

APPLICATION NUMBER: 23/00387/PRA56

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00387/PRA56	Rosalind Gralton	15 June 2023

Address: 115 Spotland Road Rochdale OL12 6PJ

Proposal: Prior approval for change of use from Class E to 12 no. apartments

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/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
	Neighbour comments received?	Y

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

RECOMMENDATION	PRIOR APPROVAL REQUIRED AND APPROVED
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CHECKED AND SIGNED OFF BY: LA

DATE: 22.06.23

SITE

115 Spotland Road, also known as Acorn House, is a detached three storey brick building that occupies an L-shape footprint on the corner of Spotland Road and

Daisy Street. In the past the approved use for the site was Class A1 (limited) and Class A2 uses only (both uses which now fall under Class E).

PROPOSAL

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

The application proposes 12 apartments in the building. Typical floor plans have been submitted and these identify studio flats.

Each of the three floors will accommodate 4 studio apartments.

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

07/D48866	Single Storey Rear Extension, New Shop Front, Access Ramp And Steps To Front Elevation. – Approved
09/D51620	Removal Of Condition 07 Of Planning Permission D48866 Restricting Use Of Premises For Financial And Professional Services Only Within Class A2 & A1 – Approved
09/D51891	- Application For A Certificate Of Lawfulness For An Existing Use As A Furniture Store (Class A1) – Refused
10/D53518	Alterations To Front Facade Of Property To Form Shop Front – Approved.
19/01430/PRA56	Prior notification for change of use from offices to 15 apartments. Refused.
22/01380/PRA56	Prior approval for change of use from Class E to 12 apartments. Refused.

Reasons for refusal of application ref. 22/01380/PRA56:

1. Insufficient information has been provided to demonstrate that the site has been vacant for a continuous period of at last 3 months immediately prior to the date of the application for prior approval. The proposed development is therefore not permitted by Schedule 2, Part 3, Class MA of The Town and

Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.

2. Insufficient information has been provided to demonstrate that the use of the building fell within Class E for a continuous period of at least 2 years prior to the date of the application for prior approval. The proposed development is therefore not permitted by Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.

CONSULTATION RESPONSES

Env Health - Noise/Odours

Following the submission of a Noise Impact Assessment on 24/05/2023, the Council's Environmental Health Officer responded with the following:

'This section has no objections in principle to the proposal, we would recommend the following conditions.

- *The homes are constructed in line with the requirements of the submitted acoustic report, upon completion and prior to occupation validation testing is carried out at a selection of units, to include those exposed to the highest noise levels to ensure the following internal noise levels are being 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.'*

Highways And Engineering

The Council's Highway's Engineers were consulted on the application and their response is provided as follows:

'We have made comments on a similar application for this site, 22/01380, and although this application is slightly different the highway issues arising would still require some discussion..

This application is supported by a Transport Statement (TS) prepared by Sanderson Consulting which will be the main focus of Highway comments.

The access data as reported within the TS shows a relatively high number of accidents along Spotland Road, however it would appear that these accidents are associated with driver error and not associated with any inherent highway layout issues. We would not expect that the proposed development would have any additional impact on road safety within this area.

Highways have previously expressed concerns regarding the lack of parking for the proposed development and its potential impact on on-street parking around the development. The TS has provided an on street parking survey which was undertaken overnight on the 29th and 30th of March 2023 and the results showed that there is latent capacity for residential parking in the surrounding areas. The results showed that although Daisy Street was fully subscribed other streets in close

proximity to the site had parking spaces available during this period. The development is within a sustainable location in terms of access to local amenities and public transport and proposals now include two disabled parking bays within the site's curtilage with access directly off Ashworth Street.

The previous use of the building would have generated a higher parking demand in this area albeit at different times of the day and it would appear from the survey that there are on street parking spaces available when residential demand is at its highest.

Taking into account the submitted survey, the additional parking provided and the site's sustainable location a refusal on the lack of adequate parking is not likely to be sustainable.

This application includes a Waste Management Plan showing details of refuse collection arrangements with a bin store to the rear of the building on Ashworth Street which is acceptable.

The TS also provides traffic generation comparisons between the existing and proposed uses and it would appear that the number of vehicle movements would be substantially less. We would not expect that the size of the proposed development would have any detrimental impact on highway capacity on the surrounding highway network

There does not appear to be a sustainable highways reason for refusal of this application, however we would however ask that the applicant produces a Residential Travel Plan for approval.'

Lead Local Flood Authority/Drainage

The Council's Drainage Officer was consulted on the application and their response is provided below:

'It looks like the existing carpark will just remain, as it is, when servicing the new apartments. It looks like structural changes are being made to the offices. As such, I see no need for any Drainage Condition to be applied to this application.'

Environmental Control (Landfill Gas)

No comments to make.

REPRESENTATIONS

The application was publicised by neighbour notification. 12 objections were received in response to the application. Their concerns are summarised below:

- Parking concerns
- Negative impact on neighbour amenity
- Noise
- Disturbance
- Overlooking and loss of privacy
- Nuisance
- Increase in litter and waste
- Loss of enjoyment of property
- The apartments would result in the rotation of tenants resulting in not knowing who neighbours are
- Crime increase
- Safety concerns
- Existing issues with litter on the street would be increased

- There has been previous objections to this application
- The building is not fit for purpose as apartments or residential dwellings, as a result of its design, footprint and construction materials
- Energy efficiency of the building is outdated
- Increase of cars would be 12 and bins would be 48
- It is doubtful the poor condition of the building would satisfy Class E use.
- The building has been flooded and the fabric of the building will have been affected
- The crash, crime and parking survey is incorrect and misleading
- Proposed parking spaces are exaggerated due to existing demand
- Live street surveys should be done to understand parking situation
- The proposal would not be compliant with the Rochdale plan for 2026
- The Council should purchase the site and use it as a plantation
- No regard for security of community
- CCTV does not deter crime
- Reported crime is not an accurate reflection of crime levels

ANALYSIS

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

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.

Details submitted by the applicant 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;

As submitted by the applicant, the building was within use as an office from November 2019 – November 2021. A tenant statement suggests rental income received from December 2021 – April 2022 suggests an office use was continued.

The most recent planning use of the development is unclear, with the most recent use approved by planning shown as A2/A3 (Now Class E) and then a previous application for a B1 use refused. Given the Class A2 and B1 use has now been replaced by Class E, (commercial, business and service), it is considered the use would have been Class E.

Given the information submitted, it presents a continuous period of Class E use for 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 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.

It is noted the proposed apartments fall far short of the technical space standards, however this cannot be taken into account as this application must only assess against the criteria outlined above in Class MA.2.

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 12 apartments over 3 floors. The property is located a short walk from bus stops, providing access into Rochdale Centre, as well as located within a 20 minute walk of the town centre. The case officer concurs with the findings of the council's Highways Engineer, summarised below.

The transport statement submitted details of an on street parking survey undertaken overnight on the 29th and 30th March 2023, which, as described by the Council's Highways Engineer:

'Showed that there is latent capacity for residential parking in the surrounding areas. The results showed that although Daisy Street was fully subscribed other streets in close proximity to the site had parking spaces available during this period. The development is within a sustainable location in terms of access to local amenities and public transport and proposals now include two disable parking bays within the sites curtilage with access directly off Ashworth Street.'

The Council's Highways Engineer also stated the parking demand generated by the flats would be higher, however the survey shows on street parking spaces are available when residential demand is its highest.

It is not expected the proposal would have any additional impact on road safety. It is noted the use would be different to the most recent use as an office, however it is noted that demand for parking will be at different times. The Council's Highways department has however asked for the specific planning condition, that the applicant produces a residential travel plan, for further LPA review. The submitted waste management plan proposed is considered acceptable. The case officer concurs with the findings of the Council Highway's Engineer.

As such, the application would be in accordance with the policies of the NPPF, prior approval is therefore required and granted subject to condition of a residential travel plan to be submitted to the LPA prior to occupation.

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 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 an office 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.

A Noise Impact Assessment was submitted with the application. The Environmental Health Officer has concurred no objections subject to conditions detailing compliance of the submitted report, and prior to occupation validation testing is carried out, subject to LPA approval.

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 required and Granted subject to conditions

1. The development must be completed within a period of 3 years starting with the prior approval date.

Reason: To comply with the requirements of Paragraph MA.2 of Part 5, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. This permission relates to the following plans:

Existing & Proposed Floor Plans 23/100-01 – Received by the Council
14/04/2023

Proposed Floor Plans 23/100-02 – Received by the Council 14/04/2023

Existing Elevations – 23/100-03 – Received by the Council 14/04/2023

and the development shall be carried out in accordance with these drawings hereby approved.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the saved Rochdale Unitary Development Plan, the adopted Rochdale Core Strategy and the National Planning Policy Framework.

3. No part of the development shall be occupied until a Residential Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should be implemented prior to first use, and thereafter so long as the building is in as apartments.

Reason: To reduce reliance on the private car in accordance with the Rochdale Core Strategy and the National Planning Policy Framework.

4. The development hereby approved shall be constructed in accordance with the noise mitigation measures set out within the submitted noise impact assessment received by the Council 24th May 2023. No part of the development shall be occupied until such time as a validation report has been submitted to and approved in writing by the Local Planning Authority to confirm that the approved ventilation and acoustic measures have been implemented to achieve the required maximum noise levels. Details within the validation report shall specify those exposed to the highest noise levels to ensure the following internal noise levels are being 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.'

The noise attenuation measures shall be retained as installed thereafter in perpetuity.

Reason: To safeguard the amenities of residents in order to comply with the requirements of Policies G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

5. The flats hereby permitted by virtue of Class MA must remain 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 primary use as such a dwellinghouse.

Reason: To comply with the requirements of Paragraph MA.2 of Part 6, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Report Author Rosalind Gralton