

Development Control
London Borough of Bexley
Civic Offices
2 Watling Street
Bexleyheath
Kent
DA6 7AT

By Email: developmentcontrol@bexley.gov.uk

14th October 2023

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT ETC)
(ENGLAND) (AMENDMENT) ORDER 2021, SI 2021/428
APPLICATION FOR DETERMINATION AS TO WHETHER PRIOR APPROVAL IS
REQUIRED: CLASS MA
Building Rear Of 237 Bexley Road Erith Kent, DA8 3EX**

1. KT Frame Solutions are submitting this application to change the use of the building to the rear of 237 Bexley Road to two 1-bedroom flats.
2. This application is accompanied by plans and drawings and the following supporting or technical documents:
 - a. Daylight report
 - b. Transport Assessment
 - c. Ground contamination search and report
 - d. Evidence of 3 months' vacancy
 - e. Evidence of existing office use
 - f. CIL Additional Information Form

Site description and principal constraints

3. The site is located to the rear of Bexley Road and comprises of a two-storey building that is accessed from a shared access from Limewood Road.
4. The property is in a suburban area characterised by a mix of building types and styles and a mix of uses. The area behind Bexley Road consists mainly of commercial properties arranged linearly. Those closest to the building are mainly retail and service use. In contrast, the streets situated beyond Bexley Road primarily feature residential properties.

5. The intended access arrangements will utilise the current rear lane that originates from Limewood Road. This lane serves as access to both the rear of commercial properties along Bexley Road and also to residential properties on Hurst Road.
6. The property is located within Northumberland Heath District Centre and is Flood Zone 1. Although the property is in a PTAL zone of 2, it is well-served by local bus routes with numerous stops on Bexley Road. The site is not in a conservation area and the property is not listed.
7. There are no Article 4 Directions restricting the use of permitted development rights in respect of this site.
8. This application for change of use does not propose any external changes.
9. The property is in CIL Zone 1 (£40/sqm).

Class MA Prior Approval

10. "Class MA" permitted development rights came into force on 1st August 2021 and states the following:

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.

Development not permitted

MA.1 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;

(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;

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

(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;

(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;*
- (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*
- (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.*
- (2) *The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—*
- (a) *the following classes of the Schedule as it had effect before 1st September 2020—*
- (i) *Class A1 (shops);*
 - (ii) *Class A2 (financial and professional services);*
 - (iii) *Class A3 (food and drink);*
 - (iv) *Class B1 (business);*
 - (v) *Class D1(a) (non-residential institutions – medical or health services);*
 - (vi) *Class D1(b) (non-residential institutions – crèche, day nursery or day centre);*
 - (vii) *Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;*
- (b) *on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2*

Conditions

MA.2 (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;*
 - (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 dwellings;

(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;

(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.

11. Development under Class MA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date, and the provisions of paragraph W (prior approval) apply in relation to that application, subject to amendment, including that development may begin after “*the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused*” (GPDO 2015, Schedule 2, Part 3, Class V, Paragraph W(11)(c)).

Description of the Building

12. The building comprises of ground and first floor accommodation and sits to the rear of 237 Bexley Road. The ground floor is accessed from a shared access from Limewood Road.

13. As demonstrated by the statutory declaration made by the previous owner, from July 2005 to March 2023 this building was used as ancillary office space to their business, Toks05. As seen from their website, this was a unisex hairdresser. Therefore, the use of the property in this application comprises of Class E(a) use.

14. There is no Article 4 direction affecting the site’s right to Prior Approval under Class MA.

Planning and Use History

15. The following planning applications relate to this site:

- a. Change of use of ground floor from storage (Class B8) to hot food takeaway (Sui Generis) with ancillary storage at first floor including enlargement of ground floor

windows and provision for motorbike parking and bin storage – Refused 20/01627/FUL

b. Two storey rear extension to existing warehouse – Granted 94/01498/FUL

16. The use of the whole of the property falls most recently in to office and ancillary space and has been so for at least 2 years.

The Proposals

17. The proposals comprise the following:

- Change of use of existing floor space ancillary to Class E(a) to 2 x Class C3 dwelling units.
- No car parking for the new flats.
- Areas for refuse and servicing would be available and could be accessed to the side of the building via the access road as well as areas for new cycle parking for the new apartments.
- No external alterations nor any works of extension or demolition proposed within this application.

18. The proposed unit would comply with Nationally Described Space Standards and the plans submitted with this letter confirm the same.

19. The 1st floor flat, as a 1 bedroom 1 person dwelling, exceeds the minimum 37 sqm minimum floor area for such a dwelling.

20. The ground floor flat, as a 1 bedroom 2 person dwelling, meets the minimum 50 sqm minimum floor area for such a dwelling.

21. Care has been taken in the design to ensure that 75% or more of the floor space has a minimum head height of 2.3m.

22. The following are enclosed:

- Site location plan showing the application site in red outline
- Site Plan/block plan showing proposed access
- A full set of existing and proposed floor plans, elevations and sections
- Prior Approval Application Form
- Daylight report
- Transport Assessment
- Ground contamination report
- Proof of 3 months' vacancy
- Proof of existing use
- CIL additional information form

In accordance with Condition MA.1

23. Our comments are set out below in respect of each condition.

24. Development is not permitted:

- (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;

This building has been vacant since 10th March 2023.

- (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;

As per attached statutory declaration, property has fallen within Class E(a) use class for at least 2 years prior to the date of the application

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

The cumulative space of the whole building is below 1,500 sqm GIA.

- (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;

None of the above apply.

- (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;

None of the above apply.

- (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

Not applicable.

- (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 applicable.

In accordance with Condition MA.2

25. We require confirmation from the Council that prior approval is not required for the proposed new unit in relation to the transport and highways impacts, noise impact of neighbouring commercial uses, contamination risks, flooding risks of the site and with regard to daylight and sunlight and the conservation area status of the site. Each of these elements is addressed in the following sections. The other matters listed under Class MA.2(2) do not apply to this application.

Paragraph W of the GPDO 2015 (as amended)

26. The following is provided in accordance with the requirements of paragraph W:

- **Written description of the proposed development**
Change of use to 2 x one bedroom apartments (Use Class C3) from office (Class E use).
- **Plan indicating the site and showing the proposed development**
Appropriate plans are included with this application. Dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses all as shown on the enclosed plans.
- **Statement indicating the net increase in the proposed number of dwellings**
Proposed net number of 2no new dwelling
- **Developer's contact details**
KT Frame Solutions,
Airport House,
265 Purley Way,
Croydon
CR0 0XZ
- **Developer's email address**
All correspondence to be addressed to the following email address:
tenesh@ktframesolutions.com

Transport and Highways Impact

27. The Site is in a local shopping area and is accessible by public transport and is also within walking distance of local facilities and shops.

28. This proposal indicates the proposed location and capacity of the bin and cycle stores, but as operational development cannot be proposed in a Prior Approval application under Class MA, the future provision of the bin and cycle store structure can be sought separately through an application for full planning permission if the same should be required.

29. By promoting new homes in this local shopping area, this application helps to reduce the need to travel to local facilities in accordance with Policy DP24 of the Local Plan. Furthermore, this encourages the use of public transport and the provision of secure and covered cycle storage on site encourages the use of non-car modes of transport in accordance with Policy DP22 of the Local Plan.

30. A Transport Statement is enclosed with this application from TTP Consulting. In support of this application, it concludes as follows:

“The Site is in an accessible location being within walking distance of nearby local amenities and public transport opportunities which include a number of bus services as well as convenience stores, medical facilities, public houses and shops.

The proposed residential units would not result in any more trips per day when compared to the consented office accommodation.

Cycle parking will be provided for the units in accordance with London Plan standards.

The proposed residential would generate a demand for one car on street which would not result in a severe or noticeable change in parking stress levels on the surrounding streets, with parking demand during the day likely to be lower than the consented office.

Deliveries and serving would be accommodated on street as per the existing arrangement for dwellings in the local area with residents responsible for placing refuse bins on the footway on collection days.”

31. In the alternative to the proposed refuse storage suggested in the Transport Assessment, the proposed site plan with this application also indicates that there is space in front of the proposed dwelling for dedicated bin storage, which can be collected via the existing access road.

32. Therefore, this application is acceptable in transport and highways terms.

Noise Impact

33. The property is located in an area where the immediate surrounding uses do not comprise any noisy commercial activities. The site is immediately adjacent other residential uses and ground floor retail, which are generally low impact in terms of potential noise disturbance.

34. Given that there are no ‘noisy’ commercial occupiers anywhere near the site, the proposed apartments are likely to enjoy a reasonable and acceptable standard of noise amenity.

35. In Appeal decision related to the site, APP/D5120/W/21/327083, the inspector noted the following:

“property is located to the rear of residential properties on Hurst Road. Although the site is to the rear of the commercialised section of Bexley Road, it is markedly quieter and more subdued, being more akin to the residential nature of the wider area.”

36. Impacts of noise from commercial premises on the intended occupiers of the development will be minimal.

Flood risk assessment

37. The site is in Flood Zone 1 and the building footprint sits on land with very low or no risk of surface water flooding. Given that there is no change proposed to the building footprint or the amount of hardstanding and that the site is not at risk of flooding, there are no flooding implications arising from the change of use. Therefore, no flood risk assessment would be required.

Contamination assessment

38. The last known and historic use of the property was as an office and therefore there is no known contamination risk to the proposals.

39. As per report from Argyll Environmental, no ground contamination liabilities were found.

Adequate Natural Light

40. We have received a daylight report in respect of these proposals from T16 Design Limited, as the GPDO requires “adequate natural light” to the habitable rooms proposed. This report confirms that there would be adequate natural light to the new units, with regard to BRE Daylight Guidance.

41. Therefore, the proposed change of use would provide adequate levels of natural light to all habitable rooms.

Conclusions

42. The existing building proposed to be subject to this application has a lawful Class E(a) office use and, subject to appropriate mitigation to be secured by condition, the proposed change of use presents no transport and highways, contamination, noise, flood risk, or sunlight and daylight concerns.

43. Therefore, we ask that this application should be approved subject to such planning conditions as the Council considers appropriate.

Yours faithfully,

T Devarajasingham
Director
KT Frame Solutions