

Officer's Report

Application Number	HGY/2023/0011
Type	Prior approval Part 3 Class MA: Commercial, business and service uses to dwellinghouses
Location	Shop, 173 Philip Lane, Tottenham, London, N15 4HQ
Proposal	Application to determine if prior approval is required for a proposed change of use from commercial, business and service use (Class E) to dwellinghouses (Class C3) comprising the conversion of the existing ground floor shop unit into residential use (Class C3) accommodation, comprising two 1-bedroom/1-person studio flats. Application under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.
Case Officer	Sabelle Adjagboni
Valid Date	03/01/2023
Applicant	Mr A Kyprianou
Agent	Henry Planning Ltd

RECOMMENDATION

Approve with Conditions

PROPOSED DEVELOPMENT AND LOCATION DETAILS

This is an application to determine if prior approval is required for a proposed Change of Use from commercial/business/service (Class E) to a dwellinghouse (Class C3). The application is submitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), specifically Schedule 2, Part 3, Class MA.

Site and Surroundings

The application site relates to semi-detached building located on Philip Lane. The property was last used as florist shop but appears to be empty. The site forms part of a pair of semi-detached properties with residential on the upper floors. This immediate stretch of Philip Lanes comprises of residential properties and odd commercial property. The site is Clyde Circus Conservation Area.

Planning and Enforcement history

The planning history in relation to the application site is as follows:

HGY/2022/0996 | Prior approval Part 3 Class A: Restaurants, cafes, takeaways or pubs to retail | Refuse

OLD/1984/1287 | 173 Philip Lane N15 11/10/83 Change of use to a fish & chip shop. | Refused

OLD/1983/1308 | 173 Philip Lane N15 20/7/83 Change of use from grocery to whole sale & retail of cardboard and paper food packaging. | Refused

OLD/1980/1208 | 173 Philip Lane N15 Use for the sale of kebabs. | Refused

CONSULTATION RESPONSES

In accordance with the procedure for applications for prior approval under Part 3 Paragraph W adjoining owners/occupiers were consulted.

No internal consultation responses have been received.

No responses have been received from adjoining/neighbouring owners/occupiers or from any amenity groups.

ANALYSIS/ASSESSMENT OF THE APPLICATION

Application under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO') for changes of use from Commercial, Business and Leisure (Class E - except offices in relation to certain parts of the Borough) to a dwellinghouse (Class C3).

This application seeks prior approval for a change of use of the vacant ground floor retail premises (Use Class E) to residential use comprising two one-bedroom flats (Use Class C3).

Prior approval is an application to discharge the conditions pertaining to the permitted development right (PDR) so the scope of the issues which are material to the prior approval application are fixed and fixed exclusively by the terms of the order. Therefore, no consideration can be given to the statutory development plan or the National Planning Policy Framework (NPPF) unless the GPDO specifically provides for this. The relevant limitations and conditions are assessed as set out below.

Limitations

Criteria

(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

Complies

(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

Complies

(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

Complies – Approximately 81 sqm of floor space would be changing use.

(d) if land covered by, or within the curtilage of, the building—

(i) is or forms part of a site of special scientific interest;

(ii) is or forms part of a listed building or land within its curtilage;

(iii) is or forms part of a scheduled monument or land within its curtilage;

(iv) is or forms part of a safety hazard area; or

(v) is or forms part of a military explosives storage area;

N/A

(e) if the building is within an area of outstanding natural beauty/ National Park

N/A

(g) before 1 August 2022, if—

(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and

(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

N/A. The Proposed development does not fall within Class O.

Conditions of Prior approval

Class MA development is permitted subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- a) transport impacts of the development, particularly to ensure safe site access;
- b) contamination risks in relation to the building;
- c) flooding risks in relation to the building;
- d) impacts of noise from commercial premises on the intended occupiers of the development;
- e) where the building is located in a conservation area, and the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
- f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- g) the impact, on intended occupiers of the development, of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and
- h) where the development involves the loss of services provided by a registered nursery, or a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost.

Transport impacts of the development

The transport impacts of the development, particularly to ensure safe site access have been considered.

Whilst this application is made pursuant to Class MA of the GDPO (2022, as amended), Haringey Local Plan policy DM31 states that to promote sustainable growth in Haringey and reduce the impact of car parking, new development must reduce the impact of car parking in any development located in areas of good public transport accessibility. This approach is supported by Policy T6 of the London Plan which requires car-free development to be the starting point for all development proposals that are well-connected by public transport.

The site is considered sufficiently accessible by non-car modes of travel and there are no significant barriers to walking and cycling. However, there is extensive pedestrian and cycle infrastructure in the vicinity of the site. The site is located within a local shopping parade, with good access to services, shops, and public transport links.

There is little opportunity for on street parking within the vicinity of the site. Given its modest size and the difficulty occupiers would have in finding a convenient on street parking space the proposal is anticipated to be car free and therefore would not generate any materially harmful overspill parking.

The proposed change of use does not give rise to a material increase or change in current likely traffic volumes in the vicinity and there would be no such increase in traffic due to the proposed change of use. The proposed access to the site will not be changed.

In light of the above, it is considered that there will be no negative impact from the development highway conditions or on parking capacity in the area and that safe access into the site for future occupiers and visitors will be provided. The proposal is therefore considered acceptable on transport and highways grounds.

Contamination risks

The development is for a change of use of the existing floorspace; no external works are proposed, and no internal alterations which would affect the foundations of the buildings are proposed.

The application site does not fall within a critical drainage nor is it within a flood risk zone.

Therefore, it is considered that the site should not be considered contaminated land as described in Part 2A of the Environmental Protection Act 1990 (a). Based on the above, there are considered to be no contamination risks in relation to the building.

Impact of noise

There are no identified impacts of noise from commercial premises to negatively affect the intended occupation of the residential unit/ units created by this change of use.

Impact of change of use on character or sustainability of the conservation area

Policies relating to conservation areas within the London Plan 2021 and Haringey Local Plan are relevant to assessing this application, specifically the impact of any change of use on the character or sustainability of the conservation area.

Whilst no elevations were submitted with the previous refusal, officers note that this has been remedied with the current application. The proposed elevations show that no external changes are proposed and therefore the proposal would have no material impact on the character of the conservation area.

Provision of adequate natural light

Within the first studio flat, the front façade is heavily glazed. Given the small size of the flat, this is considered sufficient to provide daylight and ventilation in the living spaces of the flat.

In the second flat, there are two windows of about 1m each servicing the living and sleeping area. An additional window can be seen in the dining area which also benefits from a large roof light. Although there is no direct window into the kitchen, the light provided by the roof light is considered to be sufficient to service the kitchen as well. Moreover, the placement of the doors within the flat is also considered adequate to aid ventilation within the flat.

Therefore, as per the drawings and information submitted with this application the proposed change of use is considered acceptable in relation to the provision of adequate natural light and ventilation.

Impact in relation to nearby general or heavy industry, waste management, storage and distribution uses.

This criterion is not relevant in relation to the assessment of this application.

Impact in relation to loss of services provided by a registered nursery, or a health centre

This criterion is not relevant in relation to the assessment of this application.

Space Standards

A floorplan showing the total floorspace in square metres in relation to the dwelling unit(s) has been submitted with this application and complies with the nationally described space standards.

Internal amendments have been made from the previous application so that there are two studio flats of internal floor area of the first studio flat is 38sq.m for the studio flat at the front and 43sq.m for the one at the rear.

Therefore, both flats would comply with the nationally described space standards and London Plan standards set out in Table 3.1 of the London Plan Policy D6, which specifies that 1 bed 1 person should be 37 sq.m.

Fire safety

There is a requirement for fire risk to be considered in relation to certain building types. The size of the building here does not require fire safety impacts on the intended occupants of the building to be considered at planning application stage; Building Regulations and other statutory fire safety requirements still however will apply.

The proposal only involves two units, and the building is not within the base of 18m high building /or 7 or more storeys and therefore does not meet the criteria for the fire risk condition.

Building operations

Class MA permits only a change of use and as such it is being brought to the attention of the application/ agent that building operations involving external alterations will require separate planning consent.

Conclusion

The proposed change of use meets the conditions and limitations detailed and discussed above subject to conditions to secure sufficient cycle parking in line with the relevant London Plan Standards and appropriate refuse storage.

CIL

No new floorspace is being created and part of the building has been occupied for a lawful use for at least six months continuously in the last three years, as such the proposal is not liable for CIL.

RECOMMENDATION

The prior approval of the Local Planning Authority is required, and granted subject to the following condition(s):

Conditions:

- 1 Prior approval is granted under the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use from commercial/business/service (Class E) to two studio flats (Class C3) subject to the following conditions:
 - (1) The development must be completed within a period of 3 years starting with the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with the approved plans set out in the decision notice.
 - (3) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.
 - (4) The flat hereby approved shall not be occupied until details of a refuse storage enclosure has been submitted to and approved in writing by the Local planning Authority and has been fully installed.
 - (5) The flat hereby approved shall not be occupied until details of a secure cycle store for at least two bicycles has been submitted to and approved in writing by the Local Planning Authority and has been fully installed.

Informatives:

- INFORMATIVE: The new development will require numbering. The applicant should contact the Local Land Charges at least six weeks before the development is occupied (tel. 020 8489 3472) to arrange for the allocation of a suitable address.
- INFORMATIVE: Party Wall Act
The applicant's attention is drawn to the Party Wall Act 1996 which sets out requirements for notice to be given to relevant adjoining owners of intended works on a shared wall, on a boundary or if excavations are to be carried out near a neighbouring building.
- INFORMATIVE: Hours of Construction Work
The applicant is advised that under the Control of Pollution Act 1974, construction work which will be audible at the site boundary will be restricted to the following hours:-
8.00am - 6.00pm Monday to Friday
8.00am - 1.00pm Saturday
and not at all on Sundays and Bank Holidays.