



Phase 2

Statement of Evidence

Notification for Prior Approval of 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

(under the Provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended))

Unique House, 147 High Street, Billericay, Essex, CM12 9AB

On behalf of
Mr Ruben Strasser

February 2024

Our ref: C22126

Phase 2 PLANNING & DEVELOPMENT LIMITED

Quality Assurance

Site Name: Unique House, 147 High Street, Billericay, Essex, CM12 9AB

Client Name: Mr Ruben Strasser

Type of Report: Statement of Evidence

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1. Introduction

- 1.1 This Statement of Evidence has been prepared by Phase 2 Planning and Development Ltd on behalf of Mr Ruben Strasser, hereafter referred to as the applicant, in support of a notification for Prior Approval application relating to 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 in relation to Unique House, 147 High Street, Billericay, Essex, CM12 9AB.
- 1.2 This submission is made under the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)).
- 1.3 The description of development is as follows:

Notification for Prior Approval relating to 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.

Purpose and Structure of this Report

- 1.4 The purpose of this report is to draw together the main planning matters in the consideration of this Prior Approval proposal.

Planning Application Documents

- 1.5 In brief, the application documentation comprises:
- A suite of detailed application plans, including the site layout and plans for each building level; and
 - Relevant technical and environmental reports, which relate to a variety of relevant topics, and which explains the impacts of the development (and if necessary, how the impacts will be mitigated).

2. Site and Surroundings

- 2.1 The area of land subject to this planning application relates to Unique House, 147 High Street, Billericay, Essex, CM12 9AB.
- 2.2 The extent of the application site is as shown by the land edged red on the Site Location Plan submitted in support of this application.
- 2.3 The application site is situated within a central location within Billericay High Street close to its junction with the A129 and Sun Street. The site is also included within the boundary of the Billericay Conservation Area.
- 2.4 The site itself is a 2.5-storey brick building with an associated undercroft arrangement allowing vehicular access to the rear of the site and the site's car park contained over ground floor level.
- 2.5 The subject building is attached to its neighbour to the south and stands forward of the existing detached building to its north which is Grade II* Listed (Burghstead House).

3. Planning History

- 3.1 The application sure has no recent planning history of direct relevance to these Prior Approval proposals.

4. The Proposed Development

- 4.1 This Prior Approval application seeks a change of use of the existing building (Unique House) 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 under the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 4.2 The existing use of the building is as offices (Class E) but it is important to highlight that the building has been vacant for at least the last 3 months.
- 4.3 The proposal itself relates to the conversion of the building over 3 floors to provide 10 new apartments (10 no. 1-beds and 1 no. 2 -bed). This includes only a part conversion at ground floor level.
- 4.4 No external alterations are needed/proposed to facilitate such change of use as depicted by the submitted drawings.

5. Pre-Application Engagement

- 5.1 The applicant has previously engaged in positive and proactive pre-application advice discussions with officers of Basildon Borough Council (BBC) prior to the submission of this Prior Approval application under Council pre-app ref: 22/00126/PREAPP. This has included a virtual meeting and written Council pre-application response dated 1st February 2023as included at Appendix 1 to this Statement of Evidence.
- 5.2 Such pre-application correspondence has included discussions in respect of the relevant Prior Approval criteria as well as other planning strategies relating to the site's redevelopment.
- 5.3 A summary of the Council's response in respect of these Prior Approval provisions is included below:
- Prior approval is required where the building is in a conservation area and the development involves a change of use of the whole or part of the ground floor with regard to the impact the change of use would have on the character or sustainability of the conservation area;
 - This is the case here, as there will be one residential unit on the ground floor so as part of any prior approval, Essex County Council Place Services Historic Buildings and Conservation Area advice would be consulted (Place Services);
 - I would recommend a heritage section is provided as part of any prior approval application to cover this criteria;
 - Unique Forwarding are currently using the building as an office so the building would not appear to have been empty for a continuous period of at least 3 months and I refer to Class MA.1(1)(a) of the Order for further detail on this criteria;
 - Concerns were raised relating to adequate natural daylight for some of the flats, particularly the southern side of the building and the distance daylight would have to travel down the lightwell to windows that were then further set back from the lightwell, as well as concerns relating to adequate natural daylight to the northern flank windows due to smaller windows. The submission of a Daylight/Sunlight assessment was recommended;
 - The Local Planning Authority (LPA) can have regard to the impact on residential amenity and we discussed overlooking and privacy issues with regard to residential dwellings to the rear, which I measured as being only 16 metres away. This would be a residential amenity concern which I am of the opinion the LPA must take into account; and
 - I would recommend a Planning Statement is submitted or individual appraisals to cover transport and highways impacts, parking, contamination, noise impact assessment, heritage, flood risk, adequate natural light assessment for habitable rooms, space standards including total floor area per unit in square metres in plan

form, amenity areas, and information regarding RAMs mitigation at £137.71 per new dwelling as the site is within the Zone of Influence.

5.4 These matters are considered further in the following sections of this Statement of Evidence.

6. Main Planning Considerations

6.1 This section of the Statement of Evidence seeks to demonstrate beyond any reasonable doubt that the proposed conversion of the existing building at 147 High Street, Billericay qualifies as permitted development under Part 3, Class MA of the GPDO.

6.2 Schedule 2, Part 3, Class MA establishes permitted development rights for the following:

Development consisting of—

(a) 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.

6.3 However, Class MA includes a number of criterion such development is required to meet in order for these provisions to apply. The table below details this criteria together with evidence that demonstrates beyond any reasonable doubt that the proposed development qualifies as permitted development under this provision.

Class MA Criteria	Applicant Comment
Q.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;	The subject building has been vacant for a continuous period of at least 3 months immediately prior to the date of this application for prior approval. Compliant
(b) unless the use of the building fell within one or 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;	The subject building has been used for Class B1 (business) use for a continuous period of at least 2 years prior to the date of the application for prior approval; Compliant
(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;	The proposed change of use relates to a total floor area of 792 square metres. Compliant

<p>(d) if land covered by, or within the curtilage of, the building—</p> <ul style="list-style-type: none"> (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; 	<p>The application site is not covered by, or within the curtilage of any of these designations.</p> <p>Compliant</p>
<p>(e) if the building is within—</p> <ul style="list-style-type: none"> (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; 	<p>The subject building is not within any of these designations.</p> <p>Compliant</p>
<p>(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;</p>	<p>The site is not occupied under an agricultural tenancy.</p> <p>Compliant</p>
<p>(g) before 1 August 2022, if—</p> <ul style="list-style-type: none"> (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. 	<p>Such provisions are not applicable to the application site.</p> <p>Compliant</p>

Table 1: Proposed development's detailed assessment against criteria of Schedule 2, Part 3, Class MA of the GPDO.

6.4 Table 1 demonstrates beyond any reasonable doubt that the proposed development is fully compliant with the requirement criteria under Schedule 2, Part 3, Class MA of the GPDO. Therefore, the proposal qualifies as permitted development under this provision subject to the local planning authority's determination as to whether the prior approval of the authority will be required with regard the proposal's impact on a number of specific matters as detailed below together with detailed assessment regarding the proposal's likely impact in these respects.

Class MA Prior Approval Considerations	Applicant Comment
<p>Q.2. Development under Class MA 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—</p>	
<p>(a) transport impacts of the development, particularly to ensure safe site access;</p>	<p>Given the site's central town centre location it is highly accessibility by road and pavement. Future occupants would continue to utilise the site's existing pedestrian and vehicular access from the site which would be sufficient to serve the use and intensity of use proposed. This is particularly salient when referring to the intensity of the office use.</p> <p>The site includes 11 existing off-street car parking spaces which would be retained as part of the proposal. In addition, there is good public transport and parking provision nearby to serve the development.</p> <p>Conclusion: Acceptable</p>
<p>(b) contamination risks in relation to the building;</p>	<p>The application site is not within a location considered to have high potential in this respect. In addition, it is unlikely that any below ground disturbance would occur as part of these proposals.</p> <p>Conclusion: Acceptable</p>
<p>(c) flooding risks in relation to the building;</p>	<p>The application site is wholly within Flood Zone 1 (Low Risk).</p> <p>Conclusion: Acceptable</p>

<p>(d) impacts of noise from commercial premises on the intended occupiers of the development;</p>	<p>As re-iterated above, the site is within a central High Street location including a mix of uses which includes residential. Such uses are well-contained in themselves and predominately of a Class E nature which are considered compatible with such proposed residential use.</p> <p>This, together with the insulation and robustness of the subject will ensure that such proposals are fully acceptable in this respect.</p> <p>Conclusion: Acceptable</p>
<p>(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;</p>	<p>The application site is within the Billericay Conservation Area and involves the part change of use of the ground floor to provide 1 no. 1-bedroom apartment.</p> <p>Firstly, it is important to highlight that some office use would continue towards the frontage of the building as the primary use at ground floor level as depicted by the submitted drawings and therefore there would be little change to the public realm.</p> <p>The proposed ancillary cycle and refuse stores would be set back within the site and not visible from public vantage points. Access for both the office and apartments would be from the site’s frontage utilising existing openings.</p> <p>Therefore, these proposals would result in little change to the character of this part of the Conservation Area which does not have an active frontage.</p> <p>It is further considered that these proposals would have a beneficial impact on the sustainability of the Conservation Area through a sensitive conversion and increased footfall and demand for local services and facilities in the Conservation Area itself likely exceeding that of the employment use.</p> <p>Conclusion: Acceptable</p>

<p>(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;</p>	<p>A supporting Daylight Assessment has been submitted in support of this Prior Approval application which confirms the full acceptability of the proposals in this respect.</p> <p>The proposed conversion has been assessed for internal daylight levels using the Target Daylight Factor (DFT) test as prescribed by the BRE guidance and BS EN 17037:2018.</p> <p>The proposed design has endeavoured to ensure that the proposed habitable rooms have levels of natural light in excess of the minimum standards prescribed by the standards.</p> <p>This has been successfully achieved, as demonstrated by the positive results presented within this report.</p> <p>This means the future occupants will enjoy a well-lit environment, with reduced reliance on artificial lighting.</p> <p>Conclusion: Acceptable</p>
<p>(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;</p>	<p>The application site is located with a High Street location away from such uses and is not within an area considered to be important for such general or heavy industry, waste management, storage and distribution, or a mix of such uses.</p> <p>Conclusion: Acceptable</p>
<p>(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</p>	<p>The development would not result in the loss of such services.</p> <p>Conclusion: Acceptable</p>

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.	The development does not meet the fire risk condition as confirmed by paragraph MA.3 of the Regulations. Conclusion: Acceptable
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Table 2: Proposed development's detailed assessment against conditions under Schedule 2, Part 3, Class MA of the GPDO.

- 6.5 The applicant confirms that, if the building is permitted to be used as a dwellinghouse by virtue of Class MA it will 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 without the benefit of a separate/new planning permission.
- 6.6 The applicant also confirms that it is their intention to complete such development within a period of 3 years starting with the prior approval date.

Compliance with Nationally Described Space Standards (NDSS) / Amenity Areas

- 6.7 As depicted by the submitted drawings the proposed development would be fully compliant with NDSS.
- 6.8 The proposals would not provide any direct external amenity space and Class MA does not allow for any associated operational development such as balconies. However, given that the vast majority of the proposed accommodation are 1-bed units and there is good local access to public green spaces nearby, most notably Queen Elizabeth II Field, this is considered a suitable arrangement for such use.

Relevance of Impact on Neighbouring Residential Amenity

- 6.9 Within the Council's associated pre-app response there is some debate over the provisions of Paragraph W under Part 3 of the GPDO and specifically whether or not harm to residential amenity was able to be taken into consideration under the prior approval procedure.
- 6.10 Officers have interpreted that the Council can have regard to the impact on residential amenity despite this not being highlighted as a specific Prior Approval consideration under Class MA of the GPDO.
- 6.11 Firstly, it is again important to re-iterate that neighbouring amenity considerations do not form any of the listed Prior Approval considerations under Class MA and not reference to such amenity considerations is stated throughout the Class.

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- 6.12 Secondly, it is worthwhile to refer to Paragraph: 028 of Planning Practice Guidance (PPG) (Reference ID: 13-028-20140306) which makes clear that *'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'* and adding that *'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.'*
- 6.13 Notwithstanding this, Paragraph W (10) under Part 3 of the GPDO applies setting out that the Council must take into account any representations made to them as a result of any consultation on the application including any public representations as stated under Paragraph W.
- 6.14 Therefore, although any such representations must be taken into account this does not give the Council automatic power to consider non-Prior Approval considerations *'carte-blanche'*.
- 6.15 It is also important to refer to relevant Case Law in this respect in *R (Patel) v Secretary of State for Communities and Local Government [2016]*, which held that there is no statutory obligation to decide prior approval applications on the basis of section 38(6) of the Planning and Compulsory Purchase Act 2004. The High Court Judgement adds that, development plan policies may be relevant but cannot be applied so as to frustrate the purposes of the GPDO.
- 6.16 Therefore, the applicant disagrees that impact on neighbouring amenity is a relevant consideration under Class MA and although any public representations received must be taken into account this should not be used to frustrate the purpose of the GPDO whereby the principles of such development is established.
- 6.17 With reference back to the Council's pre-app response officers state that overlooking and privacy issues with regard to residential dwellings to the rear of the site were discussed and would be a concern. This is understood to relate to those existing residential properties backing onto the site in Tensing Gardens and Burghstead Close.
- 6.18 In this respect, it is important to re-affirm that the subject building exists and has been used as office accommodation for some time. Therefore, such building relationships already exist and have for some considerable time.
- 6.19 Given this building arrangement and associated vegetation/boundary treatments it is considered that such a relationship is generally compatible.
- 6.20 The proposals to convert the existing office building into residential apartments is therefore not considered to unduly effect such interests. This includes the fall-back position of office use where existing vantage points already exist, the likely greater privacy interests of future

residents of the building and associated window dressing etc. that can be commonplace with residential use.

- 6.21 Therefore, it is further considered that such amenity considerations would not be unacceptable in this instance if considered to be a relevant consideration for the purposes of this Class MA Prior Approval application.

[Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy \(RAMS\)](#)

- 6.22 As confirmed in officer's pre-app response the application site is within RAMS Zone of Influence and therefore mitigation in the form of a tariff payment of mitigation at £137.71 per new dwelling is applicable.
- 6.23 Should this Prior Approval be progressed positively by officers this payment can be secured prior to formal determination or secured through a Unilateral Undertaking (UU).

7. Conclusion

- 7.1 This Prior Approval application relates to 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 in relation to Unique House, 147 High Street, Billericay, Essex, CM12 9AB.
- 7.2 The applicant, through this notification for prior approval application submission, has demonstrated beyond any reasonable doubt that the proposed development complies with the full requirements of Class MA and therefore qualifies as permitted development under this Class subject to the local planning authority's (LPA) determination as to whether the prior approval of the authority will be required in respect of those relevant considerations listed by Class MA.
- 7.3 The applicant has therefore concluded that none of these matters are of a significance that would reasonably require the authority's prior approval. This is supported by the proposed details of the development as depicted by the submitted drawings.
- 7.4 Therefore, the applicant has demonstrated that the proposed development qualifies as permitted development under Schedule 2, Part 3, Class MA of the GPDO and further demonstrated that the prior approval of the LPA will not be required in respect of relevant considerations
- 7.5 For the reasons set out above as backed up by supporting evidence the proposal is able to benefit from the provisions of Schedule 2, Part 3, Class MA of the GPDO and therefore Basildon Borough Council is kindly requested to look favourably over this application and confirm the above including that their prior approval is not required for those matters under their consideration accordingly.

Appendix 1



Phase 2

PLANNING &
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