



Officer Report

Application Number:	HGY/2024/2404
Application Type:	Prior approval Part 3 Class MA: Commercial, business and service uses to dwellinghouses
Address:	105 Brantwood Road, Tottenham, London, N17 0DX
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:	Iliyan Topalov
Valid Date:	30/08/2024
Applicant:	4 Investment SH Ltd
Agent:	Mr Ivan Chonkov

RECOMMENDATION

Refuse

1. DESCRIPTION OF APPLICATION

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.

2. PLANNING HISTORY

HGY/2023/0633 - Increase in height of roof, creation of a new mezzanine/third storey level and installation of a new row of upper-level windows in the front elevation of the office building fronting Brantwood Road (part retrospective application).
Approved - 05/04/2024

HGY/2018/1549 - Notification for Prior Approval for a Proposed Change of Use of a building from Office Use (Class B1(a)) to a Dwellinghouse (Class C3)
Withdrawn - 12/07/2018

HGY/2013/0665 - Formation of vehicle crossover
Approved - 29/05/2013

HGY/2006/0994 - Partial demolition and erection of single storey extension to existing depot with alteration to existing crossover to Brentwood Road .

Approved - 20/09/2006

HGY/2004/0018 - Erection of single storey extension with mezzanine offices to existing warehouse and new 2 storey warehouse building and associated loading/unloading/parking facilities.

Approved - 25/02/2004

HGY/2003/0537 – Display of internally illuminated box signage at first floor level.

Approved - 13/05/2003

HGY/1996/0220 - Alteration to existing warehouse involving removal of existing roof, including raising of flank walls to introduce a new steelframework inside the building to provide a new roof at higher level.

Approved - 25/06/1996

HGY/1995/0550 – Change of use from Class B2 to B8.

Approved - 01/08/1995

HGY/1994/0829 – Change of use to B2 (General Industry).

Approved - 23/08/1994

HGY/1991/0573 - Change of use of part of premises from general industrial (B2) to an adult training centre (D1).

Approved - 04/11/1991

3. SITE AND SURROUNDINGS

The application site is a 3-storey office building fronting Brantwood Road that was originally ancillary to the larger warehouse building that adjoins it to the rear.

The office building has been separated off from the parent use to the rear and now forms a separate self-contained building.

The building is adjacent to terraced housing fronting Brantwood Road. The rest of the neighbouring uses, including those opposite is comprised of various industrial/warehouse uses.

The site is within the Brantwood Strategic Industrial Location.

It is not in a conservation area or within or close to the curtilage of any listed buildings.

4. CONSULTATION RESPONSES

The following internal consultation responses were received:

- LBH Transport: No Response

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

- A site notice was displayed in the immediate vicinity of the site;
- Adjoining owners/ occupiers of 3 neighbouring properties were consulted.

The following issues were raised in the representations received:

- **Safety Concerns:** The site is located within an active industrial estate, with constant traffic from large vehicles, forklifts, and heavy goods vehicles (HGVs), raising concerns about the safety of site access, particularly for families.
- **Public Health Risks:** The development lacks adequate assessments for air quality, contamination, and vermin risks, all of which are prevalent in industrial areas. Light pollution from nearby commercial units also hasn't been accounted for.
- **Noise Pollution:** The noise levels from nearby industrial activities exceed acceptable residential limits, and while the developer suggests installing expensive soundproof windows, there are concerns about whether these mitigations will be effective. Open windows would still expose residents to loud noise from trucks and industrial activities.
- **Non-Compliance with Standards:** The proposal may not meet standards set by the Mayor of London's Planning Guidance, and there is a lack of sufficient amenity space. The single-aspect design of the units would limit access to natural light.
- **Loss of Employment Space:** Converting offices into residential units could result in a permanent loss of employment opportunities in an area with high demand for industrial space.

5. ASSESSMENT

Relevant Legislation

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 to a dwellinghouse (Class C3).

This application seeks prior approval for a 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. The proposal would see what is shown as offices to be converted into 6 x self-contained flats.

A change of use prior approval application is an application that seeks confirmation that the proposal complies with the restrictions and conditions set out within the Permitted Development Order relating to that particular change of use, so the scope of the issues which are material to the prior approval application are fixed exclusively by the terms of the order. Therefore, no consideration can be given to the statutory development plan. Part W, 10(b) of Schedule 2, Part 3 of the Town & Country Planning GPDO outlines that Local Planning Authorities must have regard to the National Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

The relevant limitations and conditions are assessed as set out below.

Limitations

(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: The building has been used as offices for at least 2 years prior to the date of the application.

(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: The building is not covered or located within any of the above.

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

Comment: The building is not within an area of outstanding natural beauty/ National Park

(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 site does not fall within an area covered by an Article 4 direction.

Other Limitations

In assessing this application consideration also needs to be given as to whether the application site/ building/ the part of the building is subject to a condition of planning consent limiting it to purposes falling within Class X.

Comment: The application site/ building is subject to a restriction as imposed via Conditions 7 and 8 of planning permission ref: HGY/2023/0633, approved on 05/04/2024 and granting consent for - "Increase in height of roof, creation of a new mezzanine/third storey level and installation of a new row of upper-level windows in the front elevation of the office building fronting Brantwood Road (part retrospective application)."

Condition 7 states - Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 (as amended), or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the approved development shall be used as offices, artist studios, music studios, photographic studios, light industrial uses and/or for research and development activities, and for no other uses within the Use Class E of the above order, unless approval is obtained to a variation of this condition through the submission of a planning application.

Reason: In order to restrict the use of the premises to one compatible with the surrounding area because other uses within the same Use Class or another Use Class are not necessarily considered to be acceptable consistent with Policy DM1 of The Development Management DPD 2017.

The above condition restricts the use of the building to offices, artist studios, music studios, photographic studios, light industrial uses and/or for research and development activities, as described in UCO 1987 and expressly says 'for no other purposes' which precludes the effect of either or both of section 55(2)(f) [and Article 3(1) of the UCO] or the GPDO, as such being effective in restricting the use of the property.

Condition 8 states - Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 2015 or any Order revoking or re-enacting that Order, no changes of use shall be carried out without the grant of planning permission having first been obtained from the Local Planning Authority.

Reason: To safeguard the viability and efficient operation of the Strategic Industrial Location consistent with Policy E4 & E5 of the London Plan 2021 and Policy DM37 of The Development Management DPD 2017.

The above condition results in the property not benefiting from permitted development rights regarding change of use, as such this application cannot be granted.

6. CIL LIABILITY

No new floorspace is being created, however, it is not clear if the building has been occupied for a lawful use for at least six months continuously in the last three years.

As the building does not benefit from permitted development rights, the planning officer has not requested evidence to determine if the proposal is liable for CIL.

7. RECOMMENDATION

REFUSE PRIOR APPROVAL for the following reason:

The building here does not benefit from permitted development rights afforded under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The application site/ building is subject to a restriction as imposed via Conditions 7 and 8 of planning permission ref: HGY/2023/0633, approved on 05/04/2024 and granting consent for - "Increase in height of roof, creation of a new mezzanine/third storey level and installation of a new row of upper-level windows in the front elevation of the office building fronting Brantwood Road (part retrospective application)."

Refusal Reasons:

The building does not benefit from permitted development rights afforded under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The application site/ building is subject to a restriction as imposed via Conditions 7 and 8 of planning permission ref: HGY/2023/0633, approved on 05/04/2024 and granting consent for - "Increase in height of roof, creation of a new mezzanine/third storey level and installation of a new row of upper-level windows in the front elevation of the office building fronting Brantwood Road (part retrospective application).