

DELEGATED REPORT

Report by Sam Summers	Date of report: 10/04/2024	Ref: 70514/PIAPA
Registration: 14/02/2024	LDfC: 12/03/2024	Expiry Date: 10/04/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: BURY	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 first and second floors from commercial (Use Class E) to 4 no. flats (Use Class C3)

Location: 28 Haymarket Street, Bury, BL9 0AY

Description

This is an application for prior approval for proposed change of use of first and second floors from commercial (Use Class E) to 4 no. flats (Use Class C3) under Part 3 Class MA of the General Permitted Development Order 2015(as amended). The property is a three storey building at the end of a terraced row, located on the corner of Haymarket Street & Broad Street.

It is proposed to change the use of the first and second floors into 4no flats with ground floor to be retrained as a shop. There will be no external alterations as part of this application. There would be adequate natural light to all habitable rooms. The floor space would exceed the 37 square metres required under the national housing standards but would not exceed the limit of 1500 square metres allowed under the permitted development right. The proposed areas for the change of use have 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 use.

Relevant Planning History

None

Publicity

Letters sent to neighbours 19/02/2024 - No responses received

Statutory/Non-Statutory Consultations

Traffic Section - Object due to bin storage issues

Environmental Health - Pollution Control - Noise report should be conditioned

Conservation Officer - No comment

Pre-start Conditions - None

Development Plan and Policies

Issues and Analysis

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;

- (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;
- (c) if the cumulative floor space of the existing building changing use under Class MA exceeds 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;
- (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;
- (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
- (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.

(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.

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

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;

The building is located in the town centre with good public transport links. There is no vehicular access to the site. Highways have objected on refuse storage grounds however this is not something we are able to look at as part of this prior approval application.

(b) contamination risks in relation to the building;

There are no operational or engineering works proposed.

(c) flooding risks in relation to the building;

The site is not in a Flood Risk Zone.

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

The attached building is in use as a bar, there is a hot food takeaway across the road from the building. The applicant has supplied a noise report. In that noise report are details of noise mitigation which would reduce the noise to acceptable levels. Pollution control have asked for the mitigation in the noise report to be conditioned as part of any approval. An informative has been added to the decision requiring that the development is carried out in accordance with the noise report submitted.

(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 in a conservation area but does not involve the change of use of the ground floor.

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

There is adequate natural light to all habitable rooms.

(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

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

(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

There would be no loss of such provisions.

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

The development does not consist of two or more dwellings whilst also exceeding seven storeys in height.

As such the Prior Approval of the Local Planning Authority is required and granted.

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS	10/04/2024	DM	10/04/2024