

DELEGATED APPLICATION REPORT

SITE ADDRESS: 2 Kings Road

APPLICATION NUMBER: 212032/EPA

PROPOSAL: Change of use of Ground Floor from Class E (offices) to C3 (dwelling houses) to comprise 4 Dwellings. Prior Notification under Class MA, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015

TARGET DATE: 10/02/22

Introduction

The application site is a 3 storey building is located on the corner of Kings Road and Duke Street known as 'Abbey Corner'. The first, second and thirds floors have been granted prior approval from office to residential (see planning history).



The site is located within the Market Place/ London Street Conservation Area.

Proposal

Prior approval is sought under Class MA Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 for the change of use of the ground floor of the building to 4 x dwellinghouses (2 x 1 bed and 2 x studio flats).

Information Submitted

The completed application form, including a written summary of the proposed development and the developer's contact details

Drawings ref.

17867-100 Rev A - Location Plan
17867-101 Rev B - Existing Block Plan
17867-102 Rev B - Existing Site Plan
17867-103 Rev A - Existing Ground Floor Plan
17867-108 Rev A - Existing Elevations
17867-109 Rev A - Existing Back Elevations
17867-111 Rev B - Proposed Block Plan
17867-112 Rev B - Proposed Site Plan
17867-113 Rev D - Proposed Ground Floor Plan
17867-118 Rev B - Proposed Elevations
Design Document
Document titled 'Abbey Corner, 2-4 Kings Road, Reading'
Environmental Noise Assessment Ref. 20211207_4919_ENA01.docx Rev A dated 07/12/21
Transport note prepared by Evoke dated 11th November 2021
Heritage Statement and Impact Assessment Ref: 0659-1 dated 19th November 2021

Received 16th December 2021

Email from agent received 4th February 2022 regarding the proposal's impact on the conservation area
Internal site photographs

Received 4th February 2022

Planning Statement
Pre-application Comments from Reading Borough Council dated 30th September 2021
2-4 Kings Road listing on Completely Retail
Email from agent received 07/02/22

Received 7th February 2022

Email from agent received 08/02/22 in response to concerns over the development not providing adequate natural light

Received 8th February 2022

Policy Context

Legal context

The application has been submitted to determine whether prior approval is required in accordance with Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class MA involves 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.

Before development can be carried out under Class MA, the developer must submit a Prior Notification to determine if 'Prior Approval' of the Local Planning Authority is required in respect of the following matters:

- (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 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

Class MA requires development to be completed within a period of 3 years starting with the prior approval date. 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.

If the Local Planning Authority determine that Prior Approval is required, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that the Local Planning Authority should, when determining an application, have regard to the National Planning Policy Framework (NPPF), 'so far as relevant to the subject matter of the prior approval, as if the application were a planning application' (Paragraph W, para 10b).

Planning History

211263/OPA - Change of use of 1st, 2nd and 3rd floors from Class B1(a) (offices) to C3 (dwelling houses) to comprise 12 Flats. Prior Notification under Class O, Part 3

of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 - Application Permitted

211410/OPA Change of use of plant room from Class E (Commercial, Business and Service) to C3 (dwelling houses) to comprise 1 dwelling. Prior Notification under Class MA, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 - Application Closed

211389/FUL The proposed works seek to introduce windows to the existing plant room on the roof of the 4 storey building know as Abbey Corner - Application Permitted

211207/OPA Change of use of 1st, 2nd and 3rd floors from Class B1(a) (offices) to C3 (dwelling houses) to comprise 9 new dwellings. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. Prior Approval Given.

141408/FUL Ground floor change of use from A1 Retail to A3 Restaurant/cafe. Installation of air conditioning plant and air extraction ductwork at roof level. Permitted.

080134/FUL Change of use from A1 Retail to A3 Restaurant/cafe. Installation of air conditioning plant and air extraction ductwork at roof level. Permitted.

071309/ADV Non-illuminated blue hanging 600mm square panel sign, projecting on to Kings Road. Permitted.

011276/FUL To construct new ground floor entrance which serves offices on upper floors. Permitted.

010711/ADV 2 no. sets of internally illuminated letters, each set consisting of 3 no. logos. Permitted.

Consultations

RBC Transport - No objection subject to informatives.

RBC Environmental Health - No objections subject to condition

Environment Agency - No response received

Publicity

A site notice was displayed at the application site for the requisite 21 day period. The site notice was displayed between 23rd December 2021 - 13th January 2022.

One objection was received which states the following:

'This is a busy crossroads in the heart of the historic town centre. The ground floor should not become residential. Surely that's against policy? Encourage the owner to do something that contributes to the town centre vitality such as a shop, bank, estate agents, refurbished office... anything other than someone's living room window at this prominent town centre junction location.'

Officer comment: Officers are required to assess and determine the application under the criteria of Class MA, Part 3, Schedule 2 of the General Permitted Development Order (2015) rather than against planning policy. Points raised are noted and discussed within the report.

Appraisal

The proposal comprises the change of use of the building from Class E(i) to Class C3 (dwellinghouse) with the proposal to be considered against the criteria and conditions contained within Part 3, of Class MA.1. (1) (a)-(g), of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

In addition, in order to qualify for assessment under Class MA, all applications submitted under this class from 6th April 2021 must comply with Department for Communities and Local Government's Technical Housing Standards - Nationally Described Space Standards, minimum space standards. As the application was received after the 6th April 2021 there is a requirement to comply with these minimum space standards. It can be confirmed that the proposed units comply with these minimum space standards as illustrated in the accompanying plans.

Criteria MA.1.-(1)

(a) Vacancy qualification- “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;

Within the submitted planning statement it states that the building has been vacant since 15th April 2021. This has been confirmed with advertisement material for the building stating that it has been vacant since this date. Further material from ‘Completely Retail’ states that the building was to let on 13/09/2021. The Council does not have any information to contradict the assertion that the building was vacant.

(b) Previous use qualification - “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;”

It can be confirmed that the building for which this application relates fell within one or more of the classes specified in subparagraph (2), in this case (ii) Class A1 (retail) and D1 (healthcare centre), for a continuous period of at least 2 years prior to the date of the application for prior approval.

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

The ground floor does not exceed 1,500 sqm

(d) Land designation criteria - “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 does not form part of a site of special scientific interest, listed building nor land within its curtilage, a Scheduled monument or land within its curtilage, safety hazard area, nor military explosive storage area.

(e) Landscape designation criteria - “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;”**

It can be confirmed the site is not within a landscape designation criteria.

(f) Agricultural tenancy criteria - “If the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;”

It can be confirmed the site is not occupied under an agricultural tenancy.

(g) Previous use criteria - “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.**

It can be confirmed that the site has not been subject to development of a description falling with Class of this part immediately before 1st August 2021, nor

would such development be prevented 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.

Conditions

MA.2.—(1) Confirms that development under Class MA is permitted subject to the condition that before beginning the development, 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.
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

and the provisions of paragraph W (prior approval) apply in relation to that application.

Assessment of MA.2.—(1)

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

The Council's Transport Team raise no objection to prior approval being given as the change of use is not considered to have a material increase or a material change in the character of traffic in the vicinity of the site (as required by paragraph W(5)(a) given the scale of the development, the location and extensive parking restrictions in the area.

(b) Contamination risks in relation to the building

No groundworks are required as part of the change of use. The Environmental Health team did also not raise any concerns over contaminated land. The proposal is deemed acceptable in this respect.

(c) Flooding risks in relation to the building

The site is not located within Flood Zones 2 or 3 and as such the proposals are acceptable in flood risk terms.

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

The surrounding area is a mixture of commercial and residential use. Some level of noise is expected within a town centre location. A noise assessment was submitted alongside the application confirming that the recommended standard for internal noise can be met, if the recommendations from the assessment are incorporated into the design. It is recommended that a condition be attached to consent to ensure that the glazing (and ventilation) recommendations of the noise assessment will be followed.

(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;

No external changes are proposed to the ground floor elevations, as these are not permitted by this class of the GPDO. As such, the focus turns to the proposed change of use itself (ie. the introduction of residential at ground floor level) within the Conservation Area.

The unit comprises of 4 large square windows at ground floor level facing Kings Road, along with two smaller oblong windows. As part of the conversion, these windows would serve habitable rooms and so would be considered to be heavily used by residents. However, the windows in question are opaque and therefore the new use would have limited visibility within the conservation area. As such, the impact on the character or sustainability of the conservation area would not be considered to be impacted to a substantial degree for this reason alone. It should be noted that had the windows been clear glazed, it is highly likely the application would not have been acceptable in terms of this matter.

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

Statutory Instrument 2020:632 introduces the requirement that consideration is given in respect to the provision of adequate natural light in all habitable rooms.

As a starting point, where the application relates to prior approval as to adequate natural light, the LPA must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses (paragraph W (2A)). This is not a matter for the LPA's discretion, as refusal is mandatory in such circumstances. The LPA's discretion under paragraph W(3) to refuse an application where the proposed development does not comply with any of the relevant conditions, limitations or restrictions applicable to the development permitted is removed in respect to the provision of adequate light in the case of Class MA, in view of the absolute requirement to refuse the application where adequate natural light is not provided in such a case.

The above assessment requires examination of the detailed floor plans and any relevant supporting evidence. A judgement must be reached based on the information submitted as to whether appropriate levels of light can be achieved for rooms used for sleeping or living. This excludes bathrooms, service rooms, corridor, laundry rooms and hallways.

The proposed floor plans submitted with this application show that each habitable room would be provided with at least one window. All windows would face Kings Road or Duke Street. However, all windows are obscurely glazed with a tinted film, as demonstrated in the photograph below. Officers are required to assess the site, and windows, how it is presented today:



Officers note that there are several ways light levels can be measured, as outlined in the BRE Site Layout Planning For Daylight and Sunlight (2011):

- **Vertical Sky Component (VSC)** - The VSC method calculates the amount of visible sky available to each window or to points on the façade of a building where windows have not yet been designed.

- **No-Sky Line Contour (NSC)** - The NSC method describes the distribution of daylight within rooms by calculating the area of the 'working plane' which can receive a direct view of the sky and hence 'sky light'.
- **Average Daylight Factor (ADF)** - The ADF method calculates the average illuminance within a room as proportion of the illuminance available to an unobstructed point outdoors under a sky of known luminance and luminance distribution.

Supporting ADF light calculations have been provided to calculate the average daylight factor. It describes all windows as being 'tinted' and the assessment was based on the windows being 'tinted'. All windows are to have a daylight factor % of between 2-5% which is described as 'predominantly daylight appearance, but supplementary artificial lighting is needed'. A score of above 5% is the highest which are rooms that 'appear strongly daylit'. Whilst ADF calculations have been provided, Officers are not convinced that the occupiers of the dwellings would receive an adequate level of natural light based on the information provided. Given all windows in all flats would be 'tinted', no light would be visible from the sky. The application has not been supported by any other types of light calculations such as VSC and NSC to demonstrate to Officers that the scheme would be acceptable. In this instance, robust justification would be required.

The applicant has drawn attention to the fact that ADF calculations alone were sufficient for the prior approval application that allowed the conversion of the upper floors to of the building to residential use. However, the windows on the upper floors were not obscurely glazed. As such, there is considered to be fundamental differences between the applications and hence the justification required to convince officers.

Whilst the proposed layout of the conversion is acceptable, the existing glazing is considered inadequate to allow future occupants to enjoy an adequate level of natural light it is considered that adequate levels of natural light and therefore the proposal fails to accord with condition (f).

(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 site is not within a core employment area or located 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.

(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.

The development does not result in the loss of services provided by a registered nursery, or health centre maintained under the relevant sections. Whilst the site had previously been in use as a healthcare facility, the site is currently vacant and therefore no service would be lost.

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

A Fire Statement would be required if the development involves the development of an existing 'relevant building'. This new criteria applies to a building which satisfies the height condition in paragraph (3) of the Procedure Order and contains— (a) two or more dwellings; or (b) educational accommodation. Paragraph (3) states the height condition is that— (a) the building is 18 metres or more in height; or (b) the building contains 7 or more storeys.

Whilst the development contains 4 new dwellings, the height of the building is less than 18m and fewer than 7 storeys.

Conclusion

The development subject of this prior notification fails to meet criteria Class MA.2.(2) (f) (provision of adequate natural light) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Recommendation:

Prior Approval is required and **REFUSED**

Informatives:

- 1) Drawings/ Documents considered
- 2) Option to withdraw