

Officer's Report

Application Number	HGY/2023/1209
Type	Prior approval Part 3 Class MA: Commercial, business and service uses to dwellinghouses
Location	Tottenham Lane Surgery, 49 Tottenham Lane, Hornsey, London, N8 9BD
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 (Use Class C3) under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.
Case Officer	Kwaku Bossman-Gyamera
Valid Date	03/05/2023
Applicant	Hillvale Estates Ltd
Agent	Mr Heshy Friedman, Excel Planning

RECOMMENDATION

Refuse

1. APPLICATION DETAILS

Application to determine if prior approval is required for a proposed change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.

2. REPRESENTATIONS

Site and Surroundings

2.1 The subject site contains a ground floor commercial unit in use, situated on the northern side of Topsfield Parade on Tottenham Lane, N8. The surrounding uses are a mix of commercial retail-related uses at ground floor level with predominantly residential uses on the upper floors. The site is located within the Crouch End Secondary Shopping Frontage. The site does not contain a listed building and is not located within a conservation area.

Consultation Response

2.2 In accordance with the procedure for applications for prior approval under Part 3 Paragraph N –

- LBH Transportation: No objection subject to conditions
- LBH Pollution: No objection subject to conditions

2.3 1 representation was received in response to notification and publicity of the application.

2.4 The following issues were raised by neighbours

- A letter of support on grounds that the proposed change of use to dwelling houses. This conversion would help promote a more residential and community-oriented environment, enhancing the livability and aesthetic appeal of our neighborhood.

ANALYSIS/ASSESSMENT OF THE APPLICATION

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

3.2 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;

Comment

Planning history details and historical images show that the site was trading as a retail shop. The unit appears to have been vacant since at least 2022. Based on historic street view images the ground floor unit was last used for retail purposes - Complies

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

Comment

As stated above the premises has been in use Class E - Complies

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

Comment

Approximately 118 sqm of floorspace would be changing use - Complies

(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;

Comment

No Applicable

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

Comment

No Applicable

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.

Comment

The proposed development does not fall within Class O

Conditions of Prior Approval

3.8 Class M 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—
 - (i) the building is located in a conservation area, and
 - (ii) 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
- (h) 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
- (i) where the development involves the loss of services provided by—
 - (ii) a registered nursery, or
 - (iii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006(2), the impact on the local provision of the type of services lost.

Transport and highway impacts of the development

3.9 The site is located within an area that has a medium public transport accessibility level of 4 and is served by the 41-bus route, which provides links to Turnpike Lane and Archway underground stations with a two-way frequency of 20 buses per hour. Furthermore, the site is within walking distance of Hornsey rail station and the 91, W3 and W5 bus routes, which run with a combined frequency of 49 buses per hour (two-way). It is therefore considered that the majority of the prospective residents of this development would use sustainable modes of transport for their journeys to and from this site. The site falls within the Hornsey South controlled parking zone, which operates Monday to Friday between 11:00am --- 01:00pm.

3.10 In the absence of a transport statement/assessment, details of how the proposed dwellings will be accessed from the street or the provision of any secure cycle parking, it has not been demonstrated that the transport impacts of the proposal will be acceptable, or that safe site access will be ensured, in accordance with the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Contamination risks on the site

3.11 Paragraph (8) (c) of Part N states that “in relation to the contamination risks on the site— (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a), and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and (ii) if they determine that the site will be contaminated land, refuse to give prior approval. As there are no soft landscaped areas affected by the proposal and the works are solely related to the internal structures only. Therefore, there are no concerns with regard to land contamination issues and therefore the risk to future users of the site.

Flooding risks on the site

3.12 In Accordance with Paragraph (4) of Part N that the local planning authority shall consult the Environment Agency where the development is— (a) in an area within Flood Zone 2 or Flood Zone 3; or (b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (ze)(ii) in the Table in Schedule 5 to the 2010 Order. The application site falls within flood Zone 1 and therefore has a low probability of flooding and therefore it is not considered to be at risk of flooding.

Impact of noise

3.13 There are no identified impacts of noise from commercial premises so as 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

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

Provision of adequate natural light

3.15 The proposed flats are proposed in close proximity to the side site boundary with adjoining building at no.51 existing ground floor rear extension, retaining a small strip of land to the side for access and bicycle/ refuse storage. The bedrooms proposed would be located within the existing building which would have windows inserted into its side elevation. Whilst these rooms would be

served by adjacent windows, both would be set within the site, directly opposing the single storey rear protrusion of the neighbouring property, which stands in very close proximity. This would create a significant sense of enclosure and a poor daylight, sunlight and outlook for future residents, as well as restricting the amount of light that would reach the rooms. Although the bedroom is a room that would be expected to be more private and used less often, that does not diminish the need for appropriate standards of accommodation. This is notwithstanding that the living area would also experience similar conditions.

3.16 In addition to the above, the development proposes no usable outdoor amenity space, notwithstanding the narrow strip of land referenced above. This would further undermine the quality of accommodation and make it all the more likely that future residents would necessarily spend greater amounts of time indoors, heightening the importance of appropriate internal living conditions. It is therefore considered that the development would not provide suitable living conditions for future occupants. This would be in conflict with Policy 3.5 of the London Plan (2021) which seeks high quality design and good living conditions; Policies DM12 and SP11 of the Development Plan (2017) which require that new dwellings are appropriate in their context and provide suitable living conditions; and the objective of the National Planning Policy Framework (the Framework) to ensure a good standard of amenity for all existing and future occupants of land and buildings.

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

3.17 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.

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

Space Standards

3.19 A floor plan 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.

Fire Safety

3.20 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.

Building Operations

3.21 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.

4. CONCLUSION

4.1 The applicant has not demonstrated that the proposed dwellings would receive acceptable levels of daylight and therefore have not demonstrated that an acceptable quality of accommodation would be provided for future occupiers in accordance with the provisions of

Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

4.2 In the absence of a transport statement/assessment, details of how the proposed dwellings will be accessed from the street or the provision of any secure cycle parking, it has not been demonstrated that the transport impacts of the proposal will be acceptable, or that safe site access will be ensured, in accordance with the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Prior Approval Required and Refused

Refusal Reasons:

The applicant has not demonstrated that the proposed dwellings would receive acceptable levels of daylight and therefore have not demonstrated that an acceptable quality of accommodation would be provided for future occupiers in accordance with the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

In the absence of a transport statement/assessment, details of how the proposed dwellings will be accessed from the street or the provision of any secure cycle parking, it has not been demonstrated that the transport impacts of the proposal will be acceptable, or that safe site access will be ensured, in accordance with the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).