



Royal Borough of Kingston upon Thames
Planning Department
Guildhall 2
High Street
Kingston upon Thames
KT1 1EU

Via Email
No ref

26 August 2021

Dear Sir / Madam,

Prior Approval – Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) at 53-59 High Street New Malden

On behalf of our client, Rocco Homes, please find enclosed a prior approval application under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended in 2021) for the following:

‘Prior approval for the change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) at first and second floors’

SCHEME SUMMARY

The proposal involves the prior approval application for the change of use of part of the existing first floor and the whole of the second floor from Commercial, Business and Service (Class E) to Dwellinghouses (Use Class C3). The ground floor and part of the first floor will remain in commercial use. The proposal will provide a total of 18 flats, comprising eight 1 bed and 10 2 bed flats.

This prior approval should be read alongside the full planning application for external alterations at ground, first and second floor including new fenestration, doors, balconies and upgrades to the façade. These works are required so the dwellings can become fully functioning.

There are also two applications running concurrently for a planning application for the removal of the third floor, and an upward extension by two storeys under prior approval.



SITE CONTEXT

The Tudor Williams site is a rectangular plot of land located on the corner of the High Street and Cambridge Road. There is a servicing street at the rear named Sussex Place. It has site area of approximately 989m².

The site is less than 200m from New Malden Train Station and is well connected by bus and walking/cycling routes. It has a PTAL Rating of 4 (Good).

It is located within the New Malden District Centre and a Shopping Frontage.

The site is not protected in that it is neither listed (statutorily or locally) nor located within a Conservation Area.

The site does not fall within or adjacent to any conservation areas. There are no statutory listed buildings affecting the site and none in the immediate context except for the Grade II War Memorial that lies to the north east of the site. The terrace of properties on the opposite side of the High Street are locally listed. This includes 40-64 High Street (evens).

The Groves Conservation Area is to the north of the site and the Presburg Conservation Area falls to the south and they both fall within 750m of the site.

The former Tudor Williams provided approx. 1,970sqm of retail floorspace. It previously traded over ground, first and second floor with management offices on the third floor.

The existing building is part three, part four storeys, comprising of mostly brick with an amalgamation of previous structures. There have been minor alterations and extensions with the property being substantially rebuilt in the 1960s.

Class MA Compliance

Permitted development changes which came into effect on 01 August 2021 included the right to change the use of a building from a use falling within Commercial, Business and Service (Class E) to residential (Class C3) without the need to apply for planning permission.

As set out MA.1 (1), there are certain criteria which need to be complied with before prior approval is considered and the compliance is set out below:

MA.1 (1) (a) the building has been vacant for a continuous period of 3 months, so this criterion has been complied with as the building has been vacant since June 2019.

(b) the building was formerly in use as a department store (Use Class A1) now Use Class E for at least a period of 2 years so this criterion has been complied with.

(c) the cumulative floor space of the existing building changing use under Class MA would not exceed 1,500 square metres (sqm). It is our understanding that converting only part of a

building is permitted, so the building itself may be bigger than 1,500 sqm. The Explanatory Memorandum says at paragraph 7.7:

“No more than 1,500 sq m of floorspace in any building may change use. Part of the building may change use under the right, including where the lower floors are in Commercial, Business and Service use and the upper floors residential”.

The change of use from Class E to Class C3 will comprise of 1,495 sqm and includes part of the first floor and second floor. This includes communal residential areas such as bike and bin stores and corridors.

(d) and (e), the building does not fall within any of these protected areas.

(f) the site is not occupied under an agricultural tenancy.

(g) the development does not fall within Class O.

(2) the lawful use of the building is Class E (commercial, business and service).

It is therefore considered that the 1,500 sqm of floorspace can convert to Class C3 under Class MA bearing in mind the above tests being met.

Class MA Compliance

As set out in paragraph MA.2 (1) development under Class MA is permitted subject to the following conditions:

(2) Before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the local 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 the 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 the intended occupiers of the development on 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;

- (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.

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

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if in the introductory words in sub-paragraph (5), for 'and highways impacts of the development' there were substituted 'impacts of the development, particularly to ensure safe site access'

(5) Development must be completed within a period of 3 years starting with the prior approval date.

(6) 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 purpose is ancillary to the use as a dwellinghouse.

Interpretation of MA.3

Development meets the fire risk condition referred to in paragraph MA.2(2)(i) 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

Class MA Conditions Compliance

With regards to criterion a) regarding transport impacts of the development, particularly to ensure safe site access, a Transport Statement has been prepared to support the application.

As the Transport Statement notes, the site is located within a highly sustainable town centre location, with good access to public transport, so it is considered that a car free development should be supported. The proposed development is well connected for future residents to 'take up' opportunities for sustainable travel in the context of its location.

The site will provide safe and appropriate access to the site for all people. A new residents lobby will be created on the High Street frontage, providing direct access to the stair and lift access. The site does not benefit from direct vehicle access nor is any proposed.



A secondary residential access point, bin storage and cycle parking are accessible from Sussex Place to the rear of the site. A dedicated access to storage space for the commercial unit is also proposed directly from Sussex Place. Access to the ground floor commercial unit will continue to be from the High Street.

The proposed development will result in a negligible increase in vehicle trips and demand for public transport services. The traffic and transport impact will be negligible in terms of safety, capacity and congestion.

Cycle parking will be made at the rear and the cycle storage appropriate for the storage of 52 cycles is proposed which provides capacity for the both the conversion and upward extension prior approval application. This is in line with London Plan Standards.

Therefore, in line with Class MA, condition MA.2 (a) transport impacts of the development, particularly to ensure safe site access have been assessed and are considered acceptable.

Taking into account criterion b) and the contaminated risks associated with the site, a Phase II Environmental Assessment has been carried out at the site. Based on the test results, there are no contamination risks associated with residential development coming forward at the site and remediation of the soil is not expected to be required.

With regards to criterion c) and the flood risk associated with the development, a Flood Risk Assessment has been prepared which considers the risk to the site from key sources of flooding. It concludes that the site is considered to be at low risk of flooding from all sources assessed and there will be no increased in flood risk as a result of the development proposed. Therefore, the change of use proposal will not lead to flood risks on site, no mitigation is required, and the proposal will meet criterion c)

With regards to criterion d) the assessment of impact of noise from commercial properties a Noise Impact Assessment has been prepared. The results indicate that the airborne sound insulation of the tested party floor between commercial and future proposed residential dwellings, without mitigation would comply with the noise regulations. In relation to existing commercial premises surrounding the site, a site visit has demonstrated that there are no commercial units that are likely to generate adverse noise that could impact upon the residential dwellings. It is therefore demonstrated that future and existing commercial premises have a low risk of adverse noise impact on the proposed residential dwellings of this scheme and consequently meet the acoustic requirements of condition MA.2 (d) of Class MA.

With regards to criterion e) the property is not within a conservation area, so the criterion is not applicable.

With regards to criterion f) and the provision of adequate natural light in all habitable rooms of the dwellinghouse, a daylight, sunlight and overshadowing report has been prepared. The results confirm that all 42 rooms tested will achieve the recommended ADF targets for their relevant room uses. This confirms that criterion f) has been complied with and all habitable rooms will have



adequate natural light. It is important to note that various fenestration changes are proposed to the existing building and these are submitted under a separate application for external alterations.

With regards to criterion g) this is not applicable as the area is not identified as important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

In regard to criterion h) the development does not involve the loss of service of a nursery or health centre.

And finally, in regard to criterion i) a fire risk assessment has been prepared. This demonstrates that based on the proposed design, the fire safety impacts on the intended occupiers of the building will be appropriately mitigated. The general fire safety strategy will be in line with standard guidance and will not incorporate any fire engineering or alternative design solutions. An appropriate level of fire safety will be provided. The proposal therefore complies with condition MA.2 (i) of Class MA.

In summary, the change of use of the existing Class E commercial space is supported under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended in 2021). The proposal raises no material impacts in relation to the conditions regarding transport and highways, flooding, contamination, loss of light, noise and fire risk.

Application Submission

In addition to this covering letter, the submission comprises the following documents and drawings:

- Planning application form, signed and dated, prepared by WSP;
- Community Infrastructure Levy Information form, signed and dated, prepared by WSP;
- Site Location Plan NMH-ASA-XX-XX-DR-A-0100-P2, prepared by Assael Architecture;
- Full set of application drawings including the following:
 - NMH-ASA-XX-XX-DR-A-0101-P1 Existing Site Plan
 - NMH-ASA-XX-XX-DR-A-0240-P2 Proposed Site Plan
 - NMH-ASA-XX-00-DR-A-0200-P1 Existing Ground Floor Plan
 - NMH-ASA-XX-00-DR-A-0250-P6 Proposed Ground Floor Plan
 - NMH-ASA-XX-01-DR-A-0201-P1 Existing First Floor Plan
 - NMH-ASA-XX-01-DR-A-0251-P6 Proposed First Floor Plan
 - NMH-ASA-XX-02-DR-A-0202-P1 Existing Second Floor Plan
 - NMH-ASA-XX-02-DR-A-0252-P5 Proposed Second Floor
 - NMH-ASA-XX-03-DR-A-0203-P1 Existing Third Floor Plan
 - NMH-ASA-XX-03-DR-A-0253-P5 Proposed Third Floor Plan
 - NMH-ASA-XX-04-DR-A-0204-P1 Existing Roof Plan
 - NMH-ASA-XX-04-DR-A-0254-P5 Proposed Roof Plan
 - NMH-ASA-XX-XX-DR-A-0300-P3 Existing Section A
 - NMH-ASA-XX-XX-DR-A-0301-P3 Existing Section B
 - NMH-ASA-XX-XX-DR-A-0302-P3 Existing Section C
 - NMH-ASA-XX-XX-DR-A-0303-P3 Existing Section D
 - NMH-ASA-XX-XX-DR-A-0350-P2 Proposed Cross Section
 - NMH-ASA-XX-XX-DR-A-0400-P1 Existing North Elevation
 - NMH-ASA-XX-XX-DR-A-0401-P1 Existing East Elevation
 - NMH-ASA-XX-XX-DR-A-0402-P1 Existing South Elevation
 - NMH-ASA-XX-XX-DR-A-0403-P1 Existing West Elevation
 - NMH-ASA-XX-XX-DR-A-0450-P1 Proposed NE
 - NMH-ASA-XX-XX-DR-A-0451-P1 Proposed EE



- NMH-ASA-XX-XX-DR-A-0452-P1 Proposed SE
- Design and Access Statement prepared by Assael Architecture;
- Transport Statement prepared by I Transport;
- Fire Risk Assessment prepared by Tri Fire;
- Noise Impact Assessment prepared by Robin MacKenzie;
- Phase II Environmental Assessment prepared by AP Geotechnics;
- Daylight, sunlight and overshadowing assessment prepared by Point 2; and
- Flood Risk Assessment prepared by RPS.

The documents and drawings have been submitted directly to Royal Borough of Kingston Upon Thames and the planning application fee of £100 x 18 = £1,800 has been paid directly to the Royal Borough of Kingston upon Thames via their online system.

CONCLUSIONS

We look forward to receiving confirmation that the application has been successfully validated and trust that the information provided will allow the application to be assessed in a timely manner.

Should you require any further information or wish to discuss any aspect of the application, please do not hesitate to contact me or my colleague Philip Villars.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Grace Mollart'.

Grace Mollart