

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 30/03/2023	Ref: 69187/P3JPA
Registration: 19/12/2022	LDfC: 27/01/2023	Expiry Date: 13/02/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for proposed change of use of ground floor from shop (Class E) to 2 no. flats (Class C3)

Location: Bank House, 16-18 Bank Street, Walshaw, Tottington, Bury, BL8 3AZ

Description

An application for prior approval for the change of use of the ground floor from retail (Class E(a)) to 2 no. flats (Class C(a)) under Part 3 Class MA of the General Permitted Development Order. The property, which was granted planning permission in 1998, is a two storey detached building that presently contains 4 no. flats at first floor (former offices).

Apartment 1 would have two bedrooms and Apartment 2 would have one bedroom.

External alterations would not materially alter the external appearance of the building (limited to three small ground floor windows to the south-west elevation and the substitution of a door for a window to the south-east elevation (facing into the undercroft).

Relevant Planning History

33860: ERECTION OF RETAIL UNIT WITH FIRST FLOOR OFFICES. Approved 15/05/1998.

46192: SECOND FLOOR EXTENSION INCLUDING MANSARD ROOF; TWO STOREY REAR EXTENSION. Refused 05/06/2006.

47835: REAR EXTENSION AND ROOFSPACE DEVELOPMENT. Approved 15/05/2007.

50538: REAR EXTENSION OVER EXISTING CAR PARK. Approve with Conditions 04/12/2008

64463: Change of use of first floor from offices (Class B1) to 4 no. residential apartments (Class C3) with external alterations. Approve with Conditions 01/10/2019

68825: Non-material amendment following grant of planning permission 64463 for variation of condition no. 5 - Amend wording of condition to allow the submission of approved acoustic glazing to be after the development commences. Approve with Conditions 31/08/2022

Publicity

Advertised by direct neighbour notification on 05/01/2023. One representation received stating that the adjacent Conservative Club deeds allow members have the right to use the (undercroft) car park between the the hours of 18:00 and 08:00 daily.

Permitted development

Schedule 2, Part 3 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended)

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 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;

Yes

(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;

The ground was in Commercial, Business and Service use from at least 2006 and has been vacant for at least three months prior to the date of the application for prior approval. There is no evidence of any other intervening non-class E use.

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

The floor space of the building is less than 1,500 square metres.

(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;

Not applicable

(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;

Not applicable

(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

Not applicable

(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 applicable

The proposal would therefore comply with all the limitations and conditions set out above.

CONDITIONS

Development under Class MA is permitted subject to the following conditions.

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;

There would be no impact on transport as the existing site access would continue to be utilised and the proposed development would be in substitute for a Class E use.

(b) contamination risks in relation to the building;

There are no material operational or engineering works proposed.

(c) flooding risks in relation to the building;

The site falls within Flood Risk Zone 1.

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

There is an industrial unit at the rear of the site and appropriate sound insulation measures were required to the windows pertaining to the rear elevation of the first floor flats under planning permission 66463. However, the rear elevation of apartment 1 would be set back a further 10m from the common boundary, approximately level with the rear elevation of adjacent dwellings that back onto the same industrial unit.

Thus, there would no unacceptable noise impact on potential occupiers from the nearby commercial uses.

(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;

The site is not in a conservation area.

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

There would be adequate natural light to all habitable rooms.

(g) the impact on intended occupiers of the development of the introduction of residential

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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

Is not in an area important for general or heavy industry, waste management, storage and distribution, or a mix of such uses (see (d) above).

(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

Not applicable.

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

The development would not consist of two or more dwellings and would exceed seven storeys or 18m in height.

As such the Prior Approval of the Local Planning Authority is not required.

Response to representation

Matters referred to in private deeds are not material considerations.

Regardless, the applicant has submitted information that appears to demonstrate that the only rights that were granted to the Conservative Club upon transfer were for:

- the free passage of running water, soil gas and electricity;
- the right to enter the land to inspect and repair the above.

The applicant states that the Conservative Club membership does not have any legal right to park on this land and that any previous informal agreement that they may have had with the previous owner ceased when the land was transferred to Gallacom Holdings Bury Limited.

Recommendation: Prior Approval Not Required

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	30/03/2023	HL	30/03/23