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## Appeal Decision

Site visit made on 5 August 2025

by **Laura Cuthbert BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

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### **Appeal Ref: APP/H1705/W/25/3362933** **25 Wote Street, Basingstoke RG21 7NE**

- 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 SKVC Limited against the decision of Basingstoke and Deane Borough Council.
  - The application Ref is 24/02560/GPDMA.
  - The development proposed is change of use of first and second floor of building used as Office (Class E) to 2 no. two-bedroomed residential dwellings (Class C3).
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. A revised Noise Impact Assessment (NIA)<sup>1</sup> has been submitted with the appeal, which differs from that which was considered as part of the determination of the prior approval. However, the Council have had the opportunity to comment on the revised NIA as part of the appeal process and the assessment would not fundamentally change the development. Therefore, I am content that no parties would be unfairly disadvantaged by my acceptance of this assessment, and I have considered the appeal on this basis.
3. Since the determination of the prior approval, a planning application<sup>2</sup> is now being considered by the Council for the adjoining nightclub at 27 Wote Street for the 'Change of use of existing first floor office space (Use Class E) to a mix of uses comprising bowling lanes, pool table area, simulation games area, bar area, karaoke rooms, DJ suites and dance studio (Sui Generis)'. However, I have not been provided with any further details on this application, with the Council acknowledging that any 'impacts have not yet been assessed, and that the application would be determined on its own merits with consideration to be given to amenity'. I have therefore determined the appeal based on the existing use of the adjoining building.
4. There is no statutory requirement to have regard to the development plan in the case of prior approvals. However, the development plan does contain material that is relevant to the planning judgements to be made in respect of the matter before me. My determination of this appeal has been made on this basis.

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<sup>1</sup> Noise Impact Assessment Ref 101466-R01 Version 5.

<sup>2</sup> LPA reference 25/00519/FUL

## Background and Main Issue

5. Class MA of 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) to a use falling within Class C3 (dwellinghouses).
6. Paragraph MA.1 of Class MA sets out a number of requirements. The Council considers that the development complies with the requirements set out in this paragraph. Based on the evidence before me, I see no reason to disagree.
7. However, Paragraph MA.2 sets out that development under Class MA is permitted subject to an application to the local planning authority for a determination as to whether prior approval is required in relation to the conditions set out in Paragraph MA.2(2). One of these conditions is MA.2(2)(d) which relates to the impacts of noise from commercial premises on the intended occupiers of the development. The prior approval was refused on the basis that the proposal would not meet the requirement of this condition. I note that the Council considered that the development complied with the other conditions set out in Paragraph MA.2(2). Based on the evidence before me, there is no reason to disagree. As such, there is no need to give them further consideration in this decision.
8. Accordingly, I consider the main issue in this case to be whether the proposal would be permitted development under Class MA, with particular regard to whether the proposal would satisfy condition MA.2(2)(d), in regard to the impacts of noise from commercial premises on the intended occupiers of the development.

## Reasons

9. The appeal site lies within Basingstoke town centre. Immediately to the north of the site lies a late night establishment, previously known as 'Plush' but at the time of my site visit, is now known as 'Duel'. Due to its central location, the surrounding area consists of other bars, restaurants and takeaways as well as retail and office uses. I also observed residential uses nearby, including Festival Apartments to the north and Central Point apartments to the south.
10. My site visit confirmed that on a Friday, the adjoining nightclub is open 21.30 – 03.30 and on a Saturday 20.00 – 04.00. The revised NIA also lists opening hours Monday to Thursday (19.00 – 02.30), as well as on a Sunday (13.00 – 00.00). There is an outdoor smoking area associated with the nightclub positioned to the front of the premises, adjacent to the nightclub's entrance, which is immediately to the north of the appeal site. There are also a number of respective plant items surrounding the appeal site, which are associated with the nightclub itself, as well as the other surrounding commercial and residential uses.
11. Relevant noise measurements of the plant noise have been taken from a number of plant locations, as well as noise measurements from the entrance/smoking area. In addition, the revised NIA also undertook a noise survey from a location within the proposed residential units, where it would share a party wall with the nightclub.
12. The NIA has identified that in order to achieve the internal ambient noise level requirements, mitigation would be necessary in the form of new internal secondary glazing and added insulation on the party wall boundary. In regard to the plant noise impacting the eastern façade of the proposal, an alternative form of ventilation would be required to ensure fresh air without the need for opening

- windows. Furthermore, in regard to the noise associated with the entrance/smoking area of the nightclub, mechanical ventilation would also be required as with partially open windows, the required internal noise level would be exceeded by up to 34 dB.
13. However, even if alternative mechanical ventilation is provided, I consider that it would be highly likely that future occupants would open their windows in warm weather, and if they did, this would expose them to an increased and unacceptable level of noise from the nightclub, and to a lesser degree from plant equipment. Accordingly, this could lead to noise complaints and pressure for restrictions to be placed on the existing commercial premises, such that unreasonable burdens might be placed on them. This would be contrary to the requirements of Paragraph 200 of the National Planning Policy Framework 2024 (the Framework), which seeks to ensure that new development would integrate effectively with existing businesses, without leading to unreasonable restrictions being placed on them.
  14. Consequently, it cannot be assumed that future occupiers would choose to keep windows closed, even during periods of high noise from the entrance and smoking area of the adjacent nightclub. Whilst I recognise that the hours of operation of the nightclub would mean that for the majority of the time, it would be possible to open windows and achieve an acceptable internal ambient noise level, this does not alleviate my concerns above. This is particularly as the intensification of noise would be during nighttime hours when future occupants would be more sensitive to noise. The ability to open the windows would also undermine the effectiveness of the remainder of the proposed mitigation, resulting in a poor quality environment for the future occupants of the proposal.
  15. Therefore, I cannot be satisfied that the required mitigation would achieve the internal ambient noise level requirements. Future occupants would be highly likely to experience unacceptable living conditions due to noise associated with the adjoining nightclub, as well as from nearby plant equipment.
  16. The locations of habitable windows and rooms have been positioned so there would be no bedrooms on the adjoining wall with the nightclub. However, whilst this could assist in mitigating the noise transferring through the party wall, this would not be sufficient to outweigh the concerns in regard to external noise.
  17. The Council have advised that there is 'a history of noise complaints from residents of neighbouring nonadjoining residential buildings concerning noise from the nightclub', with one complaint stating that 'the bass from amplified music from the nightclub is intrusive inside their flat with their windows closed'. These concerns add weight to the harm I have identified above.
  18. The Council have also noted that noise measurements should be 'undertaken to determine the level of structural borne noise including flanking transmission', stating that 'the proposed scheme of mitigation submitted to support the appeal does not provide sufficient reassurance that the intended occupiers of the development would be protected from impacts of noise and vibration from commercial premises'. Whilst the appellant may not agree that this is required based on the outcome of the NIA, the current lack of consideration of any structural borne concerns further demonstrates that I cannot conclude with any certainty that the living conditions of future occupiers would not be adversely affected as a result of the noise from the commercial premises.

19. Finally, in regard to the pending application for the first floor of the adjacent nightclub mentioned above, the appellant alleges that the Council are objecting to the proposal on noise grounds to protect the amenity of residents. The appellant states that this demonstrates a 'stifling of development', as there can be no new housing because of the noise and no new noise because of the housing. Whilst this situation is acknowledged, I must determine this appeal on the merits of the case and the current lawful uses. I have found the proposal before me now to be unacceptable for the reasons set out above and the alleged 'stifling of development' does not reduce the weight given to the harm that I have identified.
20. Therefore, with the above in mind, the proposal would not satisfy condition MA.2(2)(d) of Schedule 2, Part 3, Class MA. The intended occupiers of the development would be subject to an adverse impact concerning noise from commercial premises. Insofar as they are relevant to the main issue, the proposal would conflict with Policies EM10 and EM12 of the Basingstoke and Deane Local Plan 2011-2029 (adopted 2016). Together, amongst other things, these policies seek to provide a high quality environment for occupants of developments, permitting development provided that it does not result in pollution which is detrimental to quality of life. Development that would result in unavoidable pollution will only be permitted where measures to adequately mitigate these polluting effects can be implemented.
21. It would also conflict with paragraph 198 of the Framework which requires planning decisions to ensure that new development is appropriate for its location, taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In addition, the proposal would fail to accord with paragraph 200 of the Framework for the reasons already set out.

### **Conclusion**

22. For the reasons given above and taking into account all other matters raised, the appeal is dismissed.

*Laura Cuthbert*

INSPECTOR