

Swale Council
Planning Department
Via Planning Portal

7th December 2022

Dear Sirs

**Prior Notification requirement under Part MA of the GPDO for the change of use of Class E space to form 3 apartments.
Site at The Belle Friday Centre, 152 London Road, Teynham, Sittingbourne ME9 9QH**

This Prior Notification submission relates to the entirety of this existing single storey building. It is proposed to convert the vacant former Class E space into 3 apartments. The application is accompanied by a site plan and proposed and existing detailed floor plans. The application is also supported by a daylight assessment.

There is no Article 4 direction in place removing Part MA permitted development rights from this locality and the site frontage is shown in Figure 1 below.



Figure 1 – Site frontage

The site is not listed and nor does it lie within a defined Conservation Area. The site is also not located within an area of identified flood risk.

The building is a detached single storey building situated on London Road in the village of Teynham between Sittingbourne and Faversham. The property was previously used as a day centre. It is laid out as:

Two offices, main hall, further room, kitchen, ladies and gents W.Cs. and further separate W.C. Externally there is also a Courtyard to the rear.

The general location of the site is shown in Figure 2 below.



Figure 2 – Site Location

Planning History

The Planning History of the site obtained from the Swale Council website is set out below:

CHANGE OF USE TO AGE CONCERN PREMISES WITH REAR EXTENSION
PROVIDING NEW TOILET KITCHEN AND CHIROPODY ACCOMMODATION AND
SERVICES

Ref. No: SW/88/0061 | Status: APP90

SINGLE STOREY REAR EXTENSION

Ref. No: SW/94/0289 | Status: GRTCPP

The 1988 planning permission for change of use does not contain any restrictive conditions in terms of the removal of permitted development rights.

The last lawful use of the premises in accord with the grant of planning permission, as identified, above was as a Day Care Centre for older people. It appears that the site was also

recently used as a dance studio (indoor leisure) and given that either use now falls within Class E of the Use Classer Order (UCO) then permitted Development rights exist under Part MA of the GPDO.

Permitted Development

Class MA of the amended General Permitted Development Order, which came into force on the 1st August 2021 states that a development consisting of would constitute permitted development: -

MA. 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.

Paragraph MA.1 identifies that development is not permitted by Class MA:

(a) 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 floorspace the subject of this application has been vacant for in excess of three months and indeed it was last occupied as a Class E use. The building has been vacant since 1st September 2022.

(b) 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 site was last lawful use of the premises was as a Day Care Centre for older people. It appears that the site was also recently used as a dance studio (indoor leisure) and given that either use now falls within Class E of the Use Classer Order (UCO) then this criterion is complied with.

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

the floorspace of the building proposed to be converted is circa 164m² and therefore well below the 1500 m² limitation as set out in this criterion.

(d) 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 is not covered by one of these listed designations

(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(a);

(iii) the Broads;

(iv) a National Park; or

(v) a World Heritage Site;

The site is not covered by one of these listed designations

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

The site is not occupied under an agricultural tenancy

(g) 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.

Not the case with these proposals

Conditions

This permitted development is also subject to conditions as identified in paragraph MA.2 namely that 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;

(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(a), the impact on the local provision of the type of services lost.

(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 other purpose is ancillary to the use as a dwellinghouse

(a) transport impacts of the development, particularly to ensure safe site access

The application proposes the conversion of this existing single storey building into 3 apartments and the site has no off street car parking spaces.

It is well established that a Class E office use of the site would be likely to generate more traffic movements when compared to the use of a building as residential apartments, especially in a highly sustainable location such as this. On that basis the additional traffic created by this proposed development would not lead to situations detrimental to highway safety.

There are no issues therefore in terms of “safe site access”

Turning to matters of car parking the revised NPPF of 2021 in matters of sustainable development, transport and car parking advises at paragraph 110 that: -

“110. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”*

Importantly Paragraph 111 of the Framework advises that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

In terms of the use of parking standards paragraph 108 of the recently revised NPPF advises:

108. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

In terms of local plan, the Swale Borough Local Plan 2017 at Policy DM 7 addresses matters of - Vehicle parking advising that Until such time as a local Swale Borough Supplementary Planning Document (SPD) can be adopted, the Council will continue to apply extant Kent County Council vehicle parking standards to new development proposals. When prepared, the Swale Vehicle Parking SPD will provide guidelines for:

- 1. Car parking standards for residential development, which will:*
 - a. take into account the type, size and mix of dwellings and the need for visitor parking; and*

b. provide design advice to ensure efficient and attractive layout of development whilst ensuring that appropriate provision for vehicle parking is integrated within it.

2. Vehicle parking for non-residential uses, which will take into account:

- a. the accessibility of the development and availability of public transport;*
- b. the type, mix and use of the development proposed;*
- c. the need to maintain an adequate level of car parking within town centres to ensure that viability of the centres is not compromised; and*

d. that development proposals do not exacerbate on street car parking to an unacceptable degree.

3. Cycle parking facilities on new developments, of an appropriate design and in a convenient, safe, secure and sheltered location.

This policy is now updated by the adopted of the Council's SPD which provides for parking standards adopted in 2020

Whilst of course this document is relatively up to date it should nonetheless be read in conjunction with the more recent national guidance relating both to car parking in sustainable development and also the imposition of parking standards.

Appendix A. of the document is set out below which provides for improved parking requirements and in terms of both one and two bed roomed units would suggest 1 parking space per unit as shown below.

that to allocate all spaces will reduce flexibility.

On-street parking controls	On-street controls prevent all parking	On-street controls prevent all parking	On-street controls absent or limited	None or very limited	None or very limited
Nature of Guidance	Advisory	Advisory	Recommended	Recommended	Recommended
Location	Town Centre ^{1,2,3,4}	Edge of Centre ¹	Edge of Centre ¹	Suburban ¹	Rural ¹
1 & 2 Bed Flats	1 space per unit	1 space per unit	1 space per unit	1 space per unit	1 space per unit
1 & 2 Bed Houses	1 space per unit	1 space per unit	1 to 2 spaces per unit	1 to 2 spaces per unit	2 spaces per unit
3 Bed Houses	1 space per unit	1 to 2 spaces per unit	2 to 3 spaces per unit	2 to 3 spaces per unit	3+ spaces per unit
4+ Bed Houses	2 spaces per unit	2 spaces per unit	2 to 3 spaces per unit	3+ spaces per unit	3+ spaces per unit
Visitor Parking	None	0.2 per unit	0.2 per unit	0.2 per unit	0.2 per unit

¹ Car parking standard is for guidance and a lower provision should be considered for areas with good accessibility by sustainable modes and/or where effective mitigation measures are in place or proposed, e.g.:-

- Car Clubs;
- Travel Plans;
- Controlled Parking Zones; and
- Availability of sustainable transport modes.

² Supporting evidence is also likely to be required (e.g. local car ownership data, parking stress surveys, evidence from similar sites)

In this case the site has no off street car parking and is located on the main A2 where parking on street would be difficult especially as there is a bus stop outside of the site. The village is relatively sustainable and the site is on a regular bus route with a bus stop directly outside of its front door.

There are a number of residential streets in close proximity to the site where the ability for residential parking occurs.

In terms of sustainable transport as well as the nearby bus stop the building also has a large rear courtyard which could successfully accommodate safe and secure cycle storage and refuse storage with the pedestrian access way to the side of the building providing access to the main street.

In light of the above we submit that the development proposed would avoid any unacceptable impacts in terms of matters of parking or highway safety.

(b) Contamination risks in relation to the building

Turning now to matters of contamination the site lies in an area where matters of land and ground contamination have not previously been raised in any permissions either on or in close proximity to the site and it is therefore highly unlikely that these proposals would lead to matters of contamination.

The application proposes the conversion of the existing building only with no “ground break”.

In light of the above we therefore respectfully suggest that there are no material issues relating to the change of use proposed on matters of ground contamination

(c) Flood Risk

The site lies outside any defined flood risk area as shown below from the EA flood risk mapping information.

The extract from the flood map is shown in Figure 3 below.

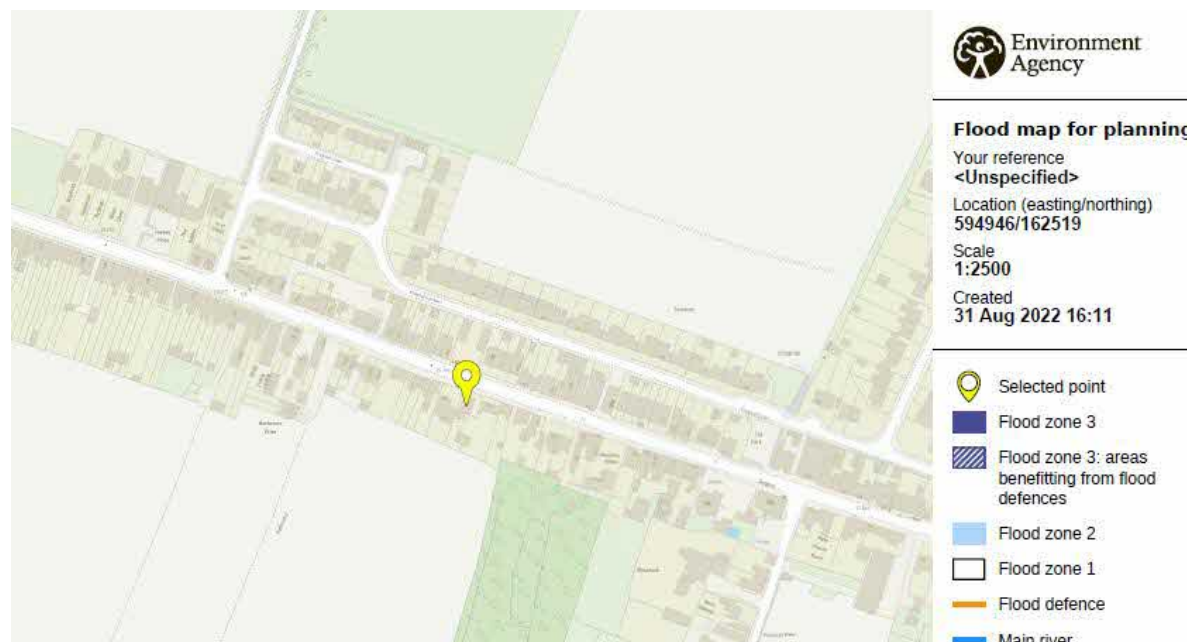


Figure 3 – Extract from EA Flood Map

On this basis and given the above we respectfully suggest that there are no material issues relating to the change of use proposed on matters of flooding and flood risk.

(d) Noise

In terms of the impacts of noise from commercial premises on the intended occupiers of the development, in this respect traffic noise cannot be an issue for consideration in Prior Notification applications.

When considering potential noise disturbance, the NPPF at paragraph 174 states that planning policies and decisions should aim to:

174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

Paragraph 185 adds further:

“185. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation .”

Whilst the site lies within a mixed use area the predominant use in the immediate locality of the site is residential. On either side of the site are terraced dwellings and there are also residential properties opposite across the London Road. To the rear of the site is agricultural land.

There are therefore no existing uses within this location which could constitute noise generating uses such as public houses or nightclubs within close proximity to the site and certainly no industrial uses which could create the potential for noise disturbance as these are generally office uses.

In light of the above we submit that there is no reason to resist the change of use proposed in terms of matters of potential noise disturbance from commercial buildings and/or land uses in close proximity to the site.

(e) Conservation

The site does not lie within a defined Conservation Area and on that basis, there is no requirement to consider this criterion further.

(f) Adequate Natural Light

This criteria requires an assessment in terms of each flat to be created relating to:

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

The proposed floor plans identify that each of the habitable rooms of each of the 3 flats proposed would be served by existing windows. To assist the LPA this existing fenestration is shown on the proposed floor plans.

Notwithstanding the above the application is also supported by a detailed daylight assessment which concludes:

“In the APSH field, based on the BRE guideline, the target of windows facing within 90° of due south is 25%. According to table 1, it is clear that all the east, west and south windows of the building (except window No.10) pass this target. It should be noted that in the BRE guideline, this target is mentioned for the main spaces of the house, especially the living room. However, window No.10 is for the bathroom.

In the field of ADFs, based on BRE guidelines and BS 8206-2, the desired target is 2% for living room and kitchen and 1% for bedrooms. According to table 2, it is clear that the living room and kitchen of flat 2 and all spaces of flat 1 have not reached the desired target. The rest of the building spaces have passed this target.”

Given the above assessment and the existing fenestration within the building it is submitted that the proposed scheme would provide adequate natural light into the habitable rooms of all 3 proposed apartments.

(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

The site does not lie within such an area

(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(a), the impact on the local provision of the type of services lost.

In this case none of the land use involves a registered nursery or a health centre.

Apartment sizes

A further requirement of prior notification is that each flat proposed must achieve the minimum size standards as set out below:

. In article 3, after paragraph (9) insert—

“(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(a) where the gross internal floor area is less than 37 square metres in size; or

(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015(a).

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.”.

In terms of the above we therefore assess apartment size against the NDSS standards.

Flat No	Type	NDSS	Proposed
1	1b2p	50m ²	51m ²
2	1b2p	50m ²	51m ²
3	2b3p	61m ²	61m ²

On the basis of this assessment, it is submitted that all 3 apartments proposed either comply with or indeed exceed the NDSS size standards and this criterion of permitted development is also complied with.

Part M.2.A requirements

Paragraph M.2A.(1) requires that the following provisions apply where a developer is required under paragraph M.2(f) to make an application to a local authority for a determination as to whether the prior approval of the authority will be required.

Sun paragraph (2) advises that the application must be accompanied by—

(a) a written description of the proposed development;

a detailed description of the proposal is set out on the application forms and within this covering letter.

(b) a plan indicating the site and showing the proposed development;

a plan indicating the location of the site and the floorspace within the building proposed to be converted accompanies this application.

(c) drawings prepared to an identified scale and showing—

the drawings have been prepared to an identified scale and show the proposed layout of the proposed flats.

(i) in the case of a building to be erected, the proposed external dimensions and elevations of that building; and

(ii) in the case of a building to be extended or altered, the external dimensions and elevations of that building both before and after the proposed extension or alteration;

It is not proposed to extend, alter or erect buildings on the site

(d) a written statement in respect of the heritage and archaeological considerations of the development;

The site does not lie within a conservation area.

(e) the developer’s contact address;

Belle Friday Centre Ltd c/o Allen Planning Ltd, The Old Fire Station EC, Salt Lane, Salisbury, SP1 1 DU

(f) the developer's email address if the developer is content to receive communications electronically; and

Belle Friday Centre Ltd c/o Allen Planning Ltd– tony.allen@allenplanning.co.uk

(g) any fee required to be paid.

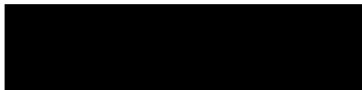
The fee of £300 will be paid via the Planning Portal.

Conclusions

In light of the information contained within this letter we submit that the change of use of this vacant building to **form 3 apartments** from its permitted Class E use is wholly in accord with Class MA of the amended General Permitted Development Order and the Prior Notification Procedure.

If the Council require any further information, then please do not hesitate to contact me.

Yours sincerely

A solid black rectangular box used to redact the signature of Mr A.M. Allen.

Mr A.M Allen
Managing Director