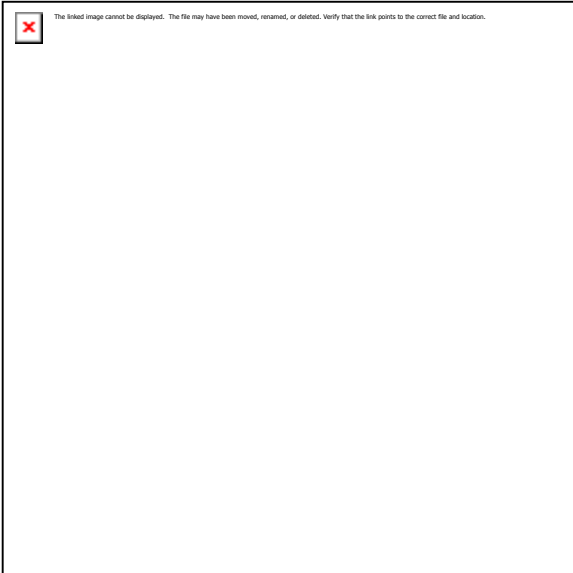




Delegated Report

Prior Approval Application

Planning Application No: 20220568

Location: 18 Stone Street Gravesend Kent DA11 0NH

Description: Application for a 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 of use of the upper levels (Class E Commercial and Business Services) to 2 no studio flats on the first floor and 1no 2 bedroom flat at the second floor.

Applicant: Mr Max Maltby

Procedural Issues

In determining a prior approval application, the LPA is not granting a planning application; it is simply deciding whether its prior approval is required in respect of the specified matters only. Consequently, the LPA is not able to take into account other considerations that it would be able to consider were it determining a planning application e.g. amenity space.

Proposal

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 of use of the upper levels (Class E Commercial and Business Services) to 2 no studio flats on the first floor and 1no 2 bedroom flat at the second floor (Class C3 (dwellinghouses)).

The proposed would result in 2no. studio flats on the first floor, flat one consisting of entrance lobby, kitchen/dining/living area, separate single bedroom, storage and wet room. Flat two would have entrance lobby, kitchen/dining/living area, separate bedroom, storage and a bathroom. The second floor would have 1no. two bedroom flat consisting of entrance lobby, kitchen / dining area, living area two double bedrooms, one with en-suite, store, bathroom and a study. Flat one would have a total floor area of 41.91sqm, Flat 2

39.15sqm and Flat 3 81.42sqm. Pedestrian access would be from Stone Street. There is no parking provision for this scheme.

By indicating that the development proposal complies with the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) the Local Planning Authority is taking into account the information submitted with the application, material planning considerations raised within any representations received relevant to the Class MA assessment and any previous relevant applications. No information has been discovered revealing removal of permitted development rights, it is therefore understood that the property's permitted development rights are intact and there are no restrictive conditions or outstanding Enforcement notices covering the property.

Submitted Documents/Plans

Planning Application Form;
Design & Access Statement dated May 2022;
Heritage Statement dated May 2022;
Drawing No. P-01 – Site Location Plan;
Drawing No. P-02 – Plans and Elevations As Existing; and
Drawing No. P-03 Rev A – Plans and Elevations As Proposed.

Relevant Planning History

Reference	Description	Decision	Decision Date
19870619	Erection of three storey building to form 2 no retail units with offices at first and second floor levels	Permission	16.11.1987
19840527	Redevelopment of site and erection of two storey building to form two shops	Permission	19.10.1984

Consultations, Publicity and Representations

KCC – Heritage Conservation (E & W)

No comments received.

GBC – Conservation Officer

No comments received.

Neighbouring properties

In line with the requirements of paragraph W.(8) of Article 3, Schedule 2, Part 3, Class W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the application was publicised by a site notice. No representations have been received.

Officer's Analysis

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—		
(a)	unless the building has been vacant for a continuous period of at least 3 months	Y

	immediately prior to the date of the application for prior approval;	
(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;	Y
(c)	if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;	Y
(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;	N
(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	N
(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	N
(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.	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—
- transport impacts of the development, particularly to ensure safe site access;
 - contamination risks in relation to the building;
 - flooding risks in relation to the building;
 - impacts of noise from commercial premises on the intended occupiers of the development;
 - where—
 - the building is located in a conservation area, and
 - 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;
 - the provision of adequate natural light in all habitable rooms of the dwellinghouses;
 - 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
 - where the development involves the loss of services provided by—
 - a registered nursery, or
 - 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

The following paragraphs will assess the relevant prior approval matters (NB paragraphs (h) is not applicable to the proposed development).

It is noted that according to paragraph W(10) of the GPDO, when determining a prior approval application, the Local Planning Authority must have regard to the National Planning Policy Framework (NPPF) (2021) so far as it is relevant to the subject matter of the prior approval, as if the application were a planning application. Therefore the following discussion will refer to the NPPF and not refer to local development plan policies.

It is noted that according to paragraph W(10) of the GPDO, when determining a prior approval application, the Local Planning Authority must have regard to the National Planning Policy Framework (NPPF 2021) so far as it is relevant to the subject matter of the prior approval, as if the application were a planning application. Therefore the following discussion will refer to the NPPF and not refer to local development plan policies.

(a) transport impacts of the development, particularly to ensure safe site access

Paragraph 111 of the NPPF 2021 sets out 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 on the road network would be severe.

The application site is located within the town centre, close to amenities and public transport. Whilst no cycle parking has been shown on the proposed plans, the proposal is for three units with central shared access on Stone Street, with each unit having their own access, lobby and storage and as such would be likely to be able to accommodate cycle storage. Therefore the proposed development would have no adverse impacts on highway safety and would be in line with paragraph 111 of the NPPF 2021.

(b) contamination risks in relation to the building

The application site would not be contaminated land as described in Part 2A of the Environmental Protection Act 1990.

Paragraph 183 of the NPPF 2021 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination and that this includes risks from former activities.

The first and second floors were previously used as offices. It is therefore considered that it is unlikely that contamination would have occurred as a result of previous use. It is therefore considered that there would be no adverse contamination impacts and the proposed development would be in line with paragraph 183 of the NPPF 2021.

(c) flooding risks in relation to the building

Paragraph 159 of the NPPF 2021 sets out 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) and highlights that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraphs 161 and 162 of the NPPF 2021 set out the requirement and methodology to apply a sequential, risk based approach to the location of development taking into account all sources of flood risk and highlight that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.

There would be no change to existing surface water drainage and that the building would be unlikely to be at risk of flooding and the change of use would not result in any significant change.

Therefore the proposed development would not be a risk from flooding and would be in line with paragraph 159 of the NPPF 2021.

(d) impacts of noise from commercial premises on the intended occupiers of the development

Class MA applications only take into consideration commercial noise sources affecting potential new receivers, and does not include for traffic noise or pedestrians using the surrounding highway network.

The application site is located adjacent to a busy road within the centre of Gravesend, close to a number of commercial premises and as such, the surrounding environment is noisy. However no specific noise generation from commercial premises which will adversely impact on the amenity of future occupiers. Prior approval would not therefore be required in relation to commercial noise.

(e) impacts on the character or sustainability of a conservation area

The application site is located within the Kings Street Conservation Area. The proposed development would not result in any elevational changes to the building.

Therefore it is considered that the proposed development would not be detrimental to the character or appearance of the conservation area.

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses

Paragraph 125(c) of the NPPF 2021 sets out that, when considering applications for housing, Local Planning Authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

The existing building benefits from first and second floor front and rear facing windows. As such, all habitable areas of the proposed residential units would have access to sufficient natural light and outlook. In addition, the gross internal floor area for all of the proposed units would exceed the standard of 39sqm for a 1 bed one person unit and 70sqm for a two bed four person unit. The kitchen, living/dining areas would provide a good level of living space, as well as all the bedrooms exceeding either the 7.5sqm for a single room, or 11.5sqm minimum for a double. The proposed development would provide an adequate standard of living for future occupiers and would be in line with paragraph 125(c) of the NPPF 2021.

(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

The application site is located within the town centre and therefore not located within an area of heavy industry, waste management, storage or distribution.

Therefore, there would be no adverse noise, odour or air quality impacts on future residents arising from industrial or traffic sources and the proposed development would be in line paragraphs 185 and 186 of the NPPF 2021.

Thames Estuary and Marshes Ramsar / Special Protection Area (SPA)

In addition to the criteria of Class MA, the proposed development is subject to Regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (as amended), which require the Local Planning Authority to take into account whether the proposal would, either alone or in combination, have likely significant effects on a European Site (SPA/SAC/Ramsar site). Regulation 73 (1) of the Habitat Regulations states: "It is a condition of any planning permission granted by a general development order....that development which is likely to have a significant effect on a European site... (either alone or in

combination with other plans or projects)... must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 75."

The proposed development is considered to have likely in-combination effects due to its recreational impacts. Thus, any successful application would need to satisfy the requirements of the Habitat Regulations and would require a financial contribution of £275.88 per residential unit to mitigate the adverse impacts.

An informative to this effect would be added to any approval. The informative would state the following;

It is a condition of any permission granted by a general development order that, in those cases where a development is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the development must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 73, of the Conservation of Habitats and Species Regulations 2010, which is expressly saved by Schedule 7 of the Conservation of Habitats and Species Regulations 2017. Pursuant to Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, an application under Regulation 73 would therefore be required before development is begun.

Conclusion

The application meets the criteria as set out in Part 3 (Class MA) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and in considering that criteria, the proposal is considered acceptable and prior approval is not required.

Recommendation

Prior approval not required.

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mrs Amanda Grout	Team Leader:	Richard Hart
Signed:	<i>A Grout</i>	Signed:	<i>R Hart</i>
Dated:	20 th July 2022	Dated:	21 st July 2022