



Section 55 Town and Country Planning Act

Planning Statement

Change of use to form 4 dwellings.

1 Porter Street Bury



Site/Project Information

Consultant	Jonathan McDermott
Client	Owen Small
Site Address	1 Porter Street Bury
LA	Bury
Description of Development	Change of use to form 4 dwellings
Pathway (PD/Application/Appeal)	Prior Notification

Constraints Review

Flood Risk Zone	1
Contaminated Land	No
Tree Preservation Order	No
Heritage Assets	No
Noise Abatement Areas	No
Explosive Hazard Areas	No
National Landscape	No
Special Protection Area	No
Site of Special Scientific Interest	No
RAMSAR Convention Site	No
Site of Importance to Nature Conservation	No
Article 4(2) Directions	No



Local Policy Requirements

Local Plan/Core Strategy

Places for Everyone Joint Local Plan
Bury UDP 1997

Effective Policies in Development Control

Not relevant to Prior Approval Matters

SPG/SPD's

Not Relevant

Planning History

None relevant to this prior approval

Report Date

27 November 2024

1. Introduction

1.1. The site, the subject of this application, relates to a short terrace of three properties located on the south side of Porter Street and at the junction with Back Walmersley Road. The property comprises a commercial unit on the ground floor that has an authorised use as a Glazing Suppliers showroom together with a storage building to the rear. An unauthorised use has emerged however no planning permission has been granted for this use and the authorised use of the building remains in Class E.

Matters Pursuant to the Application

1.2. Prior approval is sought for the change of use of the building to form 4 dwellings under the provision of Class MA of Part 3 of Schedule 2 of the General Permitted Development Order 2015 (as amended).

1.3. There are no article 4 directions in place which prevent the change of use proposed under Class MA.

Summation of Case

1.4. Having careful regard to the updated GPDO, there is no impediment to the change of use under Class MA.

2. Site Context

2.1. The site forms part of a two-storey terrace contains commercial units on the ground floor and dwellings above. The site has a longstanding history of use as a Glazing Suppliers showroom.

2.2. The subject building is not a listed building and not within a Conservation Area. The building sits within an area of primary residential use.

3. Legislative Framework

Class MA

3.1. Class MA states:

Class 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.

Development not permitted

MA.1.—(1) Development is not permitted by Class MA—

Criterion (a) was deleted from the legislation under SI 2024 No. 141 effective from 5th March 2024.

(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;

Criterion (c) was deleted from the legislation under SI 2024 No. 141 effective from 5th March 2024.

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

(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

Criterion (g) is no longer relevant.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

- (i) Class A1 (shops);
- (ii) Class A2 (financial and professional services);
- (iii) Class A3 (food and drink);
- (iv) Class B1 (business);
- (v) Class D1(a) (non-residential institutions – medical or health services);
- (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
- (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Conditions

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(a), the impact on the local provision of the type of services lost.
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building”

4. Qualification Assessment

4.1. Prior approval applications are split into an assessment as to whether the development qualifies for the permitted development allowance and an assessment of the pre-development criteria.

4.2. In respect of the qualification criteria the applicant states the following.

Criterion (a) was deleted from the legislation under SI 2024 No. 141 with effect from 5th March 2024.

(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;

4.3. The planning history demonstrates that the use of the building has persisted within Class E for a substantial period of time.

Criterion (c) was deleted from the legislation under SI 2024 No. 141 with effect from 5th March 2024.

(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;**

4.4. The site is not a listed building and is not any of the land affected by this clause.

(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;**

4.5. The site is not within any land affected by this clause.

(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

4.6. The site does not relate to agricultural land and there is no agricultural tenancy in place.

(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.

4.7. Criterion (g) is no longer relevant to Class MA applications as the dates within the parts g(i) and g(ii) have passed.

4.8. As such it is concluded that the development complies with the qualification criteria of Class MA.

5. The Pre-Development Conditions

5.1. MA.2. requires that development under Class MA is permitted subject to assessment via a prior approval for the following pre-commencement criteria.

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

5.2. This consideration relates to whether the conversion of the building would result in an impact to the safety and convenience of the highway.

5.3. The impact of the development on transport and highways is considered not to be detrimental or harmful due to the existing use of the site when compared to the proposed use as four dwellings.

5.4. Therefore it is highlighted that the proposed change of use will not amount to a substantive impact on the highway network.

(b) contamination risks in relation to the building;

5.5. The building was formerly used as a glazing supplier showroom and store within Class E and therefore, it is not considered that there would be any concerns regarding contamination.

5.6. It is therefore concluded that the change of use would not cause any contamination risk to surrounding uses or areas.

(c) flooding risks in relation to the building

5.7. The site falls within Flood Zone 1 (very low flood risk). As such the flood risk requirement is met. A surface water drainage assessment has been included within the prior approval for completeness.

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

5.8. The building is within a residential street comprising dwellings. Whilst there is no significant noise generator near to the application site noise effects can be mitigated through upgrades to the building in the form of secondary glazing or internal noise insulation.

(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;

5.9. The building is not within a Conservation Area and therefore this clause does not apply in this case.

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

5.10. All bedrooms and living spaces within the proposed flats will have access to natural light via the existing windows or other openings within the building which will be retained for this purpose. As such none of the bedrooms and living spaces will be without appropriate levels of natural light.

(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

5.11. The site is not within a designated area and as such this clause has no effect.

(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.

5.12. The development does not affect the uses named above.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

5.13. The building does not exceed the fire risk condition threshold. A fire risk assessment is not required.

Application of the National Space Standards in Para 9A

5.14. The net internal floor area of the proposed flats meets or exceeds the national space standards for the proposed dwellings.

6. Conclusion

6.1. As stated above it is considered that the development as now presented represents an opportunity to provide 4 dwellings. Further, this can be done in accordance with the provisions of Class MA within the amended GPDO.



6.2. As such, it is requested that prior approval is given in this instance and in the event any alterations are sought, they are requested at the council's earliest opportunity.