

DELEGATED APPLICATION REPORT

SITE ADDRESS: 3 New Lane Hill
APPLICATION NUMBER: 211401
PROPOSAL: Change of use of Ground Floor from Class E (Commercial, Business and Service) to C3 (dwelling houses) to comprise 2 no. 1-bed flats. Prior Notification under Class MA, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
EXTENDED TARGET DATE: 15/11/21

Introduction

3 New Lane Hill is a late 19th century terraced property, located within Horncastle Conservation Area. The property has been much altered and benefits from a part one, part two storey rear projection and a converted roof space. A retail shop occupies the ground floor, vacant at the time of the application. A one bed flat, accessed via an external staircase and across the roof of the rear projection, occupies the first and second floors. The building is in a generally poor state of repair, with an untidy appearance.

It is located within the Horncastle Conservation Area. The Horncastle Conservation Area Appraisal notes that 1-9 (odds) New Lane Hill are noted in the Appraisal for their patterned brickwork, though acknowledges that many of the properties have been much altered, with informal front boundary treatments.

Proposal

Prior approval is sought under Class MA Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the change of use Change of use of Ground Floor from Class E (Commercial, Business and Service) to C3 (dwelling houses) to comprise 2 no. 1-bed flats of the ground floor of an existing vacant Class E(i) building.

Information Submitted

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

Drawings ref.

8967-21 Application statement The Keen Partnership, dated 11-08-21
21A015 Rev 00 Heritage statement Artichoke-design
As received 24 August 2021

8967 PL-01 Location plan
8967 PL-03 Rev B Existing and proposed block plans

8967 PL-05 Rev A Existing plans
8967 PL-06 Rev A Existing elevations
8967 PL-08 Rev B Proposed elevations - needs amending
As received 4 November 2021

8967 PL-04 Rev A Proposed site plans
8967 PL-07 Rev C Proposed plans
As received 10 November 2021

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 Actthe 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

210143/FUL Change of use of ground floor from shop to 2x1 bed flats. Various external alterations including provision of windows and roof lights. Refused 30 April 2021

201308/RPA - Change of use of ground floor from shop to 2x1 bed flats - Prior Approval Refused 01/12/20 *Officer note: the development is not permitted by Class M as the development is on article 2(3) land*

201678/RPA - Change of use of ground floor from shop to 2x1 bed flats - Withdrawn 14/12/20

Consultations

RBC Transport - No objection

RBC Environmental Health - No response was received by the date of recommendation and was assessed by the case officer.

Publicity

A site notice was displayed at the application site for the requisite period. The site notice was displayed between 29th September - 20th October 2021.

Appraisal

The proposal comprises the change of use of the ground floor 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 building has been vacant for at least 3 months immediately prior to the date of the application for prior approval.

(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;”*

The building fell into subsection part (2) (a) (1) Class A1 (shops) for 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;”*

It can be confirmed that the floor area does not exceed 150m².

(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;”*

The site does not fall under part (i), (ii), (iii) or (iv) of the 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 within Class O 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 had no objections to the proposal subject to highways and parking permit informatives, 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.

Submitted site plan illustrates 1 existing parking space; however there is insufficient depth to accommodate a vehicle within the red line plan. Google images also show the available space is further reduced by the steps outside the existing A1 unit.

Double yellow lines run along the frontage of the site preventing on street parking. Lane Hill is included in the Councils Residential Permit Parking scheme. Pre pay and display parking bays are located outside the property whereby permit holders can park in the bay at any time and non-permit holders can park for up to 2 hours between 8am-6.30pm at all other times it reverts to permit holders only, therefore unauthorised on street parking can be controlled and monitored via the administration of the scheme and enforcement process.

Under the Borough's current parking standards, this proposal would generate additional pressure for parking in the area; therefore, the applicant should be advised that if the application is approved, the appropriate parking informative should be applied to prevent any future occupants of the development from obtaining resident or visitor parking permits for the surrounding residential streets where parking is under considerable pressure. This will ensure that the development does not harm the existing amenities of the neighbouring residential properties by adding to the already high level of on street car parking in the area. Given the restrictions in place a car free development can be considered.

In accordance with the Borough's Parking Standards and Design SPD, a minimum provision 0.5 cycle storage spaces should be provided per flat; however under GPDO we would not comment on this.

The applicant should ensure that the refuse storage provisions comply with the Council's Waste Management Guidance which is available to view online.

(b) Contamination risks in relation to the building

No groundworks are required as part of the change of use. The proposal is deemed acceptable in this respect, however due to its location adjacent to the A4 a noise condition is recommended.

(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

Other than the adjacent ground floor premises Squires designs, the surrounding buildings are predominantly residential in use. The immediate surrounding site is residential rather than commercial. The adjacent printing and signwriting facility is not considered to generate substantial commercial noise.

A condition for a noise assessment to be submitted is also not considered applicable as Part W of the GPDO 2015, as amended, states that, as a result of the prior notification process, the LPA must (part 13) *"grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval."* Given the impact from commercial noise is a matter for prior approval, and needs to be assessed in order for prior approval to be given, it is not considered suitable to include a condition to help identify if the scheme is acceptable in relation to noise; this assessment needs to be made during the application process and the LPA's conclusion on this particular matter has been outlined above.

As such, it is not considered necessary to require further information on commercial noise.

(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 front elevation onto New Lane Hill except for the removal of existing shop signage. As such it is considered that there would be no harmful impact as a result of the change of use on the character or sustainability of the Horncastle conservation area given residential uses are found in the vicinity.

(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 providing natural light to the occupants. It is considered that the kitchen space of studio 1 would not be habitable due to it providing basic cooking functions only (rather than a dining space). Therefore, no window is provided to this kitchen. However, the main living space of this flat would be served by a glazed frontage.

Based on the proposed layout, it is considered that adequate levels of natural light are achieved for the future occupants, and therefore the proposal accords 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.

(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 2 new dwellings, the height of the building is less than 18m and fewer than 7 storeys.

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. It would not harm the character or sustainability of the conservation area or be unable to provide adequate natural light in all 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 does not result in the loss of a designated service. Finally, the proposal does not meet the fire risk condition due to being below the threshold height/ number of storeys. 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.

1. Time limit
2. Approved plans