
Appeal Decision

Site visit made on 6 May 2025

by **K Reeves BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 August 2025

Appeal Ref: APP/Z0116/W/24/3356585 50 Queen Charlotte Street, Bristol BS1 4HE

- 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 Corvette Rengen Armourers Ltd and AEW UK Core Plus Property Fund against the decision of Bristol City Council.
 - The application Ref is 24/03669/COU.
 - The development proposed is a proposed change of use from offices (Use Class E(g(i))) to 45no. studio flats (Use Class C3a), including refuse, recycling and cycle storage at basement level.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Corvette Rengen Armourers Ltd and AEW UK Core Plus Property Fund against Bristol City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the banner heading is taken from the application form but I have removed the reference to the proposal being for prior approval as that is not an act of development.
4. When I visited the appeal site, I noted that internal works were underway. Schedule 2, Part 3, Class MA.2.(2) of the Town and Country (General Permitted Development) Order 2015 (as amended) (the GPDO) states 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. The main parties have been provided with an opportunity to comment on this particular matter.
5. In response, the Council has drawn my attention to a prior approval application for 42 studio flats that was approved after the appeal proposal was refused¹. Other than explaining that the subsequently approved scheme involved the provision of three less flats on the ground floor, the Council did not comment on whether the appeal proposal had been commenced. No response from the appellants was received.

¹ Bristol City Council application reference 24/04608/COU

6. Given that there is no evidence to indicate that the works taking place are anything other than in accordance with the approved scheme, I shall proceed on the basis that the appeal proposal has not been commenced.

Background and Main Issues

7. Article 3(1) and Schedule 2, Part 3, Class MA, of the GPDO provides a permitted development right for the change of use of a building falling within Use Class E (Commercial, Business and Service) to Use Class C3 (Dwellinghouses).
8. Paragraphs MA.1. (1) and (2) set out the restrictions and conditions to qualify for permitted development under Class MA. These include that the use of the building fell within Use Class E for a continuous period of at least two years prior to the date of the application.
9. Paragraph MA.2. sets out that the developer must apply to the local planning authority for its prior approval subject to a number of matters relating to the development. These includes the transport impacts, contamination risks, flooding risks, impacts of noise and the provision of adequate natural light.
10. The Council refused to grant approval on the basis that the proposal includes operational development which does not meet the requirements for permitted development under Class MA. The Council also refused to grant approval on the basis that the proposal does not meet the conditions in paragraph MA.2.(2) (a), (b) and (f). These conditions relate to the transport impacts of the development, particularly to ensure safe site access, the contamination risks in relation to the building and the provision of adequate natural light in all habitable rooms.
11. Against this background the main issues are:
 - whether the proposal would fall within the provisions of permitted development under Schedule 2, Part 3, Class MA of the GPDO;
 - if so, whether prior approval should be granted in respect of the provision of adequate natural light in all habitable rooms of the dwellinghouses;
 - whether prior approval should be granted in respect of the transport impacts of the development, particularly to ensure safe site access; and
 - whether prior approval should be granted in respect of the contamination risks in relation to the building.

Reasons

Whether the proposal would be permitted development

12. The Council's first reason for refusal set out that it had not been demonstrated that the appeal site was in a use specified in subparagraph (2) of Schedule 2, Part 3, Class MA of the GPDO for a continuous two years prior to the date of the application.
13. However, evidence has been submitted with the appeal in the form of a letter from the owners that confirms that they have owned the building since February 2022 and throughout that time the building has been used as office accommodation. Additionally, the appellants have provided the Valuation Office Agency's business rates valuation document for the site, which shows that the building has been used

for offices from 2017 until present. The Council has not provided any substantive evidence that makes the appellants' version of events less than probable.

14. I find therefore, based on the evidence before me, that the appeal building had been in a specified use for a continuous two years prior to the date of the application. As such, the requirements of MA.1.(1)(b) are met and the proposal would fall within the provisions of permitted development under Schedule 2, Part 3, Class MA of the GPDO, subject to the relevant conditions which I shall now come onto.

Adequate natural light

15. The area of contention between the main parties in respect of the provision of natural light in habitable rooms is limited to the flats on the ground floor of the appeal building that are labelled on the submitted plans as 0.2, 0.3 and 0.4.
16. Flat 0.2 would have west facing windows and flats 0.3 and 0.4 would have south facing windows. The windows are generously sized, and the top of their frames are close to the ceiling. Furthermore, the flats are shown on the submitted plans as open plan studio flats and flats 0.3 and 0.4 would have shallow depths.
17. However, the windows are at the bottom of a courtyard in close proximity to the tall external walls of other buildings that form the perimeter of the courtyard. In any event, there has been no detailed analysis or rigorous assessment of light levels to show that the windows would provide all the habitable rooms of the flats with an adequate amount of natural light.
18. I acknowledge the appellants' comment that the windows were deemed acceptable to serve the building's existing use as an office, where it is ideal for natural light to be provided to create an acceptable work environment. However, the submitted plans show that the majority of the windows in question served larger rooms that were also served by many windows facing on to the street. The proposal is for the rear facing windows to be the only source of natural light for the flats. As such, the existing office use of the building does not justify the only windows serving the flats being those that face on to a courtyard enclosed by tall buildings.
19. My attention has been drawn by the appellants to an allowed appeal for prior approval under Schedule 2, Part 3, Class PA of the GPDO for the change of use of a light industrial unit to bed-sit/studio accommodation². The decision explains that several of the units would not have any windows but the size of the individual dwellings to be formed by the change of use and whether they would have windows/ventilation was not a condition of the GPDO for such a change of use.
20. However, that decision was made prior to the August 2020 amendment to the GPDO that prior approval matters for a permitted change of use to a dwellinghouse include the provision of adequate natural light in all habitable rooms. As such, that appeal decision is not a comparable situation to the appeal before me and it does not alter my judgement.
21. I find therefore that insufficient information has been provided to establish whether the proposed development would provide adequate natural light in all habitable

² Appeal reference APP/Y1945/W/19/3220904

rooms of the flats. The proposal would therefore not accord with condition MA.2.(2)(f) of Schedule 2, Part 3, Class MA of the GPDO.

Transport impacts

22. The submitted plans indicate that 46 cycle spaces would be provided within the basement of the building to serve the proposed 45 studio flats. The Council has set out the requirement for an additional four cycle spaces to be provided on site for visitors to satisfy the development plan.
23. However, a lack of cycle spaces for visitors would not have a material transport impact nor would it impact on the safety of the site access. As such, the provision of cycle storage in the basement of the appeal building would not be a prior approval matter and the requirements of the development plan in this respect would not be relevant to the appeal.
24. Waste would also be stored within the basement of the appeal building in a designated area. The appellants explain that the waste would be moved to a collection point on the street by the building's management company, not by the residents. I note that there is a ramp that the containers would need to be pushed up and down as part of the waste collection.
25. However, the ramp has a relatively short length and a gentle incline. Furthermore, whilst vehicles would also use the access to park within the basement, there would be the opportunity to create separate paths for the vehicles and pedestrians moving waste containers. The collection arrangements for waste can be secured through a suitably worded planning condition. With the imposition of such a condition, the access would not be unsafe for waste collection.
26. I find therefore, based on the evidence before me, that the transport impacts of the proposed development, particularly to ensure safe site access, would not be materially harmful. The proposal would therefore accord with condition MA.2.(2)(a) of Schedule 2, Part 3, Class MA of the GPDO.

Contamination risks

27. A Phase I Geo-Environmental Desk Study report, prepared by EPS and dated 15 October 2024, has been submitted with the appeal. The report concludes that no plausible contaminant linkages that have the potential to become active during redevelopment of the site were identified and the site is considered low risk in terms of contamination.
28. I find therefore, based on the evidence before me, and in the absence of any substantive evidence to the contrary, that the proposal would not have any significant effect on contamination risks. The proposal would therefore accord with condition MA.2.(2)(b) of Schedule 2, Part 3, Class MA of the GPDO.

Other Matters

29. Some potential scheme benefits are claimed, including the contribution that the proposal would make to the local housing supply by reusing previously developed land in a sustainable location. However, as the considerations for the appeal are limited to the conditions, limitations and restrictions specified under Schedule 2, Part 3, Class MA of the GPDO, I cannot take these claimed benefits into account.

30. The concerns expressed regarding the Council's conduct during the processing of the application fall outside of the remit of this decision.

Conclusion

31. For the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

K Reeves

INSPECTOR