



Delegated Report

Part 3 M Prior Approval Application

Application No:	20220162
Location:	22 - 25 New Road, Gravesend, Kent, DA11 0AA
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 existing Class E (Previously Office (B1 Use Class) and Dentists Office (D1 Use Class) at the first - fourth floors to residential (C3) to create 8 residential apartments.
Applicant:	Lownie Investments

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 is for determination as to whether prior approval for the change of Part First, Second and Fourth Floors Class E (offices) to 22 C3 (dwellinghouses) is required and whether it is approved or refused. The determination is made in relation to the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order (as amended).

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

Application Form - dated 08/02/2022;
Design and Access Statement - dated 02/2022;

Supplementary Information - Transport Statement;
Supplementary Information - Daylight and Sunlight Report;
Supplementary Information - Noise Assessment;

Drawing no. CGL-XX-00-DR-A-050100 - Rev. P1 - Site Location Plan (scale - 1:1250);
Drawing no. CGL-XX-00-DR-A-050110 - Rev. P1 - Existing Ground Floor Plan;
Drawing no. CGL-XX-00-DR-A-050111 - Rev. P1 - Existing First Floor Plan;

Drawing no. CGL-XX-00-DR-A-050112 - Rev. P1 - Existing Second Floor Plan;
 Drawing no. CGL-XX-00-DR-A-050113 - Rev. P1 - Existing Third Floor Plan;
 Drawing no. CGL-XX-00-DR-A-050114 - Rev. P1 - Existing Fourth Floor Plan;
 Drawing no. CGL-XX-00-DR-A-050120 - Rev. P1 - Existing Front Elevation;
 Drawing no. CGL-XX-00-DR-A-050121 - Rev. P1 - Existing Side Elevations;
 Drawing no. CGL-XX-00-DR-A-050122 - Rev. P1 - Existing Rear Elevation;
 Drawing no. CGL-XX-00-DR-A-050210 - Rev. P1 - Proposed Ground Floor Site Plan;
 Drawing no. CGL-XX-00-DR-A-050211 - Rev. P1 - Proposed First Floor Plan;
 Drawing no. CGL-XX-00-DR-A-050212 - Rev. P1 - Proposed Second Floor Plan;
 Drawing no. CGL-XX-00-DR-A-050213 - Rev. P1 - Proposed Third Floor Plan;
 Drawing no. CGL-XX-00-DR-A-050214 - Rev. P1 - Proposed Fourth Floor Plan;
 Drawing no. CGL-XX-00-DR-A-050220 - Rev. P1 - Proposed Front Elevation;
 Drawing no. CGL-XX-00-DR-A-050221 - Rev. P1 - Proposed Side Elevations;
 Drawing no. CGL-XX-00-DR-A-050222 - Rev. P1 - Proposed Rear Elevation.

Relevant Planning History

Reference	Description	Decision	Decision Date
20220456	Change of Use from Retail Use (E(a)) to an Adult Gaming Centre (Sui Generis)	PENDING CONSIDERATION	/
20190035	Prior Notification of the change of use of the first, second, third and fourth floors office (Use Class B1)) use into 15 residential apartments (Use Class C3).	WITHDRAWN	11/03/2019
19890110	Use of the first, second and third floors as offices.	PERMITTED	15/05/1989

Consultations, Publicity and Representations

External Consultees

KCC - Heritage - No comment received.

Local Ward Councillors - No comment received.

Internal Consultees

GBC - Regulatory Services (Environmental Protection) - Having reviewed the application we have the following comments:

Code of Practice on Construction and Demolition - Please apply this as a condition to prevent noise, dust and smoke nuisance from demolition and construction work causing a nuisance. This is especially important bearing in mind the close proximity of the building to other properties.

Noise Control - The noise impact assessment provided by the applicant, reference RP01-21596-R1, identifies source of noise in the area as being from traffic, pedestrians, buskers, commercial deliveries and activities, and some static plant. Traffic noise is excluded from consideration under permitted development rules, however due to the predestination of the adjacent road we do not have concerns that traffic noise would be an issue.

We are satisfied in general with the proposed mitigation measures of secondary glazing to reduce levels of noise exposure to residents, however we would wish to see details of the secondary glazing that will be installed to ensure that it is sufficient for this purpose before planning approval is considered.

Ventilation - No information on ventilation has been provided within the application. Future residents should not have to choose between adequate ventilation or reducing their exposure to noise within their home. We therefore advise that before the application is considered the applicant provides detailed information on a proposed ventilation system that would not compromise the noise attenuation measures recommend in the noise impact assessment.

GBC - Highways Officer - This is a town centre location and so no car parking is necessary, I note that bicycle parking is being provided, but the applicant should note the requirement in SPG4 is cycle and not bicycle and so adaptive cycles should be capable of being accommodated. In addition suitable provision should be made for the recharging of electric cycles where the battery is built into the frame and is not removable.

Neighbouring properties

A notice was displayed on site 13th April 2022.

One representation was received from a member of the public, who registered support for the development, stating that it was positive for the vacant building to be used for housing.

The consultation period expired 4th May 2022.

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—		
(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;	Y
(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—
- (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

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.

(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 and will be a car free development. The proposal would result in eight new residential units at the site and would provide eight cycle spaces. It would also result in the loss of the commercial use of the building at first, second third and fourth floor, which would

reduce vehicle movements in the locality.

As the proposed plans show cycle storage a condition will be included that cycle storage is provided prior to first occupation

The proposed development would not result in significant additional vehicle movements, and the proposed bicycle parking would be appropriate in quantity and layout and the GBC Highways Officer has not raised an objection to the proposal. Prior approval would not therefore be required in relation to transport impacts, as the development has no adverse impacts on highway safety and would be in line with paragraph 111 NPPF (2021).

(b) Contamination risks in relation to the building

The previous land use history of the area does not suggest that the site has previously been subject to contamination and the constraints associated with the site do not highlight any past land use such as industrial which may indicate contamination of the site. Given there are no proposed works that would result in excavation into previously undisturbed land, there would be limited risk. No objection is therefore raised in this regard, however the approval is subject to the following condition:

The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

(c) Flooding risks in relation to the building

The site is located in flood zone 1 which has a low probability of flooding. Given that the site is located within the lowest Flood Zone with an extremely low risk of flooding. Prior approval would not therefore be required in relation to flood risk.

(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 New Road.

The application site is located on New Road, which is a busy street within the town centre with sources of noise being from traffic, pedestrians, buskers, commercial deliveries and activities, but also some static plant machinery. The submitted noise impact assessment recommends a noise mitigation scheme of secondary glazing systems to all habitable rooms of the development, to mitigate noise from the identified sources.

GBC Environmental Protection do not raise an objection to the proposal, provided that the recommendations set out in the noise impact assessment are complied with and that details of both the secondary glazing are submitted for approval prior to the commencement of the development. However, there are concerns with ventilation within the residential units, and as such details of the proposed air handling system will be conditioned to ensure they are submitted for approval prior to the commencement of the development.

Subject to the imposition of the conditions set out by GBC Environmental Protection, it is considered that there would be no adverse noise impacts and the proposed development would be in line with paragraph 185 NPPF (2021).

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

The application site is considered to be a non-designated heritage asset that maintains original features

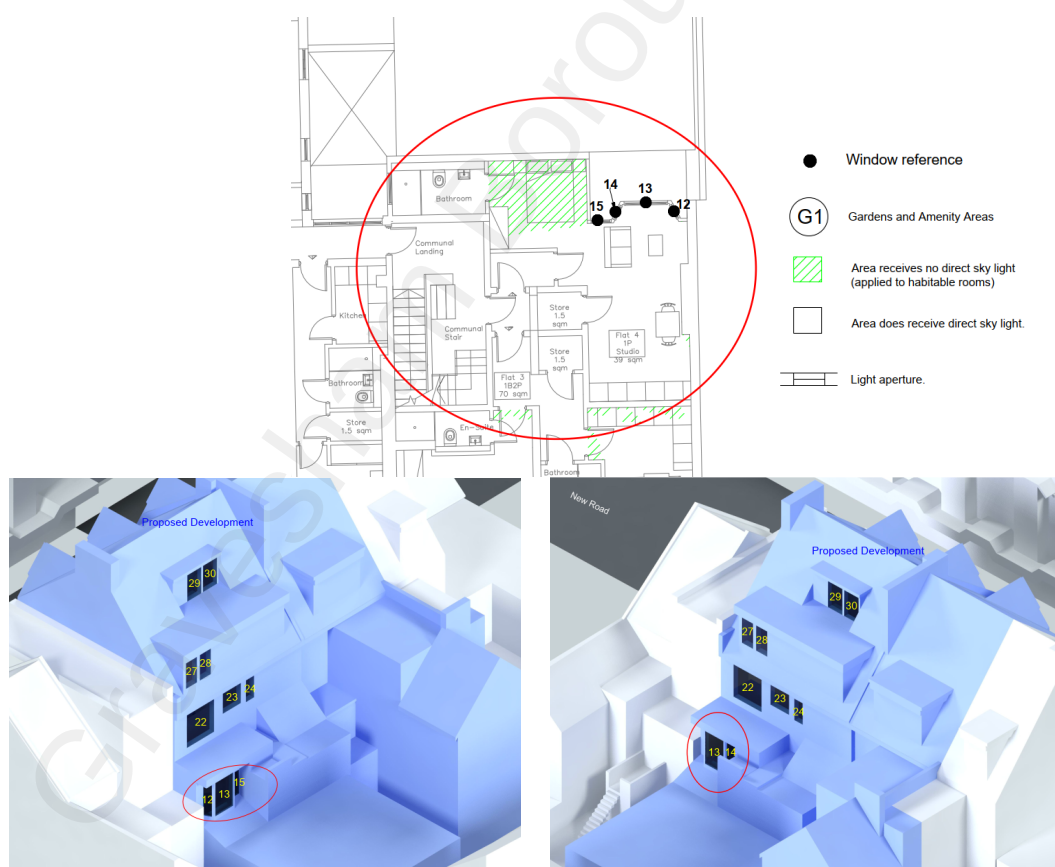
and fenestration, which contributes to the quality of the street scene. Nevertheless, the site is not within a conservation area, but is located within close proximity to the High Street & Queen Street and King Street Conservation Areas. Therefore, it is considered that the proposed development would not be detrimental to the character or appearance of the adjacent 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).

A Daylight and Sunlight Assessment has been submitted which indicates that all the proposed units would have levels of daylight that comply with BRE recommendations. It is noted that the main façade of building will face South and some units such as Flats 4, 6 and 8 will have only North facing windows. Nevertheless, the Daylight and Sunlight Assessment concludes that the development will received 'very high levels' of light, which would safeguard the amenity of future occupiers.

There were initial concerns with the bedroom in Flat 4, which is not served by a window and would be unlikely to receive any natural light. This studio flat has two windows that provide light into the living space and kitchen, with the bedroom set to the side and receives no direct sky light (as shown in the screenshot below). However, the bedroom will receive a small amount of light to the end of the room and the main living area of the studio flat will be well lit and receive good levels of light.



Therefore, it is considered that 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 not within an Air Quality Management Area (AQMA). As such, GBC Environmental Protection has raised no objections regarding the potential for adverse noise, odour and air quality impacts on future residents arising from such sources. Therefore, the proposed development would be in line paragraphs 185 and 186 NPPF (2021).

Representation from local resident

The representation received from a local resident was supportive of the proposed development, stating that it would be positive for the vacant building to be used.

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 (subject to the conditions set out above) with regard to the transport and highways impacts, contamination risks, flooding risks, impacts of noise from commercial premises on future occupiers, impacts on the adjacent conservation area, the provision of adequate natural light and the impact on future occupiers of the introduction of a residential use in an important industrial area. On this basis, prior approval can be granted.

Paragraph W.13 of the GPDO states that prior approvals may be granted subject to conditions reasonably related to the subject matter of the prior approval. The following conditions are required:

- Submission and approval of details of secondary glazing pre-occupation

- Works in accordance with recommendations set out in the noise impact assessment
- Submission and approval of post installation noise impact assessment pre-occupation
- Installation of cycle storage prior to first occupation

Recommendation

Prior Approval is Required and Approved

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Richard Hart
Signed:	<i>Ethan Bonthron</i>	Signed:	<i>R Hart</i>
Dated:	17 th May 2022	Dated:	17 th May 2022