



Appeal Decisions

Site visit made on 23 November 2021

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2021

Unit 34 Walker Avenue, Wolverton Mill, Milton Keynes MK12 5TW

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approvals required under Schedule 2, Part 3, Class O of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter 'the GPDO').
- The appeals are made by Mr Fahd Kahn of Provident Homes against the decisions of Milton Keynes Council.

Appeal A Ref: APP/Y0435/W/21/3275159

- The application Ref 21/01183/PANB1C, dated 9 March 2021, was refused by notice dated 14 May 2021.
- The development proposed is change of use from office (Class B1a) to 8 dwellings.

Appeal B Ref: APP/Y0435/W/21/3275162

- The application Ref 21/00799/PANB1C, dated 9 March 2021, was refused by notice dated 14 May 2021.
 - The development proposed is change of use from office (Class B1a) to 8 dwellings.
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Appeal C Ref: APP/Y0435/W/21/3275164

- The application Ref 21/00800/PANB1C, dated 9 March 2021, was refused by notice dated 14 May 2021.
 - The development proposed is change of use from office (Class B1a) to 9 dwellings.
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Decisions

1. Appeals A, B and C are all dismissed.

Applications for costs

2. Applications for costs were made in respect of all three appeals by Mr Fahd Kahn of Provident Homes against Milton Keynes Council. Those applications are the subject of separate Decisions.

Reasons

3. The Council's sole reason for refusal in all three applications related to the fact that some of the dwellings in all three proposals would be smaller than 37m². Paragraph 9A of Article 3 of the GPDO states that the rights conferred in Schedule 2, (including those in Class O of Part 3) do not grant planning permission for any new dwelling where the gross internal floor area is less than 37m². However, the transitional provisions set out in SI 2020 No.1243 state that this stipulation, in respect of Part O, has no effect on applications submitted before 6 April 2021. The three applications subject of these appeals were submitted before that date so are not bound by this restriction, which the Council now accept.

4. However, Part O defines permitted development as "Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule". It does not extend to any alterations which could be required to facilitate that change of use, such as in Class Q in respect of the change of use of agricultural buildings to dwellinghouses.
5. In respect of Appeals A and C the drawings show that an existing set of double doors on the south-west elevation would be swapped with two single doors divided by a narrow piece of wall. These doors would provide the access to two dwellings so are integral to the change of use. Also, in respect of Appeal C only, two additional ground floor windows would be provided on the south-west elevation, which would be the main source of light to unit 7. Furthermore, as I saw at my visit, the ground-floor window on the north-east elevation behind the existing spiral staircase shown on the existing plans does not currently exist. The provision of this window would be the sole source of light for the bedroom in unit 3 in all three schemes. This would therefore be an additional alteration to the building.
6. Consequently, in all three appeals, physical works to the building would be needed to facilitate the change of use. Such works would not be permitted by Class O and, as they are integral to the change of use, the proposals as a whole do not constitute permitted development under Class O.
7. These alterations may constitute permitted development in their own right under Part 7, Schedule 2 of the GPDO as alterations to a commercial, business or service establishment. But as they are clearly integral to the change of use, it would not be appropriate to detach them and consider them separately.
8. I recognise that prior approval was granted for a similar scheme for seven dwellings almost concurrently with these three applications. Nonetheless, that does not affect my consideration of these appeals on their own merits.

Conclusion

9. For the reasons given above, and having had regard to all other considerations, I conclude that the appeals should be dismissed.

Andrew Owen

INSPECTOR