

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
24/00824/PRA56	Hamish Rigg	18/09/2024

Address: 35 Church Stile, Rochdale, OL16 1QE

Proposal: Prior approval for proposed change of use from former offices (Class E) to 2no. residential dwellinghouses (Class C)

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
-----	--	-----

CONDITIONS	Pre-commencement conditions proposed?	n/a
	Pre-commencement conditions agreed (or notification period expired)?	n/a

RECOMMENDATION	Prior approval required and refused
----------------	-------------------------------------

CHECKED AND SIGNED OFF BY: RK

DATE: 11/10/2024

SITE

The application relates to 35 Church Stile, a two-storey terraced property in Rochdale town centre. It forms part of a short terraced row (nos. 34-38) which overlooks Broadfield Park to the west, and dates back to the early 20th century, with corresponding design and original features. No. 35 currently operates as an office space.

Church Stile adjoins Drake Street to the south, a busy thoroughfare into Rochdale town centre comprised of shops, offices, and public amenities, as well as public transport routes and regular vehicular traffic. The wider area is typically urban and mixed use, therefore generating higher levels of noise and footfall, including in relation to the local late night economy.

No. 35 faces west, fronting the pavement and overlooking the public highway. It is adjoined by no. 34 to the north and no. 36 to the south. The rear boundary faces east, bordering the curtilage of 'Bucks Bar', a large warehouse unit.

PROPOSAL

Prior approval is sought for the change of use of the entire property from former offices (class E) to 2no. residential dwellinghouses (class C).

Both properties would include 1 bedroom, 2 bathrooms/WCs, and a kitchen-living area. Both properties would share a rear yard and bin storage space. 'Unit 2' would be accessed at the rear via a gated access off Ann Street.

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) – July 2021

National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

Unitary Development Plan (UDP):

Guidelines and Standards for Residential Development SPD (2016)

RELEVANT SITE HISTORY

12/56151/FUL – Two-storey rear extension to premises:

Grant STC 2012
07/D49061 – Change of use from dwelling to offices

Grant STC 2007

CONSULTATION RESPONSES

Environmental health 03/09/2024:

Given the close proximity to existing commercial noise sources **this section cannot support the application** in its current form. To allow full consideration we would require a noise impact assessment to be undertaken to inform the design 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.*

Drainage 17/09/2024:

- I. There are no drainage proposals submitted.
- II. The application should be supported by an acceptable Drainage Strategy
- III. The above points should be addressed before the application is approved.
- IV. It is considered inappropriate to apply conditions to a proposal that is not acceptable in principle.

Land contamination 30/08/2024:

It is unclear from plans whether any landscaping is proposed. Considering the proposed use as a dwellinghouse is more sensitive than the existing use as offices then a preliminary risk assessment would be required, and therefore the following condition is applied:

Prior to commencement of the development a Phase I Report (Preliminary Risk Assessment) must be completed to assess the actual and/or potential contamination risks at the site. The Phase 1 Report must be submitted to, and approved in writing by, the Local Planning Authority and shall include a desk top study, site walk over,

conceptual model, basic hazard assessment and recommendation regarding the need or otherwise for further investigation and risk assessment.

Where the Phase 1 Report has identified potential unacceptable risks, a suitable investigation, risk assessment and remedial action shall be carried out in accordance with details and within a timescale to have first been submitted to and approved in writing by the Local Planning Authority.

In the event that contamination is suspected or found at any time when carrying out the approved development that was not previously identified, or contamination is caused, the Local Planning Authority shall be notified immediately and development affected and potentially affected by the contamination must stop. An investigation and/or risk assessment and/or remediation shall be carried out in accordance with an agreed process and within agreed timescales to have first been submitted to and approved in writing by the Local Planning Authority. If contamination is not suspected, found or caused during development, this must be confirmed in a completion letter which is subject to the approval in writing of the Local Planning Authority.

Highways 17/09/2024:

No objections due to its sustainable location in the town centre and proximity to public transport networks.

REPRESENTATIONS

Letters of notification were sent to surrounding properties 29/08/2024; no objections were raised.

ANALYSIS

The application is submitted is for determination as to whether prior approval is required for the change of use of the site from commercial premises (Class E) to dwellinghouse (Class C3) as permitted under Schedule 2, Part 3 Class MA of the Town and County Planning (General Permitted Development) (England) Order 2015) as amended.

(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;

The application form states that the property has been in use within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years to the date of the application. Permission 07/D49061 confirmed the change of use to offices, which falls under Use Class E and subparagraph 2.

(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;
- (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 land covered by or within the curtilage of the building does not form any of the designations listed under paragraph d).

(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 M.A. 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; 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. As such, The Council's Highways Officer was consulted to assess the potential impact on road safety due to the development.

Given the application is for 2no. 1 bedroom units, the impact in terms of traffic generation and street parking is considered to be minimal, and would not be materially different from the existing use as an office. Regarding parking, whilst no off-street parking spaces are identified in the proposed plans, they are not deemed necessary due to the sustainable location of the site which has good access to numerous public transport networks including the Metrolink, buses, and train station. In corroboration, the Highways Officer raised no objection relating to traffic generation or parking arrangements.

Furthermore, the plans indicate acceptable on site bin storage, away from the road side, eliminating any potential highways hazards.

In accordance with the NPPF, prior approval is therefore not required.

Contamination

Paragraph 180 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 190 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 191 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 existing premises 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.

Notwithstanding, the Council's Land Contamination Officer was consulted and stipulated that it was unclear whether any landscaping was proposed. Should any landscaping be carried out, and given the more sensitive nature of the proposed use, a preliminary risk assessment would be required by condition. Notwithstanding, prior approval is not required.

Drainage and flood risk assessment

Paragraph 165 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, thus has a low probability of flooding from rivers and the sea.

Notwithstanding, the Lead Local Flood Authority has been consulted and raised concerns relating to the absence of a comprehensive drainage strategy. Whilst a

drainage strategy would be required to comply with building regulations, it is not a necessary condition to meet the parameters of permitted development under Class MA.

As such, the proposal accords with paragraph 165 of the NPPF and prior approval is not required.

Noise impact

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, including through the provision of acceptable internal noise levels.

Several factors contribute to increased external noise levels impacting on the site, including its town centre location, close proximity to busy road networks, and the Metrolink, together with Rochdale's late night economy on Drake Street, Milkstone Road, and the adjacent property 'Buck's Bar', 12-14 Ann Street.

The Council's Environmental Health Officer was therefore consulted to assess the suitability of the site as residential dwellinghouses in terms of their internal noise levels. The applicant has failed to produce a noise impact assessment, and therefore the environmental health officer was unable to determine whether the necessary internal noise levels could be achieved.

In the absence of a noise impact assessment, and considering the activity surrounding the site, it is not possible to determine the internal noise conditions nor the necessary extent of any potential mitigation measures. The development therefore does not demonstrate compliance with Paragraph 191 of the NPPF which states that planning decisions should ensure that new development is appropriate for its location, taking into account living conditions, including reducing to a minimum the potential adverse impacts resulting from noise on health and the quality of life. As such prior approval is required and is refused.

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, serving all habitable rooms across both dwellinghouses. This is considered to be acceptable for Unit 1 in terms of providing natural light to habitable rooms.

However, Unit 2 predominantly occupies the two-storey rear extension approved under application 12/56151/FUL. This permission was granted after the approved change of use to offices in 2007, and therefore the rear extension has never had a lawful residential use. Unit 2 is served only by windows on its rear east facing elevation, which

have a separation distance of 6m to 12-14 Ann Street. The Council's Guidelines and Standards for Residential Development SPD outlines the minimum separation distances for residential development under paragraph 4.1, requiring at least 14m between a habitable room window and any facing two storey elevation which does not include a habitable room window. It is noted that general levels of amenity within the area, in terms of separation distances, are typically below the standards set out in the SPD. However, given the 6m separation distance falls well below the SPD guidance, and considering the property is not served by any other windows, Unit 2's access to natural light would not be considered acceptable.

The proposal therefore fails to meet the requirements of the NPPF and prior approval would be required and refused.

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

Unit 1 would have a gross internal floor space of 57m² whilst Unit 2 would have a gross internal floor space of 54m². Both proposed dwellings fail to comply with the NDSS for a 1 bedroom dwellinghouse set over 2 storeys, and therefore would not meet the minimum standards set out in Section 3 (9A). The proposals therefore fail to comply with the requirements of the GPDO and would require planning permission.

RECOMMENDATION

Refused

1. By virtue of their size and internal layout, the proposals fail to accord with the requirements of Article 3 (9A) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) which requires development to comply with the relevant Nationally Described Space Standard and would therefore require planning permission. Furthermore, in the event that the proposals comprised permitted development, by reason of the size and placement of windows, not all habitable rooms would be served with adequate levels of natural light. The application also fails to be supported by sufficient information to enable the Local Planning Authority to assess the impacts of noise from surrounding land uses and premises on the intended occupiers of the proposed development. As such, the proposed development does not satisfy the requirements of section 2(d) of Paragraph MA.2 and is therefore not permitted under Class MA of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Notes for Applicant:

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

- Existing and proposed floor plans: CSR-SVA-ZZ-ZZ-DR-A-2005-REV A
- Proposed site plan: CSR-SVA-ZZ-ZZ-DR-A-2001
- Location plan and existing site plan: CSR-SVA-ZZ-ZZ-DR-A-2000