



Officer Report

Application Number: HGY/2023/2192
Application Type: **Prior approval Part 3 Class MA: Commercial, business and service uses to dwellinghouses**
Address: Shop, 38 Quernmore Road, Hornsey, London, N4 4QP
Proposal: Application to determine if prior approval is required for the proposed change of use of the ground floor premises from commercial, business and service use (Use Class E) to a one bedroom dwelling (Use Class C3). Application made under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.
Case Officer: Josh Parker
Valid Date: 11/08/2023
Applicant: Mr Aristos Georgiou
Agent: Mr Joe Henry

RECOMMENDATION

Approve with Conditions

PLANNING HISTORY

The planning history of the site has been taken into account when coming to this decision.

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 dwelling houses.

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 -

Analysis of Proposals against Part 3, Class MA of the GPDO:

(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 – Application states site has been vacant for a period of more than 3 months

(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;

N/A

(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; an

(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 proposed residential unit would introduce a single dwelling to a small terrace occupied by ground floor shops and residential units above. Details of cycle storage have been provided with submitted drawings. Furthermore, the application site is within 200m of Haringey Train Station and as such would have sufficient access to transport.

(b) contamination risks in relation to the building;

Due to the predominantly residential nature of the surrounding development, Officers deem that the contamination risk of the site is low-none.

(c) flooding risks in relation to the building;

Officers deem that there would be low risk of flooding in the area.

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

The commercial use of the area is located on the ground floor, the character of the terrace down the dead end road appears to be predominantly shop units on the ground floor and residential above. Reverse sensitivity for a residential dwelling on the ground floor. As a result, Officers deem that there would not likely be any adverse impact due to noise on any potential resident of the proposed.

(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 dwelling houses;

Officers note that there has been a daylight/sunlight assessment submitted with this application. Both habitable rooms comfortably comply with the BRE (BR209 2022) guidance.

(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;

In this instance the site is not considered to be in an area that relates to either general or heavy industry, waste management, or storage. The surrounding area appears largely small scale shops and residential in character.

(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]

The site is not considered to require a fire safety assessment by virtue of the scale of development.

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

Complies

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph [F4as 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)”;

N/A

(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

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 and is considered to be lawful. Prior approval is granted subject to the following conditions:

Conditions:

- 1 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.

- 2 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.

- 3 Prior to the commencement of development above ground, full details of the type and location of secure and covered cycle parking facilities have been submitted to and

approved in writing by the Local Planning Authority.

The development shall not be occupied until a minimum of two cycle parking spaces for users of the development, in accordance with the London Cycling Design Standards. Once agreed, the details shall be implemented as approved and retained/maintained as such thereafter.

Reason: To promote travel by sustainable modes of transport and to comply with the London Plan 2021 minimum cycle parking standards and the London Cycling Design Standards, policy T5 of the London Plan 2021, Policy SP7 of the Haringey Local Plan 2017 and to maximise the accessibility of the development.