

APPLICATION NUMBER: 25/00101/PRA56

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

25/00101/PRA56

CASE OFFICER

Sam Yuen

DETERMINATION DATE 03.04.2025 EXT OF TIME

Address: Thamins Indian Restaurant, New Road, Littleborough, OL15 8PL

Proposal: Prior approval for change of use from first floor from stage space into one self-contained flat

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?	N

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/A

RECOMMENDATION

PRIOR APPROVAL NOT REQUIRED

CHECKED AND SIGNED OFF BY: RK

DATE: 03/04/2025

SITE

The application relates to a detached building that is located on the corner of New Road and New Street in Littleborough. The ground floor of the property is currently occupied by Thamins Indian Restaurant while the lower ground and first floors appear to be vacant or used only for storage.

The building is set below from the level of New Road, thus meaning that only the first floor is visible from the highway. It is constructed of stone which has been whitewashed and it has a slate pitched roof. The building includes signage for the existing restaurant and there is a large extract ventilation pipe to the front elevation. To the rear of the building are existing two and single-storey flat roof extensions and these have a render finish. There is no dedicated parking provision for the building.

The application site is located in an area that is mainly characterised by residential properties. These consist a mix of older terraced properties of stone and brick construction as well as more modern detached and semi-detached properties. There is also a modern low rise block of flats at Dearnley Court to the immediate southwest of the site.

PROPOSAL

Prior approval is sought for the change of use of the first floor of the building to one self-contained flat (Class C3). It comprises a one bedroom, kitchen, lounge and WC. Access to the property would be from the front of the property from New Road.

No external works are proposed.

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

24/01055/PRA56 - Prior approval for the change of use at first floor from storage space into two self-contained flats - Withdrawn

24/00664/PRA56 - Prior approval for the change of use at first floor from storage space into two self-contained flats - Withdrawn

17/00843/FUL - Change of use and refurbishment of lower ground floor to House of Multiple Occupation (HMO) comprising of 5 bedrooms - Resubmission of 17/00224/FUL – Refuse

Officer's Comments:

1. The proposed HMO would lie below a restaurant and the activities associated with this use would be harmful to the residential amenities of the occupiers of the HMO by way of noise and disturbance. The development would therefore be contrary to policies DM1 and G9 of the adopted Core Strategy and the National Planning Policy Framework.
2. A bedroom and kitchen window serving the HMO would be sited within 11.2 metres of the side elevation of Ashley Dearnley Court, which is a three storey block of residential flats. This represents a shortfall of 2.8 metres based on the minimum space standard set down in the SPD – Guidelines and Standards for Residential Development and would result in an unacceptable level of overshadowing for the occupiers of the HMO. The development would therefore be harmful to the residential amenities of the occupiers of the HMO contrary to policy DM1 of the adopted Core Strategy, the SPD – Guidelines and Standards for Residential Development and the National Planning Policy Framework.
3. The development would only provide one communal kitchen and would not provide a communal living space/lounge area. The application would therefore provide an unacceptable living environment for the future occupiers of the HMO, contrary to policy DM1 of the Core Strategy and the National Planning Policy Framework.
4. The proposed parking spaces would be sited immediately adjacent to the windows of three bedrooms within the proposed HMO. The proposed use of these spaces would be harmful by way of noise and disturbance to the occupiers of the bedrooms affected. The development would therefore be contrary to policies DM1 and G9 of the adopted Core Strategy and the National Planning Policy Framework.

17/00224/FUL - Change of use and refurbishment of lower ground floor and first floor to House of Multiple Occupation (HMO) comprising of 8 bedrooms, together with the installation of a window opening to first floor rear elevation – Refuse

Officer's Comments:

1. The proposed HMO would be sited above and below an existing restaurant that is situated to the ground floor of the application site. By virtue of the presence of this restaurant, the occupiers of the proposed HMO would be subject to excessive levels of noise and disturbance from the general operations of the restaurant. This would result in unacceptable harm to the living environment of occupiers of the HMO, detrimental to the residential

amenity and contrary to policies DM1 and G9 of the adopted Rochdale Core Strategy.

2. The lounge window to the lower ground floor HMO would be sited within 11.2 metres of the side elevation of Ashley Dearnley Court, which is a three storey block of residential flats. This represents a shortfall of 2.8m based on the minimum space standard set down in the SPD – Guidelines and Standards for Residential Development and would result in an unacceptable level of overshadowing for occupiers of the HMO. The application would as such be detrimental to residential amenity and contrary to policy DM1 of the adopted Core Strategy and the SPD – Guidelines and Standards for Residential Development.
3. The application site is located in an area where on street parking is at a premium due to the absence of off street parking for existing development, including the existing restaurant Thamins and a high concentration of terraced properties along New Road. A large area of New Road is also governed by Traffic Regulation Orders, which displaces existing parking onto surrounding residential side streets. The proposed HMO includes no off street parking provision and is likely to include an element of car ownership. This will increase demand for on street parking in the area, which is already at a premium, and subsequently result in harm to the living conditions of local residents and increase the instances of hazardous parking in the area, which would be detrimental to highway safety. The application is therefore contrary to policy DM1 of the adopted Core Strategy and the National Planning Policy Framework.

CONSULTATION RESPONSES

Highways and Engineering

This application sits above a restaurant space on New Road in Littleborough. The site will generate no significant additional volume of traffic and will use the existing access to the site.

No parking has been specifically allocated to this site but this is a sustainable location and it is expected the restaurant parking is also intended to be used by any future resident.

No changes to the existing highways network and no new highways are proposed. No PROW will be obstructed by these proposals. There are no new road safety concerns as a result of this proposal.

Highways have no sustainable objection to these proposals.

Environmental Health - Noise/Odours

This section has no objection in principle to the proposals and would recommend the following conditions.

The homes are constructed as per the requirements of the submitted noise impact assessment to achieve the following internal 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.

Upon completion and prior to occupation validation testing is carried out to ensure the required noise levels are being achieved.

REPRESENTATIONS

Neighbour notifications via letters were sent to surrounding properties. No comments were received.

ANALYSIS

Development is not permitted by Class MA—

(b) 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;

Based on available evidence, the former use of the building fell under Class A3 (restaurants and cafes), 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.

(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**
- (iv) 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;
- (v) the Broads;
- (iv) a National Park; or
- (vi) a World Heritage Site;

The building does not form 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 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. However, development under Class MA is permitted subject to the following conditions.

Conditions

MA.2.—

(1) Development under Class MA is permitted subject to the following conditions.

(2) Before beginning development under Class MA, 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.

Transport and Highways

Paragraphs 115 and 116 of the NPPF state that development should ensure 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 would provide a one bedroom flat. The existing and proposed building does not have any designated parking provision. Notwithstanding, the application site is located in sustainable location within close proximity to Littleborough town centre and is served by a classified highway with direct public transportation links to local facilities and services. Existing and proposed access to the site would remain unchanged. The Council's Highways Officer was also consulted on the proposed plans and raised no objection. As such, it is considered proposed building would not generate significant additional volume of traffic and the transport impact would thus be acceptable.

Contamination

Paragraph 187 of the 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 197 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 196 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.

The proposal comprises the conversion of the existing premises by virtue of only internal works and would utilise the existing building and access. No extension to the existing building is proposed. As such it is considered 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 Assessment

Paragraph 170 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 Environmental Agency Flood map for planning indicates the application site to be within Flood Zone 1. The site is located within an area with critical drainage problems, however the proposal does not include any external alterations and it is not considered that the proposal would result in an increased risk of surface water flooding. The proposal is therefore acceptable in drainage and flood risk terms and in accordance with the relevant policies of the NPPF. Prior approval is therefore not required.

Noise Impact

Paragraph 135 of the Framework requires planning policies and decisions to ensure that new developments create a high standard of amenity for existing and future users, including through the provision of acceptable internal noise levels. Paragraph 198 stated proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

The proposal would be sited above an existing restaurant and faces a high-trafficked classified road and therefore has the potential to be subject to noise impacts. The submitted Noise Impact Assessment indicates an average equivalent continuous sound level of 35dB between 7am-11pm and 24dB between 11pm-7am which complies with the noise standards of BS8233:2014. The report also sets out mitigation measures to the property relating to additional glazing and ventilation. The Council's Environmental Health Officer raised no objections to the proposal and recommends planning conditions to comply with internal noise levels and validation testing carried out prior to occupation. Notwithstanding, considering the noise standards have been met, conditions would not be necessary in this instance.

The internal noise conditions and the mitigation measures of the development are therefore acceptable in accordance with the relevant policies of the NPPF. As such prior approval is not required.

Impact on Conservation Areas

The application site is not located in a conservation area, and therefore does not require prior approval.

Provision of natural light to habitable rooms

Paragraph 135 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. A habitable room is identified as a room used or intended to be used for sleeping or living which is not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.

The plans indicate the retention of all existing windows and doors which would provide adequate natural light to all habitable rooms. The proposal therefore accords with the requirements of the NPPF and prior approval is 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, and therefore does not require prior approval.

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

Article 3 (9A) does not 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 Nationally Described Space Standards (NDSS) is a technical standards document produced to ensure internal space within new dwellings is suitable for application across all tenures. Table 1 sets out the minimum gross internal floor area requirements for dwellings, and setting out the requirements for dwellings which include a variety of room numbers, bed spaces and storeys.

Table 1. Minimum gross internal floor areas and storage (m²)

Number of bedrooms (b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
1b	2p	50	58		1.5

The proposed dwelling comprises one bedroom and though no details have been provided with regard to the number of occupants, the resultant internal space of 48.55m² would meet the minimum internal floor area for a 1b1p dwelling. The proposed bedroom has a floor space of 10.84m² and width of 2.64m which would also meet the minimum internal floor area and width of the NDSS. The proposed dwelling therefore fails to comply with the NDSS and accords with the requirements of Article 3 (9A).

RECOMMENDATION

Prior Approval Not Required

Notes for Applicant:

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

- Location Plan – received 31/01/2025
- Existing Site Plan and Floor Plans – Drawing no. A2167/1 received 31/01/2025
- Proposed Site Plan and Floor Plans – Drawing no. A2167/2 received 31/01/2025
- Existing and Proposed Front and Side Elevation – Drawing no. A2167/3 received 31/01/2025
- Existing and Proposed Side and Rear Elevation – Drawing no. A2167/4 received 31/01/2025

Report Author Sam Yuen