APPLICATION NUMBER: 22/00456/PRA56

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
22/00456/PRA56	Majid Mir	12 May 2022

Address: 117 Yorkshire Street And 2 Whitehall Street, Rochdale OL16 1DS

Proposal: Prior approval for change of use from commercial floorspace on first and second floors from (Class E) to 3no. apartments (Class C3)

PUBLICITY	**Weekly list expired?**	N/A	**Site notice expired?**	N
	Neighbour letters expired?	N	**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 NOT REQUIRED**

CHECKED AND SIGNED OFF BY: AT **DATE: 31.05.2022**

SITE

The application relates to 117 Yorkshire Street And 2 Whitehall Street. The properties are a pair properties located the end of a terrace. The ground floor of the properties is used for various uses. The application states that the first floor and second floor of the property are vacant commercial floorspace. The floorspace to be converted relates to ancillary floorspace associated with the ground floor commercial units which include a vacant cafe, a tailors shop, and a barbers.

PROPOSAL

The application seeks prior approval for change of use of the building from offices (use class E(g)(i)) to three 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)

National Planning Practice Guidance (NPPG)

RELEVANT SITE HISTORY

21/01786/PRA56 - Prior approval for change of use of first and second floors from commercial (Class E) to 3 no. apartments (Class C3). Decision: Refuse. Reason for refusal:

> The building has not been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. As such, the proposal is not permitted under Class MA, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

89/D24464 - Change Of Use And Alterations From Cafe With Living Accommodation To Class A2 Offices. Decision: Approved

89/D24177 - Change Of Use And Conversion Of Premises To Form 2 Retail Units And Restaurant At Ground Floor With Offices Above. Decision: Approved.

CONSULTATION RESPONSES

Highways And Engineering
The proposed development is within Rochdale town centre and its amenities with good access to public transport therefore is in a sustainable location in highway terms.

There are adequate public car parks and on street parking bays around the site which can be utilized during evening periods therefore car parking should not be an issue.

The only issue that may arise is the storage of bins for the flats and existing business and whether they are accessible for residents and how they are put out for collection, which may be an issue for Environmental Management to comment on. Highways would not support this application if bins where left out on the highway especially to the rear of the premises which serves as access to parking and allows servicing to existing commercial premises.

Env Health - Noise/Odours
This section has no objections to the proposal.

Conservation Officer
There are no heritage comments on this application.

REPRESENTATIONS

The application has been publicised with neighbour notification letters and a site notice. No responses were 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 states that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of this application and that the floorspace to be converted relates to ancillary floorspace associated with the ground floor commercial units. The ground floor of the building consists of a vacant cafe, a tailors shop, a hairdressers and a barbers. Evidence has been provided to show that the upper floors of the applicant property are vacant. It is considered that the applicant property has been vacant for at least 3 months prior to the date of the application.

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 use of the building fell under Use Class A3 (food and drink) as a caf' as well as Use Class A1 (shops) as a barbers and tailors shop , 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 198155;
(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.

Conditions

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.

Highway department have commented on the proposal and stated that the proposed development is within Rochdale town centre and its amenities with good access to public transport therefore it is in a sustainable location. Furthermore, as noted by the highways department, there is adequate public car parking and on street parking within the vicinity of the site and as such there should be no issues in regards to car parking.

The highways department have raised a concern relating to the storage of bins for the flats. The highways department have stated that they could not support this application if bins where left out on the highway especially to the rear of the premises which serves as access to parking and allows servicing to existing commercial premises. The proposed plans show that the bins would be stored on the ground floor and access via a door opening on East Gate Street. It is noted that the property does not have access to any outdoor space where bins can be stored during bin collection. It is however noted that the GPDO allows for an assessment of the transport impacts of the development only, and particularly to ensure safe site access.

As such it is considered that the proposed development would not impact on road safety. **Therefore prior approval is 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.

The proposal would utilise the existing building and accesses to the building. The site and building had been used for various commercial purposes, with the first and second floor being used for purposes associated with the commercial properties on the ground floor. It is considered that the proposed first floor and second floor would be suitable for residential purposes and be satisfactorily safeguarded from actual and potential risks of contamination. **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 site is located with a Flood Zone 1 and is not located within a Critical Drainage Area. The proposed development would be on the first and second floor. Furthermore, the proposal would not lead to any alterations at ground floor level. It is therefore considered the proposal is acceptable in regards to drainage and flood risk considerations. **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. The building is located within a town centre location within an area with a number of mixed use buildings located within the vicinity. Additionally, the Council's Public Protection (Noise & Odours) Officer raised no objection to the proposal. The application is considered to be acceptable in terms of noise levels at the development. **Prior approval is therefore not required.**

The impact of that change of use on the character or sustainability of the Conservation Area

The application site lies within the Rochdale Town Centre Conservation Area and is opposite the grade II listed 1 and 3 Whitehall Street. The Conservation Officer noted that there was a building in the first edition OS map on the same location as the applicant site. However, it is not clear whether this is the building currently on the site. If so, it has been heavily altered, including render, new windows and modern roofing materials.

The application is made under Schedule 2, Part 3, Class MA of the GPDO 2015 (as amended) and seeks to establish whether the prior approval of the local planning authority is required for the conversion of the upper floors into three residential units.

Under Class MA, where a site lies within a Conservation Area and the change of use applies to the ground floor, the local planning authority must assess the impact of the change of use on the character or sustainability of the Conservation Area. As the proposal is for the upper floors only this does not apply. Consequently, the Conservation Officer has no heritage comments on this application. **Prior approval is therefore not required.**

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 habitable room contains access to an outward facing window. The rooms on the first floor and second floor would face directly towards 20 Eastgate, 1 Whitehall Street and 3 Whitehall Street. The windows would be approximately 11.6m from the elevation of the building opposite. It is considered that all habitable rooms within the proposed development would receive an adequate amount natural light. **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 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

The three proposed flat would be duplex flats with 1 bedroom and for 1 person. All three flats would meet the minimum internal floor space area required for 1 person with 1 bedroom and on 1 storey (39 sqm with bathroom or 37 sqm with shower room). The bedroom sizes would also meet the minimum requirements.

RECOMMENDATION

PRIOR APPROVAL NOT REQUIRED

Notes for Applicant:

For the avoidance of doubt, this decision is based on the following plans:

Location plan
Existing plans. Drawing no: BM/1221/YORK/PL1
Existing elevations and cross section. Drawing no: BM/1221/YORK/PL2. Rev: A
Proposed plans. Drawing no: BM/1221/YORK/PL3
Proposed elevations and cross section. Drawing no: BM/0921/YORK/PL4

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