

ALLEN PLANNING Ltd
Town Planning and Development Consultants

Gravesham Borough Council
Planning Department
Via Planning Portal

20th July 2023

Dear Sirs

**Prior Notification requirement under Part MA of the GPDO for the change of use of Class E space to form 1 apartment.
Site at Ground Floor, Unit 8, The Vigo, Meopham, DA13 0TD**

This Prior Notification submission relates to the ground floor of this existing three storey building with apartments above and it is proposed to convert this vacant Class E space into 1 apartment.

This application is accompanied by a site plan and also the forms together with proposed and existing detailed floor plans, together also with existing elevations. The site is not listed but does lie within a defined Conservation Area and the building is shown in Figure 1 below.



Figure 1 - The application site

Situated in the heart of Vigo Village within a shopping parade this end of terrace and vacant shop unit is located in close proximity to the village hall. Neighbouring shops include, a pharmacy, convenience store, takeaway and nail bar.

The application site comprises solely the existing vacant lockup shop with a small courtyard to the rear and one car parking space shown on the proposed plans.

The site's previous planning history from the Council's website, is shown below:

Change of use from A1 retail to a dental surgery.

8 The Bay Vigo Gravesend Kent DA13 0TD

Ref. No: 20140132 | Received: Wed 12 Feb 2014 | Validated: Mon 03 Mar 2014 | Status: Application Permitted 28th April 2014

Installation of roller shutter.

8 The Bay Vigo Gravesend Kent DA13 0TD Krystal Flower Design Limited

Ref. No: 19950371 | Received: Wed 28 Jun 1995 | Validated: Fri 23 Jun 1995 | Status: Application Permitted July 1995

Whilst planning permission was granted in 2014 the change of use of this unit to a dental surgery, we are advised by our clients that this permission was never implemented and that the unit has remained in retail use last occupied by Krystle Flower Design.

Indeed that "business" sought and were approved planning permission for a roller shutter door to the unit in 1995.

Since the revisions to the UCO such land a use would now fall entirely within Class E of the UCO.

Article 4 Directions

The Borough has no Article 4 Direction in place removing permitted development rights under Part MA of the GPDO.

Permitted Development

Class MA of the amended General Permitted Development Order, which came into force on the 1st August 2021 states that a development consisting of would constitute permitted development: -

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.

Paragraph MA.1 identifies that 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 floorspace the subject of this application has been vacant for in excess of three months indeed it was last occupied on the 30th August 2022.

(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 building was last used as a retail unit (former Class A1) and as such is entirely compliant with this criterion.

(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

The floorspace of the building proposed to be converted is 62.3m² and therefore below the 1500 m² limitation as set out in this criterion.

(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 site is not covered by one of these listed designations

(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(a);*
- (iii) the Broads;*
- (iv) a National Park; or*
- (v) a World Heritage Site;*

The site is not covered by one of these listed designations

(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.*

Not the case with these proposals given that there is no Article 4 Direction in place given the wording of Part MA.1(g) of the Order.

Conditions

This permitted development is also subject to conditions as identified in paragraph MA.2 namely that 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(a), the impact on the local provision of the type of services lost.

(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 as if in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”.

(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

(a) Transport

The use of this floorspace as residential would be likely to generate less traffic when compared to the former Class E use which operated from the site. On that basis the traffic created by this proposed development would not lead to situations detrimental to highway safety.

Turning to matters of car parking the revised NPPF of 2021 in matters of sustainable development, transport and car parking advises at paragraph 110 that: -

“110. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

Importantly Paragraph 111 of the Framework advises 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.”

In terms of the use of parking standards paragraph 108 of the recently revised NPPF advises:

108. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

Policy CS11 “Transport” of the adopted Core Strategy advises that New developments should mitigate their impact on the highway and public transport networks as required. As appropriate, transport assessments and travel plans should be provided and implemented to ensure the delivery of travel choice and sustainable opportunities for travel. Transport assessment work is required to be undertaken in accordance with national and local policy guidance, and to identify detailed highway and public transport network requirements and management arising from the development.

P5.5.39 adds that:

“sufficient parking in new development will be provided in accordance with adopted parking standards which will reflect the availability of alternative means of transport and accessibility to services and facilities.”

Unit 8 possesses a car parking space within the larger car parking area towards the rear of the site and it is identified on the application site drawings.

On that basis the proposed residential flat would be provided with one car parking space and given its overall size, as a large studio type apartment, then this would be sufficient to accord with accepted car parking standards

In addition, appropriate cycle and refuse storage can also be safely accommodated on site within the rear yard area as shown on the proposed plans to further promote sustainable transport initiatives.

In light of the above we submit that the development proposed would avoid any unacceptable impacts in terms of matters of parking or highway safety.

(b) Contamination risks in relation to the building

Turning now to matters of contamination the site lies in an area where matters of land and ground contamination have not previously been raised in any permissions either on or in close proximity to the site and it is therefore highly unlikely that these proposals would lead to matters of contamination.

Whilst the application proposes the conversion of the ground floor of the existing building there would be no “ground break”.

In light of the above we therefore respectfully suggest that there are no material issues relating to the change of use proposed on matters of ground contamination

(c) Flood Risk

The site lies within Flood Zone 1 as shown below in Figure 2 as an extract from the EA flood map.

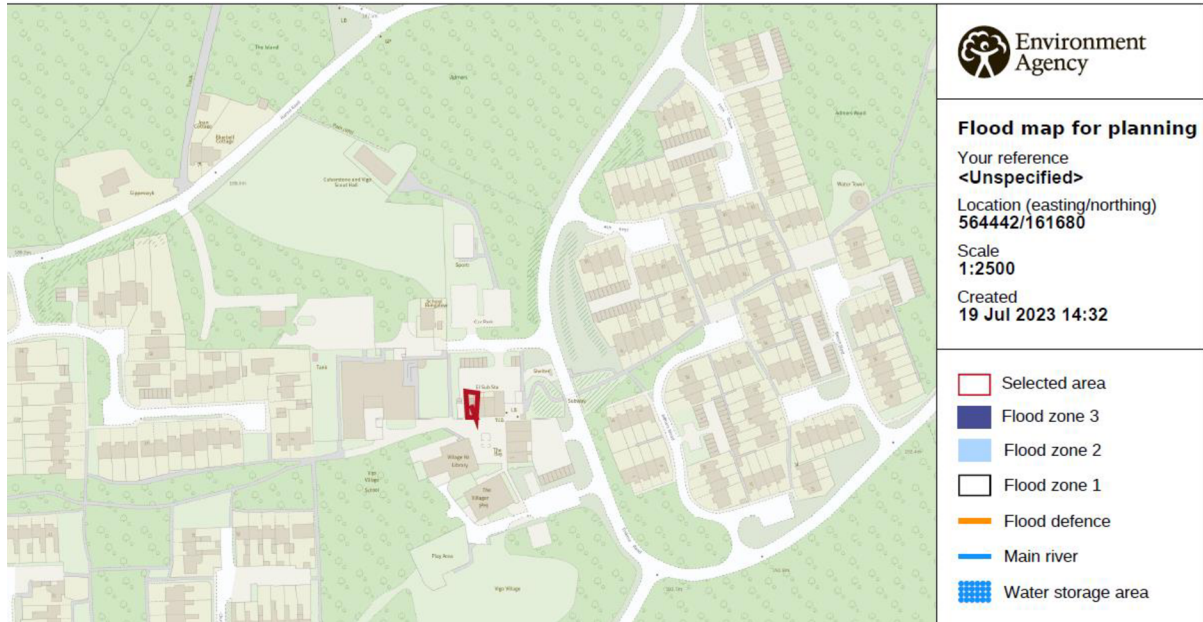


Figure 2 – EA Flood Map Extract

On this basis and given the above we respectfully suggest that there are no material issues relating to the change of use proposed on matters of flooding and flood risk.

(d) Noise

In terms of the impacts of noise from commercial premises on the intended occupiers of the development, in this respect traffic noise cannot be an issue for consideration in Prior Notification applications.

When considering potential noise disturbance, the NPPF at paragraph 174 states that planning policies and decisions should aim to:

174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

Paragraph 185 adds further:

“185. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of

the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

In terms of the potential for noise impacts from neighbouring commercial uses this site lies in a “village centre” with Class E units in close proximity. In front of the building is a pedestrianised walking and sitting area surrounded by three storey buildings on two sides with commercial uses at ground floor with flats above.

There are no uses in the ground floor of these buildings which could lead to an unsatisfactory impact on intended residents from “land use noise”. On the other boundaries is a single storey village hall type structure and on the far side of the pedestrianised area is the rear of The Village Public House a part single and part two-storey building.

The location of various uses is shown in Figure 3 below:

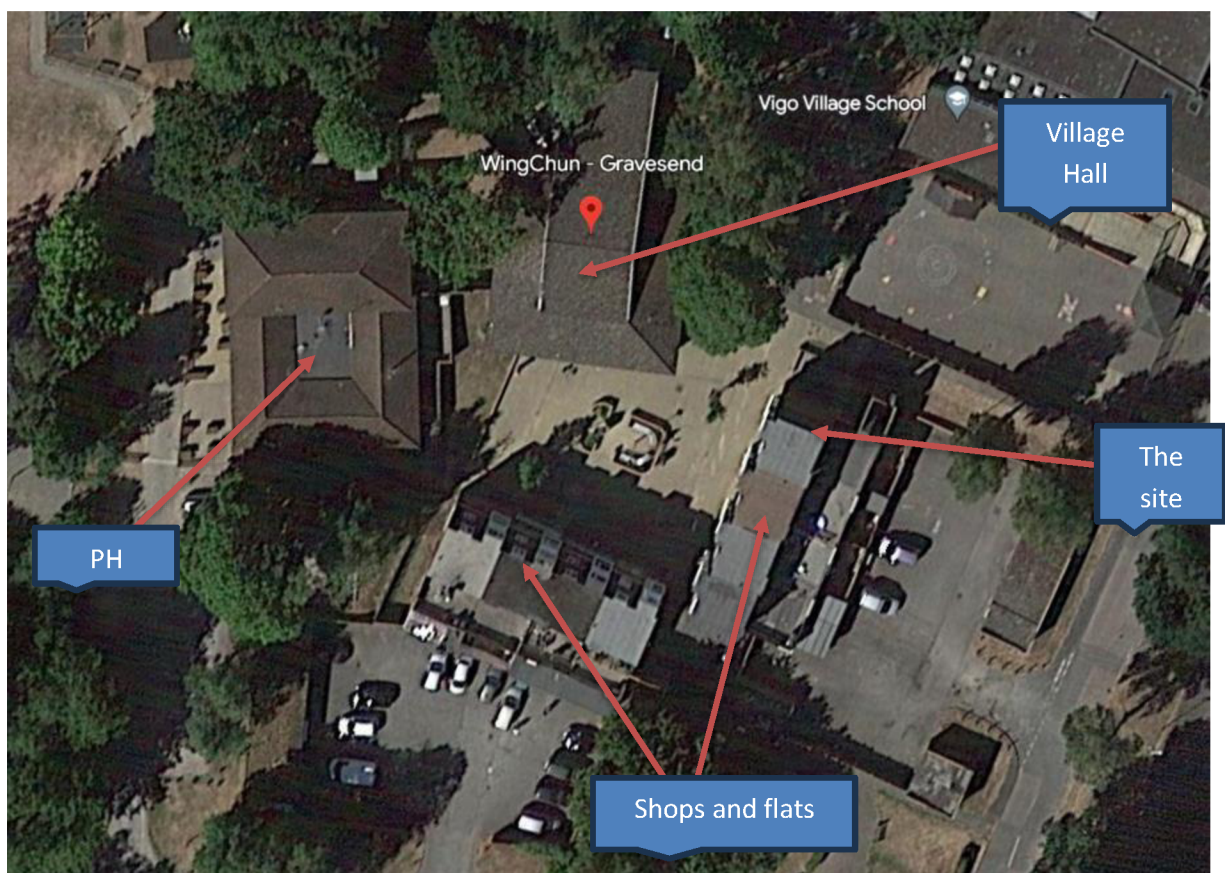


Figure 3 – Land Uses Assessment

Whilst there could of course be some potential disturbance in terms of the land use noise from a public house in this case the building is located some considerable distance away from the application site and indeed there are residential properties in much closer proximity to the public house than that proposed.

It is on the basis of the above that despite the village centre location of the site and the nearby location of potential noise generating uses that an acceptable residential environment would remain within the proposed apartment and as such this criterion of permitted development is complied with.

(e) Conservation

The site does not lie within a defined Conservation Area, and as such there is no requirement to assess criterion (e).

(f) Adequate Natural Light

This criterion requires an assessment in terms of each flat to be created relating to:

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

The proposed flat would be located at ground floor level and has a completely glazed frontage as shown in Figure 4 below



Figure 4 – Application Site Frontage

In addition, given that the apartment proposed is as a studio unit it would only have one habitable room.

Given the significant amount of glazing in the frontage of the application site it is submitted that the one habitable room proposed would receive significant levels of daylight sufficient to provide adequate natural light to the proposed flat as required by criterion (f).

In light of the above assessment and the existing fenestration within the building it is submitted that there is no requirement for a detailed sunlight/daylight assessment of the proposed scheme as the proposed development would provide adequate natural light into the habitable room of the proposed apartment.

(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

The site does not lie within such an area

(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(a), the impact on the local provision of the type of services lost.

In this case none of the land use involves a registered nursery or a health centre.

Apartment sizes

A further requirement of prior notification is that each flat proposed must achieve the minimum size standards as set out below:

. In article 3, after paragraph (9) insert—

“(9A) Schedule 2 does not grant permission for, or 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(a).

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.”.

In terms of the above we therefore assess apartment size against the NDSS standards.

It is proposed to create a studio apartment which requires a minimum floor area of 37m². Given that the existing floor space is circa 62 m² the proposed studio apartment would significantly exceed these minimum space standards.

Indeed, it would also exceed the minimum requirements from one bedroomed unit but to create a separate bedroom away from the living space would result in potential difficulties relating to the daylight which would be received by that room and the application is proposed as a studio apartment only.

On the basis of this assessment, it is submitted that the apartment as proposed exceeds by some margin the NDSS size standards and this criterion of permitted development is also thereby complied with.

Part M.2.A requirements

Paragraph M.2A.(1) requires that the following provisions apply where a developer is required under paragraph M.2(f) to make an application to a local authority for a determination as to whether the prior approval of the authority will be required.

Sun paragraph (2) advises that the application must be accompanied by—

(a) a written description of the proposed development;

a detailed description of the proposal is set out on the application forms and within this covering letter.

(b) a plan indicating the site and showing the proposed development;

a plan indicating the location of the site and the floorspace within the building proposed to be converted accompanies this application.

(c) drawings prepared to an identified scale and showing—

the drawings have been prepared to an identified scale and show the layout of the proposed flats.

(i) in the case of a building to be erected, the proposed external dimensions and elevations of that building; and

(ii) in the case of a building to be extended or altered, the external dimensions and elevations of that building both before and after the proposed extension or alteration;

It is not proposed to extend, alter or erect buildings on the site

(d) a written statement in respect of the heritage and archaeological considerations of the development;

The site does not lie within a conservation area.

(e) the developer's contact address;

Oldhill Holdings Ltd c/o Allen Planning Ltd, The Old Fire Station EC, Salt Lane, Salisbury, SP1 1 DU

(f) the developer's email address if the developer is content to receive communications electronically; and

Oldhill Holdings Ltd c/o Allen Planning Ltd – tony.allen@allenplanning.co.uk

(g) any fee required to be paid.

The fee of £100.00 will be paid via the Planning Portal.

Conclusions

In light of the information contained within this letter we submit that the change of use of the ground floor of this existing three-storey building to **form 1 apartment** from its permitted Class E use is wholly in accord with Class MA of the amended General Permitted Development Order and the Prior Notification Procedure.

If the Council require any further information, then please do not hesitate to contact me.

Yours sincerely

A solid black rectangular box used to redact the signature of Mr A.M. Allen.

Mr A.M Allen
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