



ALLEN PLANNING Ltd
Town Planning and Development Consultants

Havant Borough Council
Planning Department
Via email
FAO Tina Pickup

22nd February 2023

Dear Tina

Prior Notification requirement under Part MA of the GPDO for the change of use of Class E space to form 17 apartments (Amended Submission).

Site at First and second floors only (not ground floor) at Nos. 286-288 London Road, Waterlooville, PO7 7DS

LPA reference APP/22/01165

This letter and the accompanying revised plans seek to amend this originally submitted Prior Notification application under LPA reference APP/22/01165 to convert this vacant former Class E space, at the two upper floors of this building, into 17 apartments.

This revised submission is accompanied by revised CIL forms together with proposed and existing detailed floor plans and elevations and also a Daylight Assessment.

The principal reason for the amendments proposed to this application relate to issues raised by officers in terms of matters of adequate natural daylight to the previously proposed 21 apartments.

We therefore assess that matter in detail below.

(f) Adequate Natural Light

This criteria requires an assessment in terms of each flat to be created relating to:

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses,";

The revised floor plans identify that each of the habitable rooms of each of the 17 flats proposed would be served either by existing or approved windows. To assist the LPA this existing and approved fenestration is shown on the proposed floor plans.

Firstly, in this respect we refer to the recent granting of planning permission for the creation of numerous new windows and external alterations to the building under LPA reference APP/22/00741.

As evidenced by the very recent appeal decision which accompanies this application it is clear that the provision of approved windows within the building, even if they are not as yet in situ, can be assessed in terms of the levels of daylight which would be provided to the proposed flats.

In the respect of this recent case in Reading we quote the following paragraphs from the decision letter in such regards:

“14. It is proposed by the appellant, that the residential uses currently being sought would not commence until the operational development (approved under planning permission 210885) is complete. It is suggested that this could be secured by a planning condition (to be applied to the grant of prior approval) to ensure that the proposed residential dwellings are compliant with the conditions of Class O and receive adequate natural light.

15. The Council acknowledge that should the separate works under permission 210885 take place, adequate levels of natural light would be achieved for the future occupants of the proposed units. I see no reason to find otherwise. However, the Council contests that prior approval can be granted subject to a condition(s) necessitating that building operations under a separate planning permission are complete.

16. Paragraph W(13) of the GDPO provides that ‘The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval’.

17. Paragraph W(13) does not give the power to impose any condition(s) it pleases, rather, the condition(s) must be reasonably related to the subject matter of the prior approval. The approval does not relate to the entirety of the proposed development, but only to those matters which are specified for approval under each class of development.

18. It is quite clear from paragraph W(13) that conditions may be imposed when granting prior approval. Equally, I consider there is no particular tension, between paragraph W(2A) and W(13) as they deal with separate points. In other words, it would be permissible for a condition to be imposed in relation to the provision of natural light in all the habitable rooms of the dwellinghouses and for the prior approval not to take effect until this provision had been fully met. I also deem that such a condition would be reasonably related to the subject matter of the prior approval and would therefore satisfy the criteria in paragraph W(13).

19. However, to the extent that prior approval (with or without conditions) is granted in relation to a Class O change of use from office to residential, that prior approval cannot, and does not, also grant permission for any associated physical development required to implement the change of use.

20. Furthermore, the Planning Practice Guidance¹ provides that where associated physical development is required to implement the change of use, developers will need to consider whether it constitutes development and ensure they have planning permission if necessary.

21. This further reinforces my view that a condition requiring operational development under a separate planning permission can be appropriate to secure the necessary provision of adequate natural light, and thus allow for prior approval.

22. The Council suggests that such a condition may result in a prior approval that cannot be implemented. This is because the prior approval development must be complete and occupied within three years, while there is no guarantee that the separate operational development would be complete in sufficient time to allow this. Be that as it may, there is no guarantee that the grant of prior approval for any development under Class O (or now Class MA) would always be completed and occupied within the required timescales. As such, ensuring that the relevant timescales would be met is a matter for the appellant to address, while I do not find this issue would prevent the imposition of such a condition.”

In terms of guidance on matters of daylight the Framework advises (with our emphasis) at paragraph 125 that area-based character assessments, design guides and codes and

masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

This paragraph adds amongst other matters that:

c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, 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

We thereby respectfully suggest that this advice “feeds into” any assessment under Part MA where part (f) requires the “provision of adequate natural light in all habitable rooms of the dwellinghouses”

BRE guidelines are a “desired” target, it is clearly not the arbiter of “adequate” natural daylight which is of course the assessment required in Part MA. Indeed, BRE guidance is a numerical only guide and importantly it is not an instrument of planning policy.

This revised application is also supported by a detailed Daylight and Sunlight Assessment for this revised scheme which concludes.

“To conclude, having regard to paragraph 1.6 of the BR209 (2022), ‘The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design (see Section 5).’, the analysis demonstrates that with overcast skies levels of illuminance exceed guidance to all rooms save 2No and, undoubtedly, all rooms would exceed guidance for levels of illuminance if in the analysis used clear skies in the analysis.

In respect of permitted development Part MA (f) therefore, which requires the “provision of adequate natural light in all habitable rooms of the dwellinghouses”, the analysis above having regard to the guidance of BR209 (2022), demonstrates indeed demonstrate adequate daylight.”

Given the above detailed assessment of the revised scheme, the appeal decision, together with the overall assessment of the “approved” and existing fenestration within the building it is submitted that this amended scheme would provide adequate natural light into the habitable rooms of all 17 proposed apartments.

Conclusions

All of the 17 apartments proposed would fulfil NDSS size standards and such are set out on the proposed floor plans.

In light of the information contained within this letter we submit that the change of use of the first and second floors of this vacant three storey building to **form 17 apartments** from its permitted Class E use is wholly in accord with Class MA of the amended General Permitted Development Order and the Prior Notification Procedure.

On that basis we would be grateful if the original application can be amended as set out in this letter and of course on that basis if a revised date for the determination of this application is required, from that already agreed, then we would be grateful if the LPA could specify that new date in order that it can be agreed within the current "56 day timescale".

If the Council require any further information, then please do not hesitate to contact me.

Yours sincerely

anthony allen

Mr A.M Allen
Managing Director