



Delegated Report

Prior Approval Class MA

Application No:	20241012
Location:	First Floor 19 Milton Road, Gravesend, Kent, DA12 2RF
Description:	Application to determine if prior approval is required for a proposed; Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.
Applicant:	Mr Kalvinder Sandher
Site Visit:	05 December 2024

Submitted Documents/Plans

- Application Form – dated 05 November 2024;
- Sound Testing Report by soundtesting acousting consultancy (ref. 15082S) – dated 26 July 2024;
- Drawing no. 101 – Site Location Plan (scale – 1:1250);
- Drawing no. 102 – Existing and Proposed Block Plans (scale – 1:200);
- Drawing no. 103 – Part Ground Floor and First Floor Plans as Existing;
- Drawing no. 104 – Part Ground Floor and First Floor Plans as Proposed.

Relevant Planning History

No relevant planning history.

Consultations, Publicity and Representations

External Consultees

Kent County Council Highways – The proposed residential units are located in a sustainable location with nearby facilities and public transport links. As such, I consider the nil provision of vehicle parking to be acceptable, however, secure, covered cycle storage should be provided.

Consequently, provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

- Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.

It is important to note that Local Planning Authority (LPA) permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because LPA planning permission has been granted.

For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture or landscape assets such as grass, shrubs and trees, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Internal Consultees

GBC Environmental Protection (Regulatory Services) – A sound insulation test has been undertaken to assess the performance of the ceiling floor partition between the commercial use on the ground floor and the flat above. The test was a pass, so this is fine. However, this is a busy location and there are a number of food premises in the vicinity including either side of number 19. There is likely to be extract plant and equipment associated with these uses and these noise sources have not been considered. In addition, the petrol fillings station is opposite.

Therefore, a noise impact assessment will be required, and it is recommended that this is undertaken before and submitted with any formal application. The assessment must address the impact of the following on the residential amenity of any future residents of the proposed flats and be undertaken in accordance with the guidance in BS 8233:2014.

This area is within the A226 One Way System Air Quality Management Area (AQMA) declared for exceedances of the annual Air Quality Objective (AQO) for nitrogen dioxide (from traffic). Whilst being aware that air quality is not a consideration for prior approval, the applicant should be made aware of this fact. It is advised that should mitigation measures for noise be required following the noise impact assessment that any scheme should also consider air quality. For example, if mechanical ventilation is required as an alternative to opening windows, the inlets must be located away from the roadside to avoid pulling in polluted air.

The following condition to address the noise impact assessment is recommended:

Prior to commencement, a noise impact assessment shall be carried out and submitted to the LPA for approval demonstrating that:

- *The internal ambient noise levels in all habitable rooms of the proposed residential dwellings shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014.*
- *The maximum internal noise levels in all habitable rooms should not exceed 45dB L_{Amax} more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.*

GBC Private Housing – We can confirm Private Sector Housing have no comments to relay in relation to our housing legislations and regulations. We believe the proposed scheme is currently out of our remit with Planning requirements and Building Regulations taking precedence.

Neighbouring properties

A notice was displayed on site 21 November 2024.

No representations were received as a result of the publication. The consultation period expired 04 December 2024.

Officer's Analysis

This application seeks determination pursuant to Article 3, Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change.

Assessment

MA.—Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

MA.1. (1) Development is not permitted by Class MA—		
<u>(a)</u>	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;	
<u>(b)</u>	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;	Y (Class E)
<u>(c)</u>	if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;	
<u>(d)</u>	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;	N
<u>(e)</u>	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	N
<u>(f)</u>	if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or	N
<u>(g)</u>	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.	N/A

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 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.

As emphasised above, Part MA of the GPDO requires an application to the Local Planning Authority before the beginning of the development.

On site it was clear that the conversion of the first floor was already underway, as shown in the photographs below where partitions are erected, plumbing installed and plastering completed in some rooms.





For the avoidance of doubt, the general definition of development is the “*carrying out of building, engineering, mining, or other operations in, on, over, or under land, or the making of any material change in the use of any buildings or other land*” (The Town and Country Planning Act 1990 - Section 55 (1)). In this case, the works undertaken are material to, and required for, the proposed change of use and therefore constitute the beginning of the development contrary to MA.2(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

As such, by virtue of the commencement of development, the application fails to meet the conditions of MA.2(2) and prior approval is refused.

Conclusion

The application fails to meet the criteria as set out in Part 3, Class MA of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

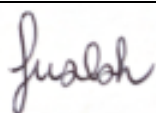
The development has begun before the applicant has applied to the Local Planning Authority for prior approval, with internal works material to the proposed change of use clearly underway. Therefore, the application fails to meet the conditions set out in MA.2(2) and prior approval is refused.

Therefore, the proposal is not permitted development, prior approval is refused and planning permission is required for the change of use.

Recommendation

Prior Approval is Refused

(For detailed reasons for refusal and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	23 rd December 2024	Dated:	23 December 2024