

Officer Report

Case Reference: NOT/2026/0134
Location: 9 JOHN STREET, ROCHDALE, OL16 2HP
Proposal: Prior approval for change of use from of basement from offices (Class E) to 2no. x 1 bedroom apartments (Class C3)
Recommendation: Refuse
Officer: Bob Melling

SITE DESCRIPTION AND CONTEXT

The application relates to 9 John Street, an attractive, multi-storey building dating back to the 19th Century. The site falls within Rochdale Town Centre (Policy G/S/1 of the UDP), thus the surrounding area is urban in character, comprising a variety of building types and uses within a dense urban grain. It also lies within the Town Head Conservation Area.

The application site is located at the northern end of John Street near the junction with St Mary's Gate (A58) and Whitworth Road.

No. 9 faces west, fronting the pavement and overlooking the public highway and Townhead Offices (Grade II). It borders St James Place and nos. 170-174 Yorkshire Street to the north and northeast, both multi-storey office buildings. The latter are Grade II listed town houses built in the 18th Century.

The application relates to the lower ground floor area of the building, which is noted to comprise office space.

PROPOSAL

The application seeks prior approval for the change of use of the basement from offices (Class E) to 2 self-contained flats (Class C3) under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The provisions of Class MA of Schedule 2 Part 3 of the Town and Country Planning General Permitted Development Order 2015 do not allow for operational/built development and as such any application under this Class must be determined against the existing window / external works provision. In this instance, no external works are proposed.

RELEVANT PLANNING HISTORY

24/00936/ADV – Refused

Erection of 1 no. illuminated digital advertisement display unit.

13/00966/ADV – Grant STC

Installation of full LED colour display/advertising to side elevation

RELEVANT PLANNING POLICIES

Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that when considering whether a development is permitted under Class MA of the above order, the LPA shall have regard to the National Planning Policy Framework as if it was a planning application, in so far as it relates to the relevant subject matters.

For the avoidance of doubt Class MA states:

“Class MA – commercial, business and service uses to dwellinghouses

Permitted development

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.”

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

PUBLICITY

Site Notice: 14/03/2026

Neighbour notification letters: 10/03/2026

ASSESSMENT

Amendments to the Order came into force on 5th March 2024 and the below assessment takes this into consideration.

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.

This has now been omitted from Schedule 2 Part 3 by the updated on 5th March 2024.

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;

Based on the information available to Officers, there is no reason to believe that the use of the premises has changed outside of Class E use and therefore on the balance of probabilities, Officers are satisfied that the application site fell within a Class E use for a continuous period of at least 2 years prior to the date of the application for prior approval.

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

This has now been omitted from Schedule 2 Part 3.

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;

The land covered by or within the curtilage of the building does not form any of the designations listed under paragraph d)

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;

The building is not within any of the designations listed under paragraph e)

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

The site is not occupied under an agricultural tenancy.

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.

The development is not of a description falling within Class O and the site is not located with an area where an operation of a direction under article 4(1) would have applied.

Summary

The proposal does not fall under the above exclusions set out under Class MA of Part 3 of Schedule 2 of the General Permitted Development Order (as amended). Therefore, consideration of the following matters is given.

Conditions

MA.2. Development under Class MA is permitted subject to the condition that before beginning the development, 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;
- (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 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;
- (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; and

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

(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

(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.

Transport and highways

Paragraphs 115 and 116 of the NPPF require that safe and suitable access to a site can be achieved for all users and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe. As such, the Council's Highways Officer was consulted to assess the potential transports related impacted of the development.

The application site is very sustainably located, and the Council's Highways Officer has raised no objections to the proposed development and in accordance with the policies of the NPPF, prior approval is therefore not required.

Contamination risks

Paragraph 187 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 197 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 196 of indicates that planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

In this instance the proposal purely comprises the conversion of the existing premises by virtue of only internal works.

The proposal would utilise the existing building and accesses to the building. The site and building has been used for commercial and residential purposes in recent years and is therefore considered to be suitable for residential accommodation in terms of satisfactory safeguarding against the actual and potential risk of contamination. In accordance with the policies of the NPPF, prior approval is therefore not required.

Drainage and flood risk assessment

Paragraph 170 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The Environment Agency Flood Map for Planning identifies the site as lying within Flood Zone 1, thus having a low probability of flooding from rivers and the sea. It does not fall within a Critical Drainage Area and due to the nature of development, and in accordance with the policies of the NPPF, prior approval is therefore not required.

Noise impact

Paragraph 135 of the NPPF requires planning policies and decisions to ensure that new developments create a high standard of amenity for existing and future users.

Typically, sound insulation between floors in itself is dealt with under Approved Document E via Building Control. However, internal noise conditions need to be ascertained and understood to ensure the development is appropriate for its location, taking into account living conditions, including reducing to a minimum the potential adverse impacts resulting from noise on health and the quality of life.

The applicant has provided an 'Acoustic Assessment' by Tempo Compliance Testing Ltd (dated 7th December 2025) to measure the external noise levels, in respect of the neighbouring commercial premises and nearby transport networks. The report concluded that a residential use would be acceptable in principle, but in order to comply with the recommended internal noise levels, acoustically specified double-glazing should be installed. Subject to condition, no objection is raised in respect of noise disturbance and prior approval is not required.

Impact on Conservation Areas

The application site falls within Townhead Conservation Area. Class MA requires the applicant to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the impact of the change of use on the character or sustainability of the Conservation Area.

Class MA may also refer to a change of use at ground floor level, whereby the impacts of the change of use or any external works would have more impact on a Conservation Area. Given the proposed change of use applies to the basement and there are no proposed external changes, the impact on the Conservation Area would be neutral. In fact, providing a residential use for the basement could help to increase vitality within the Conservation Area.

In accordance with the policies of the NPPF, prior approval is therefore not required.

Provision of natural light to habitable rooms

Paragraph 135 of the NPPF requires planning policies and decisions to ensure that new developments create a high standard of amenity for existing and future users. A habitable room is identified as a room used or intended to be used for sleeping or living which is not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.

This definition clearly differentiates between rooms solely used for cooking purposes and those which are not. On this basis, case law has established that open plan living spaces containing kitchens are habitable rooms in their entirety.

No evidence has been provided to demonstrate whether the habitable rooms within the dwellinghouses would meet the guidance contained within the relevant BRE Guidelines. As such, there is insufficient information to be able to determine whether the habitable rooms would receive adequate natural light.

Notwithstanding, it was observed during a site visit that the rooms served by the windows appeared to have particularly poor access to natural light. Firstly, it was noted that the windows on the side elevation, which face northwest, are very limited in size. During the site visit, the side elevation windows were obscured by large refuse containers (Figure 1) and, having reviewed historic Google Street view images, it is clear that the side elevation windows are often obscured by parked cars or by refuse bins. Furthermore, it does not appear that there are any restrictions to prevent this from happening.



Figure 1 - Officer Photograph of NW Side Elevation

Although the front elevation windows are southwest facing, it is not considered that they would be able to provide adequate natural light for the entirety of the habitable rooms in either flat. The open plan living areas within both flats are a significant depth and the front elevation windows have noticeably deep internal reveals. Externally, each window is fitted with black iron railings which would further reduce the infiltration of natural light.

The height and position of the windows would afford the proposed flats with limited privacy, with passersby on John Street (A671) able to see into the rooms at close range. This lack of privacy would likely lead occupants of the proposed flats to close their blinds or curtains for large parts of the day, further reducing the amount of natural light and the consequence would be the regular use of artificial lighting to combat an otherwise gloomy internal living environment.

It should also be acknowledged that John Street is a busy, edge of town centre thoroughfare which can often become congested. This would further impact the levels of natural light with both standing vehicles and regular passing traffic casting shadows on the windows.

Overall, it is considered that the design, height and positioning of the windows as well as the internal layout of the proposed flats would severely limit the provision of adequate natural light to habitable rooms.

A Daylight/Sunlight Assessment should be undertaken to demonstrate the provision of adequate natural light in all habitable rooms of the dwellinghouses in accordance with BRE Guidelines. This would need to be submitted prior to determination of the application. Therefore, prior approval is required and is refused.

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

The application site is not in an area that is considered to be important for general or heavy industry, waste management, storage or distribution, and therefore does not require prior approval.

The impact on the local provision of a registered nursery or health centre through the loss of either service

The proposal would not result in the loss of a registered nursery or health centre.

Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

The proposed development is less than 18m in height and is less than seven storeys and therefore does not meet the fire risk condition. No fire safety impacts of the development is required.

Space standards

Article 3 (9A) of the GDPO states that 'Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(a) where the gross internal floor area is less than 37 square metres in size; or

(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

The Nationally Described Space Standards (NDSS) is a technical standards document produced to ensure internal space within new dwellings is suitable for application across all tenures. Both dwellings would require a minimum gross internal floor area of 39 sqm. The proposed floor plans indicate floor areas of 46.8 sqm and 40.2 sqm respectively, which would comply with the NDSS minimum standard, including the provision of appropriate bedroom floor areas.

As such the proposed apartments meet the minimum standards set out under Section 3 (9A), and the NDSS for 1-bedroom, single storey dwellings. Prior approval is therefore not required.

Conclusion

In conclusion, the provision of adequate natural light in all habitable rooms of the dwellinghouses cannot be fully assessed and the LPA is not satisfied that adequate natural light could be provided to all habitable rooms in their entirety. Under paragraph W (3) (b) the LPA may refuse an application where insufficient information has been provided to establish whether the proposed development complies with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question. Therefore, prior approval is required and refused.

RECOMMENDATION

Prior approval is required and refused for the following reason:

SUMMARY OF THIRD-PARTY REPRESENTATIONS

N/A

SUMMARY OF CONSULTATION RESPONSES

Conservation Officer

No comments received at time of writing.

Environmental Health - Noise/Odours

No comments received at time of writing.

Highways and Engineering

The application site is in the edge of Rochdale Town Centre. This is a highly sustainable location with good public transport options and many local amenities within a short walk. We do not expect any significant volumes of traffic to be generated by this proposal. Access to the site is existing and suitable. No changes are proposed to the highways network as a result of this proposal. We do not envisage any issues regarding the servicing of this location. We have identified no new road safety issues as a result of these proposals. We have no objection to this proposal.

Recommendation: Refuse

Refusal(s) (1)

- 1 Insufficient information has been submitted with the application to enable the Local Planning Authority to establish whether all habitable rooms of the dwellinghouses would have access to adequate natural light. The application is not supported by a Daylight and Sunlight Assessment. As such, the proposed development does not

satisfy the requirements of Section 2(f) of Paragraph MA.2 and is therefore not permitted under Class MA of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

For the avoidance of doubt, this decision relates to the following list of plans:

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- Existing Plans. Dwg no. 002A
- Existing Elevations. Dwg no. 002B
- Proposed Plans. Dwg no. 003A
- Proposed Elevations. Dwg no. 003B
- Site – Existing & Proposed. Dwg no. 502
- ‘Acoustic Assessment’ by Tempo Compliance Testing LTD, dated 07/12/2025, report no. 526-975-07-12