

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00502/PRA56	Majid Mir	04 JJuly 2023

Address: 14 Oxford Place Rochdale OL16 5LU

Proposal: Prior approval for change of use from offices (Class E) to dwellinghouse (Class C)

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

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

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

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

RECOMMENDATION	REFUSE
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CHECKED AND SIGNED OFF BY: RK

DATE: 07/07/2023

SITE

14 Oxford Place is a two storey mid terraced property. Oxford Place is not identified as a part of the adopted highway. To the west and on the opposite side of Oxford Place is a row of two storey terraced properties. The properties are located on Oldham Road and within the Oldham Road at Royds Street West Local Centre as defined under policy S/6 of the UDP. It is noted the properties include takeaways and there are a number of flues sited on the rear elevation of these properties. To the rear of no. 14 Oxford Place there is a courtyard area and residential properties. There is no planning history available for the applicant property.

PROPOSAL

The application seeks determination whether prior approval is required for the change of use of the site from office (Class E) to dwellinghouse (Class C3) as permitted under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015) as amended.

The plans provided with the application indicated there will be a combined living room and kitchen on the ground floor and one bedroom with ensuite shower room on the first floor.

RELEVANT PLANNING POLICY

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)

RELEVANT SITE HISTORY

Not applicable.

CONSULTATION RESPONSES

Env Health - Noise/Odours

Given the existing noise sources in the immediate area we would need a noise impact assessment to be undertaken to inform the design to ensure the following 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 we would also require validation testing to be carried out.

Highways And Engineering

The existing premises has no off street parking provision therefore it would be difficult to request one as part of the development proposals.

The servicing of the existing and proposed properties would remain unchanged.

We would not expect any detrimental impact on road safety or highway capacity as a result of the development

Highways raise no objection to this application and request no specific planning conditions.

Environmental Control (Landfill Gas)

No comments to make.

REPRESENTATIONS

Neighbour letters were sent to neighbouring properties and a site notices were placed in the vicinity of the site. No responses have been received.

ANALYSIS

The application is submitted is for determination as to whether prior approval is required for the change of use of the site from office (Class E) to dwellinghouse (Class C3) as permitted under Schedule 2, Part 3 Class MA of the Town and County Planning (General Permitted Development) (England) Order 2015) as amended.

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 application form confirms that the building has been vacant for a continuous period of at least 3 months. The property does appear to have been vacant for a considerable period of time. Without any information to suggest otherwise, it is accepted that the property has been continuously empty for a period of at least 3 months immediately prior to the date of the application.

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 applicant has confirmed that the property has been in use within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years to the date of the application. The application states the present use of the property is as an office. Offices fell under Use Class B1 and now falls under Use Class E. There is no planning history available for the property and there is no evidence to suggest otherwise.

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.

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 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.

Prior approval

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.

Prior approval required for the following matters:

Transport and highways

Paragraphs 110 and 111 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 property would be accessed off Oxford Place, which is not a part of the adopted highway. Oxford Place is a narrow alley located to the rear of the properties on Oldham Road. Oxford Place has been blocked in the middle and as such there is no through access. It appears that the properties store bins along Oxford Place.

It is noted that application is for a one bedroom dwellinghouse. No. 14 Oxford Place does not have access to off-street parking. Parking on Oldham Road is restricted with on-street parking available on Royds Street. It is however noted that the property is located adjacent to a local centre and close to a main arterial road towards Rochdale Town Centre. The site is within a comfortable walking distance to local facilities and services, including retail, open space, civic uses. As well as active travel connections, the route is a busy bus corridor and within a short walk of Rochdale Train station. It is therefore considered that the proposed dwellinghouse would be located in a highly sustainable location.

With regards to bin storage, the GPDO allows for an assessment of the transport impacts of the development only, and particularly to ensure safe site access. Therefore bin storage is not in itself a matter for determination unless it is clearly demonstrated that it will result in highways safety issues. The bins will retain the

existing arrangement. Which appears to be the same arrangement as all the neighbouring properties that are serviced by Oxford Place. Additionally, as noted above, Oxford Place is not a part of the adopted highway and is an alley that has no through access. It is considered that the storage of bins would not have an impact on safe access to the site.

Further to the above, RBC Highway department raised no objection to the proposal, concluding that the proposed development is not expected to have a detrimental impact on road safety or highway capacity.

Overall it is considered that given the nature of the proposed development, the existing site context and restrictions, the application would not lead to an unacceptable impact on road safety.

Contamination Risks and Implications

Paragraph 174 of the National Planning Policy Framework states that the planning policies and decisions should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 184 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 183 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 use by virtue of only internal works. The building has been used as an office. The proposal would utilise the existing building and accesses to the building. Additionally, the Council's Health Protection Officer raised no concerns. Therefore it is considered that the site as a whole would be suitable for residential purposes 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 159 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 site is located with a Flood Zone 1 and is not located within a Critical Drainage Area. Additionally, it is noted that the existing use of the building is as an office and the proposed development would only include internal alterations. It is therefore considered the proposal is acceptable in regards to drainage and flood risk

considerations and in accordance with the policies of the NPPF. Prior approval is therefore not required.

Impacts of noise from adjacent commercial premises

Paragraph 130 of the NPPF states that planning decisions should ensure that developments promote a high standard of amenity for existing and future users.

On the opposite side of Oxford Place there are a number of two storey terrace properties. These properties are sited approximately 4.6m from the front elevation of the applicant property. Furthermore, these properties are also located within Oldham Road at Royds Street West Local Centre as defined under policy S/6 of the UDP. No. 313 Oldham Road, 315 Oldham Road and 321 Oldham Road are all used as takeaways and have flues on the rear elevations. The Environmental Health Officer concluded that given the existing noise sources in the immediate area, a noise impact assessment will need to be undertaken to ensure the relevant noise levels can be achieved: This would need to be submitted prior to determination of the application. Therefore in this regard prior approval is required and is refused.

The impact of that change of use on the character or sustainability of the Conservation Area

The application site is not located within a Conservation Area.

The provision of adequate natural light in all habitable rooms

Paragraph 130 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.

The plans show that the proposed bedroom on the first floor would have a window on the rear elevation facing east. It is considered that adequate natural light would be received by the bedroom. In regards to the ground floor, the application proposes an open plan living room and kitchen. The window that will service this room is sited located on the front elevation.

In regards to the combined living room and kitchen on the ground floor, the room would be serviced by a single window on the ground floor front elevation. As noted above, on the opposite side of Oxford Place there is a row of two storey terrace properties. These properties are sited approximately 4.6m from the front elevation of the applicant property. Furthermore, the front elevation of the applicant property faces west. As such it is considered that the ground floor habitable room would not receive an adequate amount of natural light.

The impact on intended occupiers of the development of the introduction of a 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 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

Section 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 proposed dwellinghouse would have one bedroom and would be set over two floors. Over two storeys a one bedroom dwellinghouse will need to have enough bed spaces for two persons. The minimum gross internal floor area for a one bedroom for two persons and over two storeys is 58sqm. The proposed dwellinghouse would have an internal gross floor area of 37.58 sqm. As such the proposed dwellinghouse would not meet the minimum space standards.

RECOMMENDATION

Prior Approval required and refused

1. Insufficient information has been provided to enable the Local Planning Authority to assess the impacts of noise from commercial premises on the intended occupiers of the proposed development as required by section 2(d) of paragraph MA.2. As such the proposed development does not satisfy the requirements of section 2(d) of Paragraph MA.2 and the proposed development 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).
2. The proposed habitable room of the combined living room and kitchen would not receive adequate natural light which would result in a poor standard of amenity for the future occupiers. The proposed development therefore does not satisfy the requirements of section 2(f) of Paragraph MA.2. and is therefore not permitted development under Class MA of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
3. The proposed floor plans indicate that the proposed development would not comply with the relevant floor space requirements as set out in the Nationally Described Space Standards and as such, the development would not be permitted as set out under Article 3, section 9A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Notes for Applicant:

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

Site location plan.

General arrangement drawings. Drawing no: 23.3119.1B

Report Author Majid Mir