



Appeal Decision

Site visit made on 2 July 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/J3720/W/25/3363928

Part ground, first and second floors, 18 Wood Street, Stratford-upon-Avon, Warwickshire CV37 6JF

- 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 GDPO).
 - The appeal is made by Mr K Iqbal of Falcon Properties Group Ltd against the decision of Stratford-upon-Avon District Council.
 - The application Ref is 25/00034/COUMA.
 - The development proposed is conversion of offices to 6 no dwellings at part ground, first and second floor.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Based on the evidence provided, I am satisfied that the comments made by the Council's Environmental Health officer date response 17 February 2025 relate to the Acoustic Report prepared by Peninsular Acoustics, dated December 2024, Ref PA0565 for the purposes of the appeal proposal and not an earlier application proposal, despite the mis-reference to the application number given therein. Notwithstanding such, I have reached my decision having regard to all the evidence provided.

Background and Main Issue

3. Class MA of the GDPO 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) to a use falling within Class C3 (dwellinghouses).
4. It is undisputed by the main parties that the proposal is permitted development under Class MA and I have no substantive evidence to disagree with such. However, paragraph MA.2 sets out that development under Class MA is permitted subject to, amongst other aspects, an application to the local planning authority for determination as to whether prior approval is required in relation to the conditions in paragraph MA.2 (2). This includes (2)(d) the impacts of noise from commercial premises on the intended occupiers of the development, which the Council find would not be met by the proposal.
5. Therefore, the main issue in this appeal is whether appropriate living conditions would be provided for the intended occupiers, with regard to noise from commercial premises.

Reasons

6. The appeal premises are located in a busy town centre area with numerous commercial premises surrounding the appeal site, including retail and restaurants, although there are some residential apartments above and to the rear of commercial premises nearby. At the rear of the appeal site is a service road leading to a service area for commercial premises, which also provides access to nearby residential apartments, including at 16 Wood Street. Beyond the service road at the rear is a tall wall, behind which is the Bell Court retail and restaurant development. The restaurants within Bell Court have various mechanical ventilation and plant equipment near to the appeal site. Also, other nearby restaurants and commercial premises along Wood Street have various plant equipment at the rear.
7. The proposal includes a ground floor flat (Flat 1) and first floor flat (Flat 2) at the rear of the appeal building, with windows facing toward the service road and Bell Court which would serve the living/dining and circulation spaces of these flats. Additionally, even though proposed Flats 1, 2 and 4 would not have any bedroom windows on the rear façade, they have bedroom windows facing to the side, not that far from existing mechanical plant on nearby commercial premises.
8. The acoustic assessment report by Peninsular Acoustics, (dated December 2024) (AA) sets out that Flats 1, 2 and 3 have significant adverse noise impacts predicted, prior to the consideration of context and mitigations, with Flat 4 predicted to have an adverse impact in respect of noise. Therefore, it sets out that for Flat 1, high performance glazing and acoustically rated ventilators are required due to night-time noise levels and that for all other flats exposed to commercial sound, standard double glazing and non-acoustic window mounted ventilators are proposed.
9. However, the design methodology of the proposed scheme has been to allow for natural ventilation and, the AA notes that if the residents of the flats open windows, then the occupiers of Flat 1 would experience night-time internal noise rating levels above the recommended relevant British Standard (BS) in the bedroom. As asserted by the appellant, this would be marginal and not significant, as residents would be able to close their windows to secure good indoor environmental quality and the future residents of the proposed development would be aware of the urban environment and existence of the Bell Court commercial centre and delivery areas on purchase/renting.
10. Notwithstanding the above and even though mitigation measures can be put in place, this would be compromised if the future occupiers of the dwelling were to open their windows, even by a small amount. Therefore, it is necessary to consider open windows in deciding whether noise levels would be acceptable, and such actions of the occupiers would be beyond the control of the appellant and Council. Accordingly, with the opportunity to open windows, even in conjunction with mechanical ventilation, this would not adequately address the effect of noise from nearby commercial premises.
11. It is asserted that the plant and extractor equipment at the nearby restaurant in Bell Court are switched off before midnight and remain off for the remainder of the night, thereby limiting noise impact there-from at the night-time. However, this does not demonstrate there would be no adverse night-time noise impact caused to future residents of the proposed development from commercial premises at all times during the night, hence why the AA sets out that Flat 1 requires high performance

glazing and acoustically rated ventilators. Furthermore, substantive details of the required mechanical ventilation system and assessment of the noise associated with such have not been provided. Therefore, the noise impact on future occupiers of the proposed development in regard to this is unclear or, whether such required installation would fall within the remit of Class MA of the GDPO.

12. In respect of the appeal at 34 Wood Street, ref. APP/J3720/W/24/3343918, the Inspector was satisfied that based on the evidence in that case, proposed noise mitigation measures and mechanical ventilation system would enable acceptable internal noise levels to the proposed flats. This was even though it was acknowledged that with open windows, recommended limits on internal noise levels may be exceeded in some of the rooms. While I have not been provided with full details of this appeal case example to allow full comparison, there are some similarities with this case example and the appeal proposal. However, it is in a different location on the opposite side of Wood Street, with a different immediate surrounding site context and has different relationship between the proposed residential units and nearby commercial premises to the proposed development.
13. Also, while there are existing residential apartments at 16 Wood Street and above 22 Wood Street which are accessed via the same service road at the rear of the appeal site, no substantive details of the relevant permissions have been provided to allow full comparison with the appeal proposal and its merits. Therefore, I have considered the appeal proposal based on its individual merits and evidence related thereto.
14. Having regard to the above, it has not been appropriately demonstrated there would be no harmful impact caused to the living conditions of the intended occupiers of all of the proposed dwellings with regard to noise from commercial premises.

Other Matters

15. The proposal would bring into use vacant premises in a sustainable town centre location, promoting 'living above the shop,' that complies with minimum national space standards for living accommodation. No concerns have been raised about the proposal in relation to the effect on flooding, waste collection, and the living conditions of occupiers of neighbouring properties. Also, no external alterations are proposed to the appeal building and no concerns are raised in relation to the impact of the proposed change of use on the character or sustainability of the Stratford-upon-Avon Conservation Area. However, such matters do not relate to and so not overcome the concerns I have found with regard to noise impact and so, would not satisfy the requirements of condition MA.2 (2)(d) of the GDPO.

Conclusion

16. For the reasons given above the appeal should be dismissed.

C Billings

INSPECTOR