

APPLICATION NUMBER: 23/00324/PRA56

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00324/PRA56	Rosalind Gralton	5 May 2023

Address: 96-98 Drake Street, Rochdale, OL16 1PQ

Proposal: Prior approval for upwards extension through the addition of one additional storey to form a new two bedroom flat

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	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/A
	Neighbour comments received?	N

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

RECOMMENDATION	REFUSE
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CHECKED AND SIGNED OFF BY: LA

DATE: 15 June 2023

SITE AND SURROUNDINGS

The site relates to a 96-98 Drake Street, two storey commercial property currently in use as a solicitors. The site faces onto the highway and tramway, A6223, adjacent to the triangular junction with Oldham Road and Milnrow Road. The site is located on a hill, and although the streetscene generally comprises of two storey properties, ridge and eaves heights are varied to account for this topography.

Some properties over two storey are located within the immediate surrounding however these appear to be infill developments.

PROPOSAL

An application has been made under Class AB, Part 20, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which seeks prior approval for upwards extension through the addition of one additional storey to form a new two bedroom flat.

RELEVANT PLANNING POLICY

The Town and Country Planning Act Schedule 2 Part 20 Class AB

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

SO2 – Creating successful and healthy communities

C1 – Delivering the right amount of housing in the right places

C3 – Delivering the right type of housing

SO3 – Improving design, image and quality of place

P3 – Improving design of new development

SO5 – Improving accessibility and delivering sustainable transport

T2 – Improving access

DM1 – General Development Requirements

Unitary Development Plan (UDP):

G/D/1 – Urban Defined Area

Supplementary Planning Documents (SPD):

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

RELEVANT SITE HISTORY

93/D29095 – New Shopfront – Grant subject to conditions 22/04/1993

00/D38254 – Installation of shutters to shop front – Grant subject to conditions 07/02/2001

CONSULTATION RESPONSES

Conservation And Design

No comments received to date

Highways And Engineering

'The application site is within Rochdale town centre and its local amenities with excellent links to public transport so the lack of parking provision is not a concern.

It would appear that the existing building is already being serviced and presumably the additional dwelling will be serviced in the same way, however it is unclear from the submitted plans how the current and increased servicing requirements would be accommodated. We would need clarification on the servicing arrangements as we would not support proposals which led to servicing directly from Drake Street as this would interfere with Metrolink running. We would also have concerns regarding the permanent storage of bins on the adopted footway as this would obstruct pedestrian movements in this busy location.

The development should have no impact on highway capacity or road safety.

We would ask for a Construction Management Plan because of the proximity of the development to the Metrolink Line and the applicant should consult TfGM as development is potentially within the Metrolink Safety Zone.

Highways raise no objection to this application subject to clarification of the servicing arrangements and the provision of a Construction Management Plan for approval.'

Env Health - Noise/Odours

No comments received to date

REPRESENTATIONS

The application was advertised by way of neighbour notification. No representations were received.

ANALYSIS

Permitted development

Class AB - new dwellinghouses on terrace buildings in commercial or mixed use

Permitted development

AB.—(1) Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building to which sub-paragraph(2) applies, where that development comprises—

(a) up to two additional storeys, in the case of an existing building consisting of two or more storeys;

(b) one additional storey, in the case of an existing building consisting of one storey,

together with any development under sub-paragraph (3).

(2) This sub-paragraph applies to a building which is—

(a) used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the 1987 Order, or as a betting office, pay day loan shop or launderette;

(b) in a mixed use combining—

- (i) two or more uses within paragraph (a); or
- (ii) a use falling within Class C3 (dwellinghouses) of the Schedule to the 1987 Order, together with one or more uses within paragraph (a).

(3) Development consisting of any or all—

(a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;

(b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;

(c) works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises, including means of escape from fire, via additional external doors or external staircases;

(d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

(4) In relation to Class AB, “the 1987 Order” means the Use Classes Order as in force on 5th March 2018.

Development not permitted

AB.1. Development is not permitted by Class AB if—

(za) the permission to use the building as a dwellinghouse has been granted only by virtue of Class MA of Part 3 of this Schedule;

Comments: Complies

(a) the building was constructed before 1st July 1948 or after 5th March 2018;

Comments: Does not comply – Publicly available documents evidence the building was constructed before 1st July 1948.

(b) on 5th March 2018 the building was in a use other than—

(i) a use or mixed use within paragraph AB(2)(a) or (b); or

(ii) a use falling within Class C3 of the Schedule to the Use Classes Order;

Comments: Complies

(c) the additional storeys are constructed other than on the principal part of the building;

Comments: Complies

(d) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of—

(i) 3 metres; or

(ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;

Comments: Complies

(e) the new dwellinghouses are not flats;

Comments: Complies

(f) the height of the highest part of the roof of the extended building (not including plant) would be greater than 18 metres;

Comments: Complies

(g) the height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of every other building in the row of terrace buildings of which it forms part (not including plant, in each case);

Comments: Complies

(h) the height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building (not including plant, in each case) by more than—

- (i) 3.5 metres, where the existing building consists of one storey; or
- (ii) 7 metres, where the existing building consists of more than one storey;

Comments: Complies

(i) the existing building has been enlarged by the addition of one or more storeys above the original building, whether in reliance on permission granted under this Part or otherwise;

Comments: Complies

(j) development under Class AB(3)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;

Comments: Complies

(k) development under Class AB(3)(a) would consist of engineering operations other than works within the existing curtilage of the building to—

- (i) strengthen existing walls;
- (ii) strengthen existing foundations; or
- (iii) install or replace water, drainage, electricity, gas or other services;

Comments: Complies

(l) in the case of Class AB(3)(b) development there is no existing plant on the building;

Comments: Complies

(m) in the case of Class AB(3)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;

Comments: Complies

(n) development under Class AB(3)(c) would extend beyond the curtilage of the existing building;

Comments: Complies

(o) development under Class AB(3)(d) would—

- (i) extend beyond the curtilage of the existing building;

- (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or
- (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building; or

Comments: Complies

- (p) the land or site on which the building is located, is or forms part of—
- (i) article 2(3) land;
 - (ii) a site of special scientific interest;
 - (iii) a listed building or land within its curtilage;
 - (iv) a scheduled monument or land within its curtilage;
 - (v) a safety hazard area;
 - (vi) a military explosives storage area; or
 - (vii) land within 3 kilometres of the perimeter of an aerodrome.

Comments: Does not comply. The site is located within Rochdale Town Centre Conservation Area, and therefore is located on article 2(3) land.

Summary

The proposal would not be considered Permitted Development under Class AB of Part 20 of Schedule 2 of the General Permitted Development Order (as amended) as the property was constructed before 1st July 1948 and the site is located on Article 2(3) land. The proposal therefore fails to accord with criteria (a) and (p)(i) .

Conditions

AB.2.—

(1)Where any development under Class AB is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- (a) transport and highways impacts of the development;
- (b) air traffic and defence asset impacts of the development;
- (c) contamination risks in relation to the building;
- (d) flooding risks in relation to the building;
- (e) the external appearance of the building, including—
 - (i) the design and architectural features of —
 - (aa) the principal elevation; and
 - (bb) any side elevation that fronts a highway; and
 - (ii) the impact of any works under paragraph AB(3)(c) or (d);
- (f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- (g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- (h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
- (i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
- (j) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Views dated 15th March 2012 issued by the Secretary of State, and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

(2) In sub-paragraph (1)(h), “commercial premises” means any premises in the building or the surrounding area which are normally used for the purpose of carrying on any trade or business, and includes any premises licensed under the Licensing Act 2003 or any other place of public entertainment.

(3) Any development under Class AB is permitted subject to the condition that the development must not include a window in any wall or roof slope forming a side elevation of the building.

(4) Any development under Class AB is permitted subject to the condition that it must be completed within a period of 3 years starting with the date prior approval is granted.

(5) Any development under Class AB is permitted subject to the condition that before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.

(6) The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.

(7) The notification referred to in sub-paragraph (6) must be in writing and must include—

- (a) the name of the developer;
- (b) the address or location of the development; and
- (c) the date of completion.

(8) Following the development, every dwellinghouse in the building must remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule 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 a dwellinghouse.

As it is not considered that the proposal constitutes permitted development, the local authority are not required to determine if Prior approval is required.

RECOMMENDATION

Refuse

1. The property was constructed before 1st July 1948, and is located on Article 2(3) land. As such, the proposal is not permitted under Class AB, Schedule 2, Part 20 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Notes for Applicant:

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

2305 – 01 – Floor Plans Existing
2305 – 02 – Elevations Existing
2305 – 03 – Floor Plans Proposed
2305 – 04 – Elevations Proposed
Location Plan - TQRQM23085033514682

Report Author Rosalind Gralton