

1. INTRODUCTION

- 1.1. This is an application for the conversion of the existing building, currently used as Class E units to 70 units of C3 residential pursuant to Class MA of Part 3 of Schedule 2 of the GPDO 2015 (as amended).
- 1.2. The application is submitted via the planning portal, and is formed of:
- Scheme drawings, prepared by Architects at Studio
 - Planning Statement, prepared by KR Planning
 - Flood Risk Assessment, prepared by Nimbus
 - BRE Assessment, prepared by T16

2. SITE AND SURROUNDS

- 2.1. Pinnacle is a six-storey office building prominently located in Reading town centre at the junction of Tudor Road and Caversham Road, less than 150m from Reading Station. Town centre amenities are a short walk from the building, including The Oracle shopping centre. Reading benefits from superb communications with excellent transport links. The mainline station provides a fast and frequent service to London Paddington every 5 minutes at peak times and Junctions 10, 11 and 12 of the M4 are within a few minutes drive.
- 2.2. The site currently has a lawful use within Class E, having previously fallen within Use Class B1 (Office) prior to the introduction of the new Use Classes in September 2020. The site lies outside of a Conservation Area, and is not a Listed Building. The site lies partially within FZ2.

3. THE PROPOSAL

- 3.1. The scheme seeks the conversion of the Class E unit to 70 residential units pursuant to Class MA of Part 3 of Schedule 2 of the GPDO 2015 (as amended).
- 3.2. A total of 35 parking spaces will be made available, within the existing surface level parking area, alongside 70 cycle parking spaces located within the undercroft. Each

unit will be greater than the 37 sqm now allowed under the amended GPDO, and includes internal storage space.

4. LEGISLATION & POLICY

- 4.1. Section 55 of the Town and Country Planning Act 1990 (“the 1990 Act”) defines “development” for the purposes of the Act to cover both operational development (i.e. building work) and material change of use
- 4.2. Section 57 provides that planning permission is normally required for any development of land. Under Section 58, planning permission may be granted on application to a local planning authority or by way of a Development Order under the 1990 Act. The Order is made under sections 59, 60, 61 and 333(7) of the 1990 Act. These provisions give the Secretary of State power to grant planning permission for categories of development specified in a development order.
- 4.3. The General Permitted Development Order is made under these powers and grants planning permission for many different types of development, subject to certain limitations and conditions. Development granted planning permission under the General Permitted Development Order is known as “permitted development”, and the effect is that no application needs to be made to the local planning authority to obtain planning permission, although in some cases the permitted development right will require the local planning authority to approve certain matters (a process generally referred to as “prior approval”).
- 4.4. Class MA of Part 3 of Schedule 2 to the General Permitted Development Order provides that Class E premises used to provide commercial, business or service, may change to residential use (C3) subject to prior approval being granted.
- 4.5. The success of the Prior Approval regime in delivering housing was recorded in the explanatory memorandum which accompanied the amendments to the GPDO in 2020. In announcing the insertion of Class MA into the GPDO, DCLG wrote:

National permitted development rights, particularly for the change of use from office to residential, make a significant contribution towards housing delivery, with the existing Class O (office to residential) right alone having delivered over 72,000 homes in the five years ending March 2020.

- 4.6. In light of feedback on these provisions since they were enacted in 2013, the prior approval procedures in paragraph W of Part 3 of Schedule 2 to the General Permitted Development Order are amended to clarify that local planning authorities:
- must only consider the National Planning Policy Framework to the extent that it is relevant to the matter on which prior approval is sought;
 - may attach conditions to grants of prior approval, as long as those conditions are relevant to the matter on which prior approval is sought;
 - may refuse the application if they are not satisfied that the proposed development qualifies as permitted development, or if they have insufficient information to establish whether the proposed development qualifies as permitted development; and
 - may invite further information from applicants relevant to the matters on which prior approval is sought or to the question of whether the proposed development qualifies as permitted development.
- 4.7. The prior approval of the local planning authority will be required on various matters to ensure that the change of use and any associated works do not create unacceptable impacts. The local planning authority may only consider transport and highways impacts, contamination risks, natural light, flooding risks, the noise from commercial neighbours, and undesirable impacts on designated Heritage Assets
- 4.8. Paragraph W(9) provides that:
- “The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—*
- (a) assessments of impacts or risks;*
 - (b) statements setting out how impacts or risks are to be mitigated; or*
 - (c) details of proposed building or other operations”*

- 4.9. Paragraph W(13) provides that:

“The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval”.

- 4.10. The Courts have confirmed that any condition on a Prior Approval is made pursuant to S72 of the TCPA 1990, and therefore regard must be had to the six tests when considering imposing a condition.

- 4.11. In general terms, the statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion on what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system. The High Court has also confirmed that the Development Plan is irrelevant to these determinations¹, writing:

There is no statutory obligation to decide the application on the basis of the approach in s38(6) of the 2004 Act. S70 of the 1990 Act does not apply to an application for prior approval, and there is no other provision to like effect for applications for prior approval. So there is no means whereby s38(6) can supply the hook for the application of its decision-making duty. It only applies “If regard is to be had to the development plan...”. There is no such statutory requirement in relation to prior approvals.

5.

- 5.1. Instead, and as per the explicit advice of Part 3, the determining authority is required: *have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019, so far as relevant to the subject matter of the prior approval, as if the application were a planning application;*

6. CONSIDERATION OF MA.2 CRITERION

- 1.1. _____

¹ *Patel, R (on the application of) v Secretary of State for Communities and Local Government & Ors* [2016] EWHC 3354

- 6.1. Paragraph MA.2 provides that Class MA development 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 and highways impacts of the development,
 - (b) contamination risks on the site,
 - (c) flooding risks on the site, and
 - (d) impacts of noise from commercial premises on the intended occupiers of the development
 - (e) impact of that change of use on the character 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 a nurse or health centre, 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
- and the provisions of paragraph W (prior approval) apply in relation to that application”.

Highways and Transport Impacts

- 6.2. TRICS data strongly indicates that the vehicular movements from residential are less than if occupied as Class E space, and so the change of use will reduce the number of car journeys to and from the site. No change is proposed to the existing access and associated road geometry, so any adverse impacts on highways will be negligible.
- 6.3. The parking standards require 0.5 space for each one or two bedroom flat as this is town centre location, totalling 35 car parking spaces. The proposal meets these requirements, providing parking at ground floor level. A total of 70 cycle parking stands are also provided.

- 6.4. The sustainable site location within the town centre reflecting the excellent access to the public transport, pedestrian and cycle infrastructure therefore meets the first and second test of the NPPF. This head is deemed to be met

(b) Contamination risk in relation to the building

- 6.5. As the building was constructed after the assent of the Environmental Protection Act 1990 and its requirements to remediate a site, and has always been in lawful use for office purposes the risk of historic contamination is considered to be extremely low. This head of approval is deemed to be met.

(c) flooding risks in relation to the building;

- 6.6. The site is partially located within Flood Zone 2, and as such, the application is accompanied by a site specific Flood Risk Assessment. Noting that the proposal seeks residential accommodation above the flood levels, this assessment concludes that there is

The purpose of this report is to satisfy the local planning authority that the risk of flooding from all sources has been assessed, and the proposed floors for this 'change of use' from office to residential are not a risk of flooding, and these proposals will not increase flood risk at the site or elsewhere.

Key routes surrounding the site are at a risk of flooding, however a discussion of access and egress and appropriate measures have been provided in this report.

- 6.7. Given this conclusion, this head is deemed to be met.

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

- 6.8. Class MA applications only take into consideration commercial and industrial noise sources affecting potential new receivers, with all other noise sources, such as traffic or rail, excluded from consideration in considering the application. The new dwellings are not proposed to have any external amenity areas and hence internal noise levels are how future residents would experience the noise.

- 6.9. The building lies in an area where any nearby commercial uses are not high generators of noise nuisance, with noise coming primarily from the road and adjacent rail line. Given this, the proposed scheme is not expected to experience a significant adverse noise impact and the site is considered acceptable for the proposed residential use under the requirements of class MA of the GPDO. Any residual concerns could be addressed by way of condition.

(e) where - (i) the building is located in a conservation area, and (ii) the development involves changes 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;

- 6.10. The site is not located within a Conservation Area

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

- 6.11. All habitable rooms have access to natural light through the provision of windows, and the application is accompanied by a BRE Assessment which demonstrates full compliance with this nationally recognised standard.

(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;"

- 6.12. The site is located within a town centre location, designed as 'Urban Area'. As such, it is not an area considered important for industrial, waste, or storage and distribution uses and there are no such uses within close proximity of the building.

(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,

- 6.13. The proposal does not result in the loss of any such services - the lawful use, as described above, is Class E (formerly BI office).

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

- 6.14. MA.3. clarifies that development meets the fire risk condition if the development relates to a building which will-(a) contain two or more dwellinghouses; and (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. In this instance, the host building does trigger the height condition, and to that end, the application is accompanied by a Fire Statement.

7. Conclusion

- 7.1. The proposal fully complies with the conditions and limitations set out in Class MA, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This statement, the scheme drawings and the incorporated documents, establish the compliance of the scheme with known material considerations.
- 7.2. In summary, the Development Proposal
- Seek conversion of the existing building from E to C3 Permanent Residential.
 - Comply with the Criteria provided at both Class MA and paragraph W
- 7.3. This proposal is therefore permitted development under Class MA of The Town and Country Planning Act (General Permitted Development) (England) Order 2015 and the Client trust that the Borough will agree.