

Our ref. AB2193/LPA100122

Development Control
Epsom & Ewell Borough Council
Town Hall
The Parade
Epsom
Surrey
KT18 5BY

By email only to : businessadminhub@epsom-ewell.gov.uk

10th January 2022

Dear Sir/Madam,

PRIOR APPROVAL APPLICATION UNDER CLASS MA OF PART 3 OF SCHEDULE 2 OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015 (AS AMENDED)
17 HIGH STREET, EPSOM, SURREY, KT19 8DD

On behalf of our client, Iceking Group, please find enclosed a prior approval application under Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, relating to the existing floorspace at second floor level and within the roof space of the building at 17 High Street, Epsom, Surrey, KT19 8DD.

This prior approval application, which is being submitted to Epsom & Ewell Borough Council (the LPA), by email (as the Planning Portal website does not yet facilitate the submission of Class MA prior approval applications) comprises the following documentation;

Completed Class MA prior approval application form.

Completed Community Infrastructure Levy (CIL) form.

This supporting statement prepared by Beamish Planning Consultancy.

1:1250 scale OS plan of application site and surroundings.

Drawing no. 20 Revision B – existing and proposed floor plans and elevations prepared by AW Architectural Design.

We would be grateful if the LPA would contact us upon receipt of this application so that we can make payment of the statutory Class MA prior approval application fee of £100 (for the one residential unit created by the proposed conversion).

Description of floorspace which is the subject of this application and its wider surroundings

The specific floorspace which is the subject of this application comprises 84 square metres of floorspace located within both the second floor and the roof space (above second floor level) of a terraced three-storey mixed use building, with the floorspace within the roof space served by a dormer window within the front facing roof slope of the building.

The specific floorspace which is the subject of this application is currently vacant, and has been vacant for some time, but prior to its vacancy it (as well as the first floor floorspace) was used for purposes ancillary to the retail shop at ground floor level.

Since that time, the floorspace at both ground and first floor level has been converted (following the granting of planning permission on appeal) for the change of use of that floorspace to a mixed restaurant and hot food takeaway use (a sui generis use).

Access into the second floor is facilitated by way of an existing door within the rear elevation of the building (at second floor level) which is served by an existing external staircase affixed to the rear elevation of the application building, whilst the roof space is accessed by way of an internal staircase between that space and the second floor.

Both the building within which the application floorspace is located and its wider surroundings fall within designated primary shopping frontage within the town centre of Epsom, as well as falling within the Epsom Town Centre Conservation Area.

Given the location of the building within the town centre, the surrounding area is characterised by ground floor commercial uses with either ancillary or standalone commercial floorspace or residential units, above. At ground floor level, immediately to the east of the application building is a passageway which leads into a yard area serving the rear of properties to the east of the building, as well as the application building itself.

The application building fronts the A24 road (the High Street) and fronts onto a bus stop, as well as being within approximately 5 minutes walk of Epsom railway station (served by frequent train services to London, Guildford, Dorking and Horsham) and therefore the building benefits from good access to public transport.

Relevant planning history relating to the application building

In June 2019 a planning application (ref. 19/00445/FUL) proposing the residential conversion of the second floor and roof space within the application building to create a three bedroom flat was refused by the LPA solely for the following reason ;

“The proposed three-bedroom flat would provide inadequate private amenity space to provide for the needs of families with young children contrary to Policy DM12 of the Development Management Policies Document 2015.”

A subsequent appeal (Planning Inspectorate ref. APP.P3610/W/19/3232157) against that refusal was dismissed in October 2019, on the basis that the proposed conversion would not provide adequate living conditions in terms of the absence of private amenity space.

In March 2019, the Planning Inspectorate allowed a planning appeal (appeal ref. APP/P3610/W/18/3205266) and granted planning permission (following the LPA’s refusal, in June 2018, of planning application ref. 18/00086/FUL), which proposed the following development;

‘Change of use of ground floor and first floor from retail (Use Class A1) use to a mixed restaurant and hot food take-away use (mixed A3/A5 use), incorporating a replacement shopfront, plant, new rear external staircase at first floor level.’

Associated with the above planning application, in June 2018 the LPA granted express advertisement consent (application ref. 18/00087/ADV) for externally illuminated fascia signage and a projecting sign to the ground floor frontage of the property.

Both that planning permission and the associated express advertisement consent have now been implemented, with the mixed restaurant and hot food takeaway use actively trading.

Proposals which are the subject of this prior approval application

This prior approval application is being submitted under Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which came into force on 1st August 2021.

The proposals which are the subject of this prior approval application involve the conversion of the existing floorspace (totalling approximately 84 square metres) at second floor and roof level, all of which is currently vacant but was most recently in use for purposes ancillary to the previous ground floor retail use, to create a three-bedroom, four-person self-contained residential unit.

The residential unit to be created by this proposed conversion would fully comply with the Nationally Described Space Standards and would be accessed by way of the existing door within the rear elevation of the building at second floor level, and the associated external staircase affixed to the rear elevation of the building.

No operational development is proposed by way of this prior approval application, reflecting how there is no provision under Class MA for any operational development to form part of such an application.

Prior approval assessment

As this application comprises a prior approval application under Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the proposed conversion of 85 square metres of existing floorspace from its most recent/lawful retail (Class E9a) use to create a three-bedroom, four-person residential unit can only be assessed against the criteria set out within Class MA of the GPDO.

This appraisal now proceeds to assess the proposal by way of appraising the proposals against each of the Class MA criteria.

MA. 1. – (1) Development is not permitted by Class MA-

(a) unless the building had been vacant for a continuous period of at least 3 months prior to the date of the application for prior approval

The specific floorspace which is the subject of this prior approval application has been continuously vacant for several years prior to the submission of this application, including continuously for the 3 month period immediately prior to this application being submitted.

(b) unless the use of the building fell within one of more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval

Sub-paragraph (2) relates to any use falling within Class E, which includes Class E(a), i.e. the display or retail sales of goods. The while of the application building, including the specific floorspace which is the subject of this prior approval application, was continuously used for many years for the display and retail sale of goods, reflected by historic Google Streetview imagery which shows that (from chronological imagery dating from July 2008 through to September 2016) the building was occupied by 'Millets'.

That evidence is also corroborated by planning application ref. 18/00086/FUL, which described the lawful use of the premises at the time of that application submission as being for what was when Class A1 (retail) use, i.e. what is now Class E(a) use.

Consequently there can be no doubt that the specific floorspace which is the subject of this application was used for Class E(a) purposes for a continuous period of at least 2 years prior to the date of this application for prior approval.

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

This prior approval application proposes the conversion of 85 square metres of existing floorspace to create a three-bedroom residential unit.

(d) if land covered by, or within the curtilage of, the building-

- (i) is of 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 building within which the application floorspace is located neither is, nor forms part of, any of the above.

(e) 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 building within which the application floorspace is located is not within any of the above.

(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

Neither the building within which the application floorspace is located nor the specific floorspace itself is occupied under an agricultural tenancy.

(g) before 1st 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 a direction under article 1(4) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

The proposed residential conversion from a previous retail use does not fall within former Class O of the Order, as former Class O related to the conversion of office/business (former Use Class B1(a)) floorspace to residential.

Conditions

(1) Development under Class MA is permitted subject to the following conditions:

(2) Before beginning development under Class MA, 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;

The proposed residential conversion would have no adverse transport impacts, with no on-site parking provided and the proposed residential unit located with a highly sustainable town centre location well served by public transport, and benefitting from a self-contained access via the existing external staircase affixed to the rear elevation of the building.

We would also stress that the previous planning application (ref. 18/00086/FULL) which effectively proposed an identical residential conversion (and which pre-dated the introduction of Class MA) was solely refused on lack of private amenity space grounds, and that sole reason for refusal indicates that at the time of that decision the LPA had no objection to the residential conversion in regards of transport impacts.

There has been no material change in on-site circumstances or the development plan since the time of that decision, so there is no basis upon which an objection on the grounds of transport impacts should now be made. Indeed, we would remind that LPA that paragraph 111 of the NPPF advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

(b) [contamination risks in relation to the building](#)

There are no contamination risks in respect of the application building, and nor is any operational development required to facilitate the proposed residential conversion of the floorspace at second floor or roof space level which is the subject of this prior approval application.

(c) [flooding risks in relation to the building](#)

The application site and its surroundings fall with Flood Zone 1 and the habitable rooms created by the proposed conversion would be at both second floor and roof space level.

The proposed residential conversion of the subject floorspace would therefore neither increase the risk of the application building flooding nor increase the risk of flooding elsewhere.

(d) [impacts of noise from commercial premises on the intended occupiers of the development](#)

There is no reason why the residential occupiers of the proposed residential unit would be unacceptably impacted by noise from nearby commercial premises, and again we would stress that the previous planning application (ref. 18/00086/FULL) which effectively proposed an identical residential conversion (and which pre-dated the introduction of Class MA) was solely refused on lack of private amenity space grounds, and that sole reason for refusal indicates that at the time of that decision the LPA had no objection to the residential conversion in regards of potential noise from both existing and approved nearby commercial uses.

There has been no material change in on-site circumstances or the development plan since the time of that decision, so there is no basis upon which an objection on the grounds of noise impacts should now be made.

(e) [where-](#)

(i) [the building is located in a conservation area, and](#)

(ii) [the development involves the 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;](#)

Whilst the application building is located within the Epsom Town Centre Conservation Area, the development does not involve the change of use or any of the ground floor floorspace, so this criteria is not applicable to this prior approval application.

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouse(s);

As demonstrated on accompanying drawing no. 20 Revision B prepared by AW Architectural Design, all of the habitable rooms within the proposed residential unit will receive generous amounts of natural light by way of existing fenestration.

(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 application building is located within a town centre location characterised by commercial uses at ground floor level and either ancillary or standalone commercial uses, or residential units, above. The area is not designated for industrial or employment uses, and therefore this criteria is not applicable to this prior approval application.

(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 proposed residential conversion will not result in the loss of either a registered nursery or a health centre and therefore this criteria is not applicable to this prior approval application.

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

Paragraph MA.3 of the GPDO confirms that the fire risk condition only applies to either developments of two or more dwellings, so again this criteria is not applicable to this prior approval application as it only proposes a single residential unit.

Compliance with Nationally Described Space Standards


Finally, all residential units created by prior approval applications submitted since 6th April 2021 are required to comply with the Nationally Described Space Standards, and the residential unit to be created by this proposed conversion fully accords with the Nationally Described Space Standards.

Conclusions

For the reasons set out in the preceding sections of this supporting letter, prior approval should be granted by the LPA for the residential conversion of the floorspace which is the subject of this application, as it fully complies with all of the technical criteria set out within Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

We look forward to receiving confirmation that this prior approval application has been validated, and subsequently dialogue (if required) with the Case Officer to whom it is allocated, but in the meantime should any further information or clarification be required please do not hesitate to contact us.

Yours faithfully


Adam Beamish
BA (Hons), DIP TRP, MRTPI