



Officer Report

Application Number: HGY/2023/1928
Application Type: **Prior approval Part 3 Class MA: Commercial, business and service uses to dwellinghouses**
Address: 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 (Use Class C3)
Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA
Case Officer: Oskar Gregersen
Valid Date: 18/07/2023
Applicant: Mr A Kyprianou
Agent: MSK Design Ltd

RECOMMENDATION

Prior Approval Required and Approved subject to Conditions

PLANNING HISTORY

The planning history of the site has been taken into account when coming to this decision and is as follows:

HGY/2023/0011 | 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.
Approve w/ Conditions

HGY/2022/0996 | 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 part of the existing ground floor shop unit into residential use (Class C3) accommodation. Application under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.
Refuse

RELEVANT PLANNING LEGISLATION

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful. As such, the impact of the proposed development of the neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

ANALYSIS/ASSESSMENT OF THE APPLICATION

Class MA: Commercial, business and service uses to dwellinghouses

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A certificate of lawfulness for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order can be issued if the proposal meets all the criteria under The Town and Country Planning (Generally Permitted Development) (England) Order 2015 – Schedule 2, Part 3, Class MA '*commercial, business and service uses to dwellinghouses*'

The current proposal will be assessed against these requirements as follows:

MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Permitted Development -

MA.1.—(1) Development is not permitted by Class MA—

(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 sub-paragraph (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; 38sqm 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—

(i)an area of outstanding natural beauty;

(ii)an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;

(iii)the Broads;

(iv)a National Park; or

(v)a World Heritage Site;

N/A

(f)if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

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

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

(i) Class A1 (shops);

(ii) Class A2 (financial and professional services);

(iii) Class A3 (food and drink);

(iv) Class B1 (business);

(v) Class D1(a) (non-residential institutions – medical or health services);

(vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);

(vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Conditions

MA.2.—(1) Development under Class MA is permitted subject to the following conditions.

(2) 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 as to—

(a) transport impacts of the development, particularly to ensure safe site access;

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.

(b) contamination risks in relation to the building;

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.

(c) flooding risks in relation to the building;

N/A

(d) impacts of noise from commercial premises on the intended occupiers of the development;

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.

(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;

N/A

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

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.

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.

(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; F2...

N/A

(h) where the development involves the loss of services provided by—

(i) a registered nursery, or

(ii) 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 [F3; and

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building]

N/A

(3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph [F4 as if—

(a) for paragraph (e) of sub-paragraph (2) there were substituted—

“(e) where—

(i) sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;

(ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,”;

(b) in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”;

(c) after sub-paragraph (6) there were inserted—

“(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”;

(d) in sub-paragraph (7) for “(5) and (6)” there were substituted “(5), (6) and (6A)”;

(5) Development must be completed within a period of 3 years starting with the prior approval date.

(6) 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.]

SUMMARY AND CONCLUSION

Subject to the prior approval of the LPA, the proposed development constitutes permitted development by virtue of Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) Order 2015. In this particular case, the prior approval of the LPA is required and granted subject to the conditions set out below.

Conditions:

- 1 The development to which this permission relates must be begun no later than three years from the date of this decision notice, failing which the permission shall be of no effect.

Reason: This condition is imposed by virtue of Section 91 of the Town and Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.

- 2 The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 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:

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.

