

APPLICATION NUMBER: 22/01518/PRA56

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
22/01518/PRA56	Aimee Bovaird	14 December 2022

Address: 58B Long Street Middleton M24 6UQ

Proposal: Prior approval for change of use from offices (Class E) to 4 apartments (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?		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?	N

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	
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CHECKED AND SIGNED OFF BY: L.Ashworth

DATE: 24.01.23

SITE

This application relates to offices on the first floor above shops at 58B Long Street. This is within Middleton Town Centre Conservation Area. This is not a listed building and the site does not contain any protected trees.

PROPOSAL

The application seeks prior approval for change of use from offices (Class E) to 4 apartments (Class C3).

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.

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)

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 application site is in a very sustainable location and is within easy walking distance of 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 on the footway of Long Street as the development could potentially generate 16 residential bins which would obviously obstruct the busy footway within the town centre. 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.

Env Health - Noise/Odours

Given the proximity to some 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.

Conservation And Design

The proposal is for the conversion of a first floor office to four 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 and close to a number of designated and non-designated heritage assets.

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.

REPRESENTATIONS

The application has been publicised with neighbour notification letters and no letters of objection have been received.

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 confirmed that the building has been vacant for a continuous period for 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.

(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.

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 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.

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, however highways do not warrant this a reason for refusal owing to the site's sustainable location.

However, there are concerns regarding refuse collection as there is no bin storage area identified on the plans. This matter was brought to the applicant's attention, and subsequently an amended plan showing an area for refuse was provided. However the area shown for bin storage is land outside the red edge. Therefore it is not possible to secure this by way of a planning condition. The applicant has confirmed that they own this land, however this would need to be included within the red edge in any future application. Given that the area for bin storage cannot be controlled by condition, the Local Planning Authority cannot be satisfied that the proposed development would not lead to bins / waste being stored on the highway which would be detrimental to highway safety. Therefore in this regard, prior approval is required and is refused.

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.

Environmental Health have been consulted and have advised an acoustic survey would need to be submitted to ensure the appropriate internal noise levels can be achieved, due to the proximity of the site to existing day and night time economy uses. This would need to be submitted prior to determination of the application. Therefore in this regard prior approval is required and is refused.

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 is required and refused

For the following reasons:

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 development as required by Condition MA.2.(2d).
2. The proposed development does not provide bin storage facilities within the site therefore it fails to demonstrate that it will not give rise to unacceptable transport impacts particularly in regards to safe site access as required by Condition MA.2.(2a).

Informative:

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

Revised Location and Block Plan received 16/01/23 – 670-03A

Existing Floor Plans – 670-01

Proposed Floor Plans – 670-02

Report Author Aimee Bovaird