
Appeal Decision

Site visit made on 29 July 2025

by **N Armstrong BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 September 2025

Appeal Ref: APP/H5390/W/25/3363875

7 Lyric Square, Hammersmith and Fulham, London W6 0ED

- 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 Romulus Developments Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2024/02400/PMA56.
 - The development proposed is change of use of the first, second and third floor levels from an office use (Class E) into 5no. self-contained residential flats (Class C3), consisting of 4no. one bedroom units and 1no. two bedroom unit.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Romulus Developments Ltd against the Council of the London Borough of Hammersmith and Fulham and this is the subject of a separate decision.

Preliminary Matters

3. The application form does not provide a description of the proposed development but refers to details in a covering letter. The description used in the banner heading above is used by the Council in their decision notice and this has also been used by the appellant in the appeal form. This corresponds with details in the application documents, and I have determined the appeal on that basis.
4. The Council has raised concerns that the appellant has introduced new information and documentation that was not provided as part of the prior approval application. The appellant has submitted information in response to the reasons for refusal and in support of the proposals, however, they have also provided revised plans in relation to cycle storage provision. New technical information has also been provided with the submission of a Fire Statement. I am mindful that it is not the purpose of the appeal process to evolve a scheme, and it is therefore important that what is considered by the Inspector is essentially what was considered by the Council.
5. Whilst, in certain circumstances, a proposal can be amended through revised plans during an appeal, there are differences between the appeal proposal and that of the revised scheme in terms of the proposed cycle storage provision. In this case, it is my view that the appeal must be determined on the basis of the plans as

originally submitted to the Council and upon which it based its decision, and which have been subject to consultation. To do otherwise could prejudice the interests of the Council, consultees and any other parties, who have not been consulted on the revised scheme and who may have observations to make. As I cannot be sure that all those consulted would not be prejudiced by a revised scheme, I have determined the appeal on the basis of the plans as originally submitted.

6. The Council has referenced development plan policies in its decision notice. The principle of development is established by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The provisions of Schedule 2, Part 3, Class MA of the GPDO do not expressly or otherwise require regard to be had to the development plan. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to the matters of prior approval for Class MA.

Background and Main Issues

7. Under Article 3(1) and Schedule 2, Part 3, Class MA of the GPDO, planning permission is granted for a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses), subject to limitations and conditions. The Council considers that the development complies with the requirements set out in paragraph MA.1 of Class MA, and I see no reason to disagree.
8. The prior approval matters for Class MA include, amongst other things, the transport impacts of the development, particularly to ensure safe site access, the provision of adequate natural light in all habitable rooms of the dwellinghouses, and fire safety impacts where the development meets the fire risk condition set out at MA.3. Development is also permitted subject to Article 3 (9A) of the GPDO and compliance with the nationally described space standard (NDSS).
9. Paragraph W.(3) of the GPDO also states that the local planning authority may refuse an application where, in the opinion of the authority, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, subject to exceptions.
10. The main issues are:
 - whether the transport impacts of the development would be acceptable;
 - whether there would be provision of adequate natural light in all habitable rooms;
 - the fire safety impacts on the intended occupants; and
 - whether the size of the flats conforms with the NDSS.

Reasons

Transport impacts

11. MA.2.(2) explains that before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to

whether the prior approval of the authority will be required as to amongst others, (a) transport impacts of the development, particularly to ensure safe site access.

12. Despite the Council's concerns over a lack of detailed information on off-street car parking provision to the shared basement level, the application documents set out that the proposed development would be a car free scheme. The appellant has also submitted a unilateral undertaking (UU) that would prevent future residents from obtaining resident parking permits. Subject to the completion of a suitable UU, the proposed development would not have any adverse transport impacts in this regard. If I had been otherwise minded to allow this appeal, I would have sought further comments from the Council on the submitted UU.
13. However, there is a lack of detail and some ambiguity in respect of the provision for cycle storage facilities. There does not appear to be any dispute between the parties that cycle storage provision should be provided as part of the proposed development. It is also not disputed that this is a matter relevant to the transport impacts of the development in this instance.
14. Whilst the application plans indicate provision within the basement area, the Council highlights concerns over the feasibility of this given details that have been approved for a separate development and that this area also appears to fall outside the red line boundary as indicated on the site location plan. Although the appellant references revisions to an approved scheme, I do not have sufficient information before me to clearly demonstrate that a separate planning permission has already been approved for cycle storage to serve the appeal scheme or any other development. Therefore, I must determine the transport impacts of the appeal scheme on the basis of the plans submitted with the application.
15. I observed some existing cycle stands being used in the basement in the areas shown for the proposed cycle storage on the proposed plan. I also noted that the layout of the basement did not reflect that shown on the existing site plan in the southern area of the basement where the proposed and additional cycle store provision is also indicated on the appellant's revised plan. Notwithstanding, my assessment is made on the basis of the plans submitted with the application.
16. Based on the evidence before me, I am not satisfied that sufficient information has been provided to demonstrate that the proposed development would not give rise to issues in respect of the provision for cycle storage facilities. Given the issues of the relationship with other proposed development, the uncertainty over such provision and my comments on not accepting the appellant's revised plan as part of this appeal proposal, a condition would also not be appropriate in this instance to secure this detail.
17. The Council has also raised concerns in relation to the proposed delivery and servicing strategy. However, given the location of the site and the nature of the proposals, I consider that the proposed arrangements would not give rise to unacceptable impacts and sufficient information has been provided in this respect.
18. For the reasons given above in relation to cycle storage provision, and having regard to paragraph W.(3) of the GPDO, there is insufficient information relating to MA.2(2)(a) of Schedule 2, Part 3, Class MA of the GPDO to demonstrate that the proposal would be acceptable with regard to the transport impacts of the development.

Adequate 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.
20. There is no definition of 'adequate natural light' in the GPDO. The Council suggests that 'natural light' should encompass both daylight and sunlight, which I consider to be a reasonable interpretation to be used in this assessment.
21. All of the habitable rooms within the five flats would be served by existing windows and glazed door openings. These are predominantly positioned over the three floor levels with their outlook facing towards Lyric Square and Beadon Road. Taller buildings are also located opposite the site in those directions, particularly that opposite on Beadon Road.
22. There is no dispute between the parties that the proposal would achieve full compliance with the Building Research Establishment Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice (2022) (the BRE guidance) in relation to the provision of daylight. The appellant's evidence indicates that three out of the five dwellings would also have at least one habitable room with the ability to receive 1.5 hours or more of sunlight on 21 March. The remaining two dwellings have the ability to receive some sunlight (21 March) and although below target, the appellant states this should still be considered reasonable overall for a multi-unit conversion scheme with fixed orientation.
23. Part 3, paragraph W.(10)(b) of the GPDO states that the local planning authority must, when determining an application, have regard to the Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application. In this context, paragraph 130 c) of the Framework states that when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).
24. The BRE guidelines do not require that all units meet the recommendations, although it is a reasonable expectation that each unit should receive some sunlight into a habitable room. Whilst some areas of the proposed units would fall below the target sunlight levels, the layout has been designed to ensure that all habitable rooms are served by existing openings, with the non-habitable rooms set to the rear. Overall, and taking into account that all of the units would be acceptable in terms of daylight levels, I consider that acceptable living standards would be achieved in this instance.
25. Consequently, having regard to the nature of the proposal, the fixed orientation and its highly urban context, and noting the scope for flexibility within the Framework, it has been sufficiently demonstrated that adequate natural light would be provided in all habitable rooms within the proposed units. Therefore, the requirements of paragraph MA.2.(2)(f) of the GPDO would be met.

Fire safety

26. MA.2.(2)(i) of Class MA relates to the determination of prior approval as to, where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building. MA.3. goes on to state that development meets the above fire risk condition if the development relates to a building which will contain two or more dwellinghouses and satisfy the height condition in paragraph (3), read with paragraph (7) of Article 9A (fire statements) of The Town and Country Planning (Development Management Procedure) (England) Order 2015. That height condition is the building is 18 metres or more in height, or it contains 7 or more storeys.
27. It is common ground between the parties that the proposal would not meet the fire risk condition set out above. Despite this, the Council suggests that fire safety should still be considered under such an application having regard to the London Plan Guidance, Fire Safety (2022) (the LPG) and Policy D12 of The London Plan (2021) (the LP).
28. Appendix 1, Table A1.1 of the LPG shows the various application types and the application of Policy D12 of the LP. This includes applications submitted under Class MA of the GPDO and expected policy information requirements are stated to be prior approval to confirm the development is acceptable in terms of fire risk and the fire safety impacts on the intended occupants of the building.
29. Development plan policies may be relevant in prior approval cases, but only insofar as they relate to the matters, and only as evidence to support the planning judgment to be made. Whilst I acknowledge the content of the LPG and Policy D12 of the LP, these are not determinative to this main issue. This is on the basis that the proposed development does not meet the relevant fire risk condition of the GPDO, therefore it is not necessary for me to go on to consider whether or not prior approval is required. I therefore find that the proposal would not conflict with parts MA.2.(2)(i) and MA.3 of the GPDO.

Space standards

30. Article 3(9A) of the GPDO states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse where the gross internal floor area is less than 37 square metres in size; or that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.
31. For development submitted under Class MA, paragraph W.(2)(bc) of the GPDO requires a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses.
32. There is no dispute between the parties on compliance with the NDSS other than in respect of the size of the bedrooms for Units 1, 4 and 5. The application plans and supporting statement indicate that these are proposed as 1 bedroom, 1 person flats. There is no requirement under the above parts of the GPDO to indicate the position, size of beds or number of spaces on the plans. Despite the amended plans submitted by the appellant showing a single bed to the rooms in dispute, I consider that the application documents and plans already set out what is proposed, and I have made my decision on that basis.

33. On the basis that the application proposes 1 bedroom, 1 person flats to those relevant units, I therefore do not find that there would be conflict with the NDSS or the requirements of Article 3 (9A) of the GPDO in this respect.

Other Matters

34. Whilst I note the representation in support of the proposed development, this does not alter my conclusion on the first main issue.

Conclusion

35. I have not found conflict with some of the disputed conditions and prior approval matters of Schedule 2, Part 3, Class MA of the GPDO with respect to adequate natural light, space standards and fire safety. However, there is insufficient information in relation to cycle storage provision to demonstrate that the transport impacts of the development would be acceptable. For the reasons given above, I conclude that the appeal should be dismissed.

N Armstrong

INSPECTOR