

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
22/01475/PRA56	Rosalind Gralton	20 January 2023

Address: 334 Bury Road Rochdale OL11 4EB

Proposal: Prior approval for change of use from retail use (Class E) to dwellinghouse (Class C3)

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

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
CONDITIONS	Pre-commencement conditions proposed?	N/A
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	
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CHECKED AND SIGNED OFF BY: L.Ashworth

DATE: 23.01.23

SITE

The site relates to an end terrace property at 334 Bury Road, Rochdale. The property was most recently used as an interior design shop, with planning permission for the change of use approved in 2003.

PROPOSAL

The application seeks prior approval for change of use of the building from a retail use (Class E) to a dwellinghouse (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.

National Guidance

National Planning Policy Framework (NPPF) – July 2021

National Planning Practice Guidance (NPPG)

RELEVANT SITE HISTORY

03/D41328 - CHANGE OF USE FROM DWELLING TO INTERIOR DESIGN BUSINESS – Approved with conditions 25/04/2003

22/01367/CPL - Certificate of lawfulness for the proposed use of dwellinghouse (class C3) – Application Withdrawn 18/11/2022

CONSULTATION RESPONSES

Highways And Engineering

The Council's Highways Officer has stated, in terms of traffic generation and servicing the proposed use is likely to have less highways impact than the existing use.

Parking provision for the proposed use is also likely to be less than that of the existing use although demand would be at different times. Additionally, Highways would not expect any detrimental impact on road safety as a result of development.

In conclusion the Council's Highways Officer raises no objection to this application and would ask for no specific planning conditions.

Lead Local Flood Authority/Drainage

No objections.

Environmental Control (Landfill Gas)

No comments to make.

Env Health - Noise/Odours

No comments received to date

REPRESENTATIONS

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

ANALYSIS

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.

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 A1 (shops), 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 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; 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.

Prior approval not required for the following matters:

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 room, as demonstrated on the submitted proposed floor plan drawings, contains adequate outward facing windows to all habitable rooms within the development. The end terrace property would provide sufficient light to all habitable rooms, and therefore prior approval is not required.

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 would provide one single dwellinghouse with two bedrooms. The property is located a short walk from bus stops, providing access into Rochdale Centre. Given the previous use of the property as a shop, in terms of traffic generation and servicing the proposed use is likely to have less highways impact. Furthermore, while not a consideration in this instance, it is noted the property gained permission for the previous retail use, converted from a previous dwellinghouse.

It is noted parking provision for the proposed use is likely to be less than that of the existing use, however it is noted the demand of parking at different times will differ. As such, would not expect any detrimental impact on road safety as a result of development. In conclusion the Council's Highways Officer raises no objection to this application and would ask for no specific planning conditions. As such, the application would be in accordance with the policies of the NPPF, prior approval is therefore not required.

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 retail use 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 a retail shop for a 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 identifies the site as lying within Flood Zone 1. The Council's Drainage Officer has reviewed the application and advised no objections to the scheme. 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.

No Noise Impact Assessment has been submitted with the application. However, there appears to be no adjacent commercial properties, other than the shop to be retained on the site. Given the existing use of a shop in a predominately residential row of terraces, it is not considered this would give rise to unacceptable noise impacts for future occupants of the dwellinghouse. The EHO has provided no comments.

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.

RECOMMENDATION

Prior Approval Not Required

Notes for Applicant:

INFORMATIVE:

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

Location Plan received by the Council 22/11/2022

Existing Ground Floor Plan – received by the Council 28/11/2022

Existing First Floor Plan – received by the Council 28/11/2022

Proposed Ground Floor Plan – received by the Council 28/11/2022

Proposed First Floor Plan – received by the Council 28/11/2022