update is required. This is particularly the case where a site could be utilised by a mobile species such as bats.
9. The PRA is now over two years old, while the BES surveys took place nearly two years ago. As such, I simply do not have sufficient certainty that the situation has not changed and that the proposed development would not have a negative effect on bats, notwithstanding the conclusions of the previous field work. I therefore conclude that the proposal would conflict with paragraph 193 of the Framework and Regulation 9 of the Conservation of Habitats and Species Regulations 2017.

Existing Lawful Use

10. Prior approval schemes under Part 20, Class ZA of the GPDO enable the demolition of detached buildings, including those within Use Class B1(c), and their replacement with a single dwelling. Use Class B1(c) has subsequently become Class E(g)(iii).
11. The most recent use of the existing building was as a stone masons. The appellant has noted that the premises was used to add lettering to pre-prepared headstones and that this was done using hand tools only.
12. The Council has set out that they consider the lawful use to be B2, general industrial. Such uses do not meet the requirements of Class ZA prior approval applications. As part of their assessment, the Council referred to a decision made by Herefordshire Council² wherein it was concluded that stone masonry did fall within Class B2. However, as part of that decision, Herefordshire Council acknowledged that the owner did use power driven machines on site, including a stone saw and pillar drill.

¹ Council ref: 19/23/00003

² Herefordshire Council ref: DCNE2009/0278/F

13. The Council has provided photographs as part of their appeal statement which show an electrical kill switch and signage related to the use of ear defenders. However, the evidence provided is not substantive enough to lead me to conclude that the appellant's claims that activities were limited to the use of hand tools are incorrect.
14. Use Class E(g)(iii) includes any industrial processes which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. I do not have any evidence before me that indicates that neighbouring residents have complained about the activities on site previously and so this leads me to conclude that the use can be considered to be appropriate in a residential area. This adds further weight to the appellant's statement.
15. Taking all of this into account, I conclude that the existing lawful use of the building falls within Class E(g)(iii), and therefore, the requirements of Class ZA prior approvals have been met in this regard.

Services and Scaffolding

16. The Council has set out that insufficient information has been provided in relation to the installation of services and the use of scaffolding. However, it is clear that the operations listed under paragraph ZA(3) are those that are considered to be acceptable under the auspices of Class ZA works.
17. There is therefore no requirement for any additional information to be submitted in this regard at the application stage. Indeed, it is noted that Class ZA schemes are automatically subject to a condition which requires the submission of a report for the management of the construction of development. Any further details that the Council consider necessary could also be secured by condition. I therefore conclude that there was no need for such information to be provided as part of the original application.

Conclusion

18. I have found that the proposed development has the potential to harm protected species. Therefore, notwithstanding the fact that I have concluded that the scheme would meet the requirements of Class ZA works in other regards, the appeal is dismissed.

C Butcher

INSPECTOR