

DELEGATED APPLICATION REPORT

SITE ADDRESS: 12 Tilbury Close

APPLICATION NUMBER: 221058/EPA

PROPOSAL: Change of use of ground and first floors from Class E (Offices) to C3 (dwelling houses) to comprise 4 studio flats. Prior Notification under Class MA, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015

TARGET DATE: 13/09/2022 request of EOT by agent to 16/09/2022

Introduction

The application site relates to land to the rear of the parade of shops along 110-124 Henley Road, to the rear of awcycles, also known as Tilbury Close. The site is currently occupied by a two storey detached building, previously used as offices most recently as a stock brokerage and previously as an information technology consultancy and other information services. The site includes an area for parking.

The site is in close proximity to residential housing to the north, south (above the retail units at first floor level), east and west of the site, with a footpath to the rear of the property. The surrounding area is mainly residential adjacent to an area providing a mixture of retail, office, bicycle repairs and light industrial car repairs services.

The site is not Listed, nor in a Conservation Area. However, it is within an Air Quality Management area.

Photo of site



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 and first floors of the building to comprise 4 studio units.

Information Submitted

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

Drawings ref.

A4768/N/003 Accon Uk Environmental consultants, report for Savoy properties, 12 Tilbury Close, Caversham, Reading Noise assessment, dated 14/07/2022

Window glazing specifications seleglaze series 10

MVHR Advanced Acoustic Attenuation, Vectaire ventilation systems

2022-12TC-PA-6 Application statement sheet 6/7 Rev 1.0 and 2022-12TC-PA-7 sheet 7/7

CIL form

Prior approval planning statement Rev 1.0, July 2022, 12 Tilbury Close

Flood map for planning, Environment agency, Location grid reference 472398/175194, dated 11 Jul 2022 12:42

2022-12TC-PA-1 Rev 1.0 Location plan and Block plan

2022-12TC-PA-2 Rev 1.0 Existing floor plans

2022-12TC-PA-3 Rev 1.0 Proposed Floor plans and mechanical ventilation with heat recovery system

2022-12TC-PA-4 Rev 1.0 Existing and proposed elevations

2022-12TC-PA-5 Rev 1.0 Existing and proposed roof plan

Received 19th July 2022

Email from agent 13/09/2022 12:46 to confirm that no external changes are proposed.

Received 13th September 2022

Planning History

220313 Change of use of ground and first floors from Class E (Offices) to C3 (dwelling houses) to comprise 4 studio units. Prior Notification under Class MA, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 Withdrawn 23 May 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).

Case officer comment: Plans submitted illustrated all flats were over 37sqm requirement

Consultations

RBC Transport - No objection subject to informatives.

RBC Environmental Health - No objections subject to condition

CADRA- Objection, as Tilbury Road is an unmade road with a busy repair garage and MOT service where cars are regularly being manoeuvred. It also has large extraction fans for the

fish and chip shop on Henley Road. It is effectively a service yard and unsuitable for residential living or residential access.

Publicity

A site notice was displayed at the application site on 10/08/2022 for the requisite 21 day period.

No responses were received from the public consultation.

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. All of the above points raised by CADRA cannot be considered for applications submitted under the GPDO. The matters that can be considered are discussed in 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;*

The prior approval statement states that the unit has been vacant for more than 3 months and had a continuous period of use for more than 2 years as a commercial, business and service unit prior to the application. In the previous application 220313, the applicant submitted a letter from Field Management Service confirming their company occupied the building from 2003 to 2021 as office and the unit has been vacant since 13 August 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 Class E (g) for a continuous period of at least 2 years prior to the date of the application for prior approval. This has been confirmed under a previous planning application 220313 by a letter from the Marketing Agent, explains that this lease was rolled over on the same terms until 2021 and a letter from Field Management Services confirming that their company used the building from 2003 to 2021 as offices.

(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.

(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 site was in class B1 business use before 1st September 2020.

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, and

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

An application for prior approval for development under Class MA may not be made before 1 August 2021.

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 Corporate Transport Team had no objections to the site access.

In accordance with the Council's adopted Parking Standards and Design SPD, each 1 bedroom unit would require 1.5 parking spaces, 4 are proposed conforming to the required dimensions. Although provision does not meet with current standards given that a lower provision was accepted for the previous application 220313, proposed provision can be accepted in this instance.

In accordance with the Borough's Parking Standards and Design SPD, a minimum provision 0.5 cycle storage spaces should be provided per flat, under GPD we would not comment on this, however it is noted that cycle storage is provided on site for 1 bike per unit.

The applicant should ensure that the refuse storage provisions comply with the Council's Waste Management Guidance which is available to view online. Bins must not be stored on any part of the public footway.

There are no Transport objections to this application.

DC1 VEHICLE PARKING (AS SPECIFIED)

IF3 Highways

(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.

The noise assessment submitted shows that the recommended standard for internal noise can be met. 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, or that alternative but equally or more effective glazing and ventilation will be used. See recommended condition below.

N10 NOISE MITIGATION SCHEME (AS SPECIFIED)

The glazing, ventilation and any other mitigation specified shall be installed in accordance with the specifications recommended within the Noise Assessment submitted with the application Accon UK, 14th July 2022, Report reference: A4768/N/003.

REASON: In order to protect the amenity of future occupants of the proposed development in accordance with Policy CC8 of the Reading Borough Local Plan 2019. No external changes are proposed to the elevations, as these are not permitted by this class of the GPDO.

It is stated that works to change the windows and fit the ventilation system would be covered under Part F permitted development which does not form part of this application. An additional planning application would be required for any external changes before a prior approval could be granted or conditioned. Part F ceased in 2021. Part 7 of Schedule 2, F245, Sch. 2 Pt. 7 Class F was omitted on 1.8.2021 by virtue of [The Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) \(No. 2\) Order 2021 \(S.I. 2021/814\)](#), arts. 1(1), 6(5) (with [Sch.](#) (5) Omit Class F (extensions etc of office buildings)). The proposed works cannot be completed under Part F as stated by the applicant. There is not the ability to obtain prior approval for operational development. The appeal case provided as an example was from Class O permitted development which was replaced with class MA permitted development and cannot be considered comparable.

However the agent has confirmed that there would be no external changes or external work proposed that would result in any change of outlook to the host building. As such it is acceptable to include the noise condition to address any impacts 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;

The building is not situated in a conservation area

(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 studio room would be provided with at least one window. The internal layout has been configured to ensure every habitable room has sufficient levels of daylight.

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.

No daylight or sunlight calculations have been provided.

Windows are provided for every unit, although levels of light will be reduced by the garage door in Unit 1, there are large windows to the front and high level side windows around the unit and in the proposed bedroom area in flat 2.

The proposed layout of the conversion is acceptable, and the existing glazing is considered adequate to allow future occupants to enjoy an adequate level 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

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.

(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 storey and would not require a fire statement.

CIL

The Council introduced the Community Infrastructure Levy (CIL) on 1st April 2015. CIL is a way of securing financial contributions towards infrastructure from new development, and partially replaces the Section 106 planning obligation regime. It is a set charge per sq m of floorspace for different uses, and, unlike Section 106, it is non-negotiable. It applies to developments which result in at least one dwelling; where the space has not been in lawful use for 6 months within the last 3 years or 100 sq m of new floorspace. If chargeable you will be sent a CIL Liability Notice with the calculated amount soon. CIL becomes payable on commencement of the development or by instalments.

For more information go to:

http://www.reading.gov.uk/media/2791/Community-Infrastructure-Levy-Advice-to-Applicants/pdf/CIL_Advice_to_Applicants.pdf

Conclusion

The development subject of this prior notification is considered to meet the relevant criteria of Class MA of the GPDO. In considering the relevant conditions pursuant to the Prior Approval of this application, the proposal will not give rise to any transport impacts, contamination risks, flooding risk, nor would it experience adverse noise impacts from adjacent business premises based on the noise assessment submitted, subject to a noise condition. It is considered that adequate natural light would be provided in the habitable rooms. The development will not introduce a residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, and finally does not result in the loss of a designated service or fails the fire risk condition. Accordingly it is considered that prior approval of the Local Authority is required and given thereby permitting the development by virtue of Class MA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Recommendation:

Prior Approval is required and **GIVEN**

Conditions:

- 1) Time limit
- 2) Plans
- 3) Noise mitigation
- 4) Vehicle parking

Informatives:

- 1) Class MA criteria is met
- 2) No external works permitted
- 3) Highways