

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
22/01528/PRA56	Aimee Bovaird	11 January 2023

Address: First Floor Midway House, Fountain Street, Middleton M24 1AF

Proposal: Prior approval for change of use from commercial use (Class E) to dwellinghouse (Class C3)

PUBLICITY	Weekly list expired?	Y	Site notice expired?	N/A
	Neighbour letters expired?	Y	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	Y

EIA	Screening opinion completed and saved to Onbase?	N
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N

RECOMMENDATION	Prior Approval Required and Approved
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CHECKED AND SIGNED OFF BY: LA DATE: 05.05.23

SITE

This application relates to offices on the first floor above shops at Midway House. This is not a listed building and the site does not contain any protected trees. The building is within a conservation area.

PROPOSAL

This applications seeks prior approval for change of use from offices (Class E) to 6 apartments (Class C3).

RELEVANT PLANNING POLICY

National Guidance

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.

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

Unitary Development Plan (UDP):

Supplementary Planning Documents (SPD):

Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016).

RELEVANT SITE HISTORY

N/A

CONSULTATION RESPONSES

Highways And Engineering

The following comments have been received:

15/12/22

'The application site is in a very sustainable location and is within Middleton town centre and its amenities and public transport links. Taking this into account the lack of parking provision may not warrant a reason for refusal of this application.'

We do have some concerns regarding refuse collection as no reference is made to bin storage areas for refuse collection points within the application. We would not support this application if it relied on bin storage within the pedestrianised area of the town centre. As the development could potentially generate 24 residential bins which would obviously obstruct pedestrian access and be an obstacle for the less abled users. We would therefore require clarification from the applicant as to how refuse collection and storage will be managed for this development.'

We do not envisage any detrimental impact on highway capacity as a result of development.'

26/01/23

Further comments received as follows:

'Having reviewed the location of the bin store and its accessibility for collection we find that this is acceptable.'

Env Health - Noise/Odours

The following comments have been received:

'Given the proximity to existing day & night time economy we would require an acoustic survey to inform the design of the units to ensure the following internal noise levels can be achieved:

- *35 dB(A) Leq (16 hour) in the bedrooms with windows shut and other means of ventilation provided between 7 am and 11pm;*
- *30dB(A) Leq 8 hour in the bedrooms with windows shut and other means of ventilation provided between 11pm and 7am;*
- *35 dB(A) Leq (16 hour) in the living room/s with windows shut and other means of ventilation provided between 7 am and 11pm;*
- *40dB(A) Leq (16 hour) in other habitable rooms with windows shut and other means of ventilation provided at all times.*

upon completion and prior to occupation validation testing is carried out'

6/04/23

Further comments received as follows:

'I have reviewed the report and am satisfied that if the glazing and ventilation measures outlined in section 7 "mitigation" are followed then the internal noise levels will be acceptable.

I would still recommend that upon completion and prior to occupation validation testing is carried out to ensure the following noise levels are achieved:

- *35 dB(A) Leq (16 hour) in the bedrooms with windows shut and other means of ventilation provided between 7 am and 11pm;*
- *30dB(A) Leq 8 hour in the bedrooms with windows shut and other means of ventilation provided between 11pm and 7am;*
- *35 dB(A) Leq (16 hour) in the living room/s with windows shut and other means of ventilation provided between 7 am and 11pm;*
- *40dB(A) Leq (16 hour) in other habitable rooms with windows shut and other means of ventilation provided at all times.'*

Conservation And Design

The following comments have been received:

'The proposal is for the conversion of a first floor office to six apartments. The application seeks to determine whether the prior approval of the local authority is

required for this change of use under Schedule 2, Part 3, Class MA of the GPDO 2015 (as amended). No external changes are proposed as part of this application.

The site lies within the Middleton Town Centre Conservation Area.

Where, the building is located in a conservation area, and the development involves a change of use of the whole or part of the ground floor, the developer is required to apply for prior approval to determine the impact of the change of use on the character or sustainability of the conservation area (Class MA.2(e)).

In this case, the proposal relates to the first floor of the unit. The only part of the ground floor included is the access and stairs to the first floor. No changes are proposed to the remainder of the ground floor. The proposal would not adversely impact on the character or sustainability of the Conservation Area.

No objections'

GM Fire Service

The following comments have been received:

*'The above proposal should meet the requirements for Fire Service access. The Fire Service requires vehicular access for a fire appliance to within 45m of **all** points within the dwelling.*

The access road should be a minimum width of 4.5m and capable of carrying 12.5 tonnes. Additionally, if the access road is more than 20m long a turning circle, hammerhead, or other turning point for fire appliances will be required. The maximum length of any cul-de-sac network should be 250 m.

There should be a suitable fire hydrant within 165m of the furthest dwelling. The Fire Service strongly supports the installation of domestic sprinkler systems as a positive measure to protect persons. At a small cost occupants' can be given the reassurance of a high level of protection. All developers should positively consider the viability of installing domestic sprinkler systems. The access requirements for a dwelling fitted with an approved sprinkler system can deviate from the required standard detailed above, further consultation will be required.

This proposal is for planning only, for access and facilities for the fire service. A further consultation will be required for the change of use and the buildings additional works.'

REPRESENTATIONS

The application has been publicised with neighbour notification letters one objection has been received. The objection raised the following concerns over loud building work causing distress to children.

ANALYSIS

Development not permitted

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;

The agent for the applicant has stated that the building has been vacant for a continuous period of at least 3 months

(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;

The former use of the building fell under Class B1 (office), now replaced by Class E (commercial, business and service) 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;

The cumulative floor space of the existing building does not exceed 1,500m².

(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

Summary

The proposal would be considered Permitted Development under Class MA of Part 3 of Schedule 2 of the General Permitted Development Order (as amended) by virtue of accordance with the criteria set out.

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; and
- (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 2006⁵⁶,
 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.

Paragraphs 108 and 109 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 of the road network would be severe.

Transport and highways

Paragraphs 108 and 109 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 of the road network would be severe.

The proposal does not provide parking, highways do not warrant this a reason for refusal. There is concerns regarding refuse collection as there is no bin storage area.

Contamination Risks and Implications

Paragraph 170 of the National Planning Policy Framework 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 179 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 178 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.

It is noted that the proposal comprises the conversion of the former office by virtue of only internal works. The proposal would utilise the existing building and accesses to the building. It is not proposed to carry out any extensions to the existing building. The site and building had been used as an office considerable period of time prior to its shutting. Therefore it is considered that the site as a whole would be suitable for residential purposes only and be satisfactorily safeguarded from actual and potential risks of contamination. In accordance with the policies of the NPPF, prior approval is therefore not required.

Drainage and Flood Risk Considerations

Paragraph 155 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 does not identify the site in any Flood Zone and the site is not located within a Critical Drainage Area. In accordance with the policies of the NPPF, prior approval is therefore not required.

Impacts of noise from adjacent commercial premises

Paragraph 127 of the NPPF states that planning decisions should ensure that developments promote a high standard of amenity for existing and future users.

A noise assessment has been submitted with the application. The Council's Environmental Health department are satisfied with the report. They recommend upon completion and prior to occupation validation testing is carried out to ensure appropriate noise levels are achieved.

In accordance with the policies of the NPPF, prior approval is therefore required and is approved subject to conditions.

The provision of adequate natural light in all habitable rooms

Paragraph 127 of the National Planning Policy Framework requires planning policies and decisions to ensure that new developments create a high standard of amenity for existing and future users.

Each unit, as demonstrated on the submitted proposed floor plan drawings, contains adequate outward facing windows to all habitable rooms within the development and these plans thus clearly show that it is possible for the development to be provided with an adequate supply of natural light to all habitable rooms within the proposed development. In accordance with the policies of the NPPF, prior approval is therefore not required.

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.

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 two stories therefore less than 18m and does not meet the fire risk condition. No fire safety impacts of the development is required.

RECOMMENDATION

Prior Approval Required and Granted

1. The development must be completed within a period of 3 years starting with the prior approval date.

Reason: To comply with the requirements of Paragraph MA.2 of Part 5, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. This permission relates to the following plans:

Site and Location Plan – 660-03
Existing Floor Plans – 669-01
Proposed Floor Plan – 669-02

and the development shall be carried out in accordance with these drawings hereby approved.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the saved Rochdale Unitary Development Plan, the adopted Rochdale Core Strategy and the National Planning Policy Framework.

3. The six apartments hereby permitted by virtue of Class MA must remain 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 primary use as such a dwellinghouse.

Reason: To comply with the requirements of Paragraph MA.2 of Part 6, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

4. No part of the development shall be occupied until such time as details for the design of refuse/ bin store have been submitted to and approved in writing by the Local Planning Authority. The duly approved store shall be installed in complete accordance and made available for use prior to the approved development first being brought into use.

Reason: To ensure the provision of satisfactory and secure facilities for storage of refuse and in the interests of visual amenity in accordance with policy P3 of the Rochdale Core Strategy and the National Planning Policy Framework.

5. The glazing and ventilation measures within Section 7 "Mitigation" of the Environmental Noise Assessment by Amber Acoustics shall be carried out for each apartment prior to its occupation in order to achieve the following noise levels:
 - 35 dB(A) Leq (16 hour) in the bedrooms with windows shut and other means of ventilation provided between 7 am and 11pm;
 - 30dB(A) Leq 8 hour in the bedrooms with windows shut and other means of ventilation provided between 11pm and 7am;
 - 35 dB(A) Leq (16 hour) in the living room/s with windows shut and other means of ventilation provided between 7 am and 11pm;
 - 40dB(A) Leq (16 hour) in other habitable rooms with windows shut and other means of ventilation provided at all times.'

The apartments shall not be occupied until a validation report has been submitted to and approved in writing by the Local Planning Authority demonstrating that the above levels have been achieved. The glazing and mitigation measures shall be retained as approved thereafter.

Reason: To ensure satisfactory levels of noise are achieved for neighbours and comply with the requirements in Paragraph 127 of the NPPF.