

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
22/01380/PRA56	Jake Powell	14/12/2022

Address: 115 Spotland Road, Rochdale, OL12 6PJ

Proposal: Prior approval for change of use from Class E to 12 apartments

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	REFUSE
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CHECKED AND SIGNED OFF BY: AT

DATE: 15.12.2022

SITE

115 Spotland Road, also known as Acorn House, is a detached three storey brick building that occupies an L-shape footprint on the corner of Spotland Road and

Daisy Street. In the past the approved use for the site was Class A1 (limited) and Class A2 uses only (both uses which now fall under Class E).

PROPOSAL

The application is submitted is for 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 The Town and Country Planning (General Permitted Development) (England) Order 2015) as amended – Schedule 2, Part 3 Class MA.

The application proposes 12 apartments in the building. Typical floor plans have been submitted and these identify studio flats.

Each of the three floors will accommodate 4 studio apartments.

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) – July 2021

National Planning Practice Guidance (NPPG)

RELEVANT SITE HISTORY

07/D48866	Single Storey Rear Extension, New Shop Front, Access Ramp And Steps To Front Elevation. – Approved
09/D51620	Removal Of Condition 07 Of Planning Permission D48866 Restricting Use Of Premises For Financial And Professional Services Only Within Class A2 & A1 – Approved
09/D51891	- Application For A Certificate Of Lawfulness For An Existing Use As A Furniture Store (Class A1) – Refused
10/D53518	Alterations To Front Facade Of Property To Form Shop Front – Approved.
19/01430/PRA56	Prior notification for change of use from offices to 15 apartments. Refused.

Reason for refusal of application ref. 19/01430/PRA56:

There is no evidence that a lawful Class B1(a) office use operates at the site. The proposed development is therefore not permitted by Part 3, Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.

CONSULTATION RESPONSES

Highways and Engineering

There are a number of highway issues arising from this application that would need consideration.

On street parking in the area around the proposed development is an issue with existing residents, commercial uses and the Doctors surgery all vying for places to park their vehicles, therefore any additional on street parking created as a result of development should be carefully considered. The application does not include any parking provision and Council standards for the size of the proposed would require the provision of 15 off street parking spaces.

We accept that the application site is in a relatively sustainable location and is within walking distance of the town centre with its amenities and public transport links, however we still feel that the proposed development would generate parking demand. However, it would also appear that previous uses of the application site have successfully operated without parking provision but this has been at a different times of the day and the residential parking demand will be mostly in the evening and overnight.

Although we do have some concerns about the impact of overspill parking these concerns may not warrant a stand-alone reason for refusal.

The application does not make any reference to refuse collection either bin storage areas or collection points and if you take into account the development could generate an additional 48 residential bins this is a concern. We would therefore ask that the applicant produces a Waste Management Plan for approval to ensure that refuse collection is viable and does not interfere with the safe operation of the highway network.

We do not envisage that there would be any detrimental impact on highway capacity as a result of the development.

Environmental Health – Contamination

If granted the permission, would require a Preliminary Risk Assessment condition.

Environmental Health – Noise

Given the proximity to some night time economy we would require an acoustic survey to inform the design of the units facing Spotland road 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.

Drainage and Flooding

If the building is to be converted from offices to accommodation, then the roof drainage will remain the same i.e. connected to public combined sewer. The parking area off Daisy street are already impermeable tarmac; it is not practical to require

any attenuation of rainwater runoff from these parking areas. There is a gravel area on the SW corner of the building. If this area was converted to car parking, then permeable paving will be necessary and essential. I assume that you'll get an opinion from the Highways Officer on whether there is enough car-parking to serve the converted building.

Suggested Drainage Condition, if a Decision Notice is issued:- Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall include:

- (i) Construction details for permeable paving for any parking to the South West of the building footprint. The details shall include sub-base details and cross-sections.

REPRESENTATIONS

The application has been publicised with neighbour notification letters. 9 neighbour representations were received OBJECTING to the application with their points summarised below:

- ☐ Serious flaws in its architecture and footprint.
- ☐ Contamination issues.
- ☐ Energy efficiency.
- ☐ Parking issues.
- ☐ Neighbourhood noise and antisocial behaviour.
- ☐ Impact on privacy and noise

Members Representations

One representation was received from Councillor Rana who objected to the proposal on the grounds that there is no evidence that an office use operates at the site.

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 The Town and County Planning (General Permitted Development) (England) Order 2015) as amended – Schedule 2, Part 3 Class MA.

To take advantage of the above in accordance with Part MA.1. (a) states that development is not permitted by Class MA 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.

No evidence has been presented by the applicant to indicate that 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.

Furthermore, Part MA.1 (b) states that development is not permitted by Class MA 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.

Sub-paragraph (2) states:

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.

The planning history of the site, which is detailed in full above, is varied, and no clear indication has been given to its most recent use. The relevant history in regards the approved use and applicable conditions are further set out below;

Application 07/D48866 was approved subject to the following condition (condition 7) which restricted the approved use.

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any equivalent Order following the revocation and re-enactment thereof, the premises shall only be used as Financial and Professional Services and for no other purposes within Class A2 or A1 of the above Order, except with the prior written approval of the Local Planning Authority.

Application 09/D51620 was subsequently submitted for removal of condition 7. This was approved subject to the following condition;

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any equivalent Order following the revocation and re-enactment thereof, the premises shall only be used as Financial and Professional Services and for no other purposes within Use Class A2 and shall not be used for any purpose falling within Use Class A1 with the exception of the retailing of bulky goods except with the prior written approval of the Local Planning Authority.

Correspondence received in respect of application 09/D51620 details that the site was under Class A1 and A2 use at the time of the application.

However, the most recent application (19/01430/PRA56) prior to this application was for the change of use from Offices (Class B1) to dwellinghouses. This outcome was refused on the basis that:

There is no evidence that a lawful Class B1(a) office use operates at the site. The proposed development is therefore not permitted by Part 3, Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.

Considering the time between 09/D51620, and the proposal of application 19/01430/PRA56 the current lawful use of the site is unclear.

Furthermore the LPA has been presented with no evidence to demonstrate that there is a lawful Class E financial/professional Service or business use at the site. As such the site cannot benefit from the permitted development rights set out under Part 3 Class MA and the application is refused.

Given the above, there is no requirement for an assessment into whether the proposal meets the requirements of the conditions under MA.2 or Paragraph W.

RECOMMENDATION

REFUSE

Reason(s) for refusal:

1. Insufficient information has been provided to demonstrate that the site has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. The proposed development is therefore not permitted by Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.
2. Insufficient information has been provided to demonstrate that the use of the building fell within Class E for a continuous period of at least 2 years prior to the date of the application for prior approval. The proposed development is therefore not permitted by Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.

Notes for Applicant:

INFORMATIVE:

For the avoidance of doubt, this Decision Notice relates to the following drawings :-

BDBC/22/100 – 01	Existing & Proposed Floor Plans
BDBC/22/100 – 02	Existing Elevations
BDBC/22/100 – 04	Proposed Floor Plans

Report Author Jake Powell