

CUBE Planning
Planning Consultants Ltd
20-22, Wenlock Road, London N1 7GU
e-mail: contact@cubeplanning.com

Planning Statement

77 PARK ROAD KINGSTON KT2 6DE



The application seeks Prior Approval for the conversion of use from the lawful E1(a) retail unit into a residential unit (C3 use class)

Planning Considerations

The site consists of a ground floor commercial unit which were retail in use and have been vacant for a significant period of time. The property benefit from a shopfront.

The planning delegated report (page 2) for planning application ref: 16/12782/FUL notes that there was a retail unit at no.77.

The property is not listed or within a conservation area

Policy Context

Class MA of Part 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) permits (subject to conditions) the change of use of a building and any land within its curtilage from use Class E (Commercial, Business and Service) to C3 (Residential).

In order for the development to comply with Part 3, Class MA, an application must be made to the Local Planning Authority for a determination as to whether the prior approval of the LPA will be required as to the transport and highways impact, the contamination risks, noise risks and the flooding risks of the development (and other matters).

We understand that the LPA would take into account the representations received in the consultation period, the LPA shall determine whether prior approval is required for those matters and whether it should be granted or refused, having regard to the National Planning Policy Framework (and therefore the Development Plan).

Schedule 2, Part 3, Class MA (commercial, business and service uses to dwellinghouses) of the Town and County Planning (General Permitted Development) Order 2015 (as amended) permits (subject to conditions);

Development consisting of-

MA.1 – (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 submitted information states that the ground floor unit has been vacant for at least 3 months prior to the date of the application. Google images also show that the unit was unoccupied for an extensive period of time.

(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 property benefits from a lawful use as a class E

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

The property does not exceed 1500sqm

(d) If land covered by, or within the curtilage of the building-
is or forms part of a site of special scientific interest;
is or forms part of a listed building or land within its curtilage;
is or forms part of a scheduled monument or land within its curtilage; is or forms part of a safety hazard area; or
is or forms part of a military explosive storage area;

Complies – land covered by the building or within the curtilage does not form a 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

Complies – application site does not fall within any of the designated areas.

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

Complies

7. (g) Before 1 August 2022, if-

1. 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
2. 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.

Complies

(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 – creche, 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

The site's lawful use is as a shop which has been vacant for some years.

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;

Complies

The NPPF states that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

Accessibility & Density

A Public Transport Accessibility Level (PTAL) is a measure of the accessibility of a location to the public transport network, considering walk access time and service availability. The PTAL level of the application site is 4, which is categorised as good.

Access and Car Parking

There is no new access proposed.

The site is located within a parking permit zone and a Car Parking Permit Free Agreement can be agreed by the applicant and if necessary by way of a Section 106 Agreement.

Cycle Parking

Cycle Parking should accord with the London Plan and Policy Q13 of the LLP.

The proposal would provide 2 cycle parking spaces within the store. Details relating the ground floor cycle parking space should be secured by condition and details submitted for approval.

Waste and Recycling

The waste would be stored within the property to the side which and placed outside the property for collection day as this is the current arrangement for the ground floor units.

(b) Contamination risks in relation to the building; Officer comment: Complies.

There are no known risks of contamination associated with the site. The operational use of the site has historically been as retail use.

(c) Flooding risks in relation to the building;

Complies. Site is in Flood Risk Zone 1 so not at risk of flooding.

(d) Impacts of noise from commercial premises on the intended occupiers of the development;

Complies – the site is in an area of mixed uses, including residential uses and retail/food and drink uses. There are no neighbouring uses that would be classified as heavy industrial uses. As such, it is considered future occupiers of the development would not be adversely impacted upon by existing commercial properties.

(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;

Complies – site is not located in a conservation area.

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

Complies – the existing unit benefits from large glazing to the principal elevation fronting Park Road. The unit benefits from side and rear openings and the substantial glazing to the front, side and rear elevations, would ensure that the studio would receive adequate natural light.

(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;

Complies – the site is not designated for any of the specified purposes and the proposal would not compromise 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 of 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost; and

Not applicable

(i) Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

Complies – the building will be a single dwelling and below 18m. As such, the proposal does not meet the fire risk condition set out in MA3.

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

Complies

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if-

(a) for paragraph (e) of sub-paragraph (2) there were substituted- “(e) where-

(i) sub-paragraph (6) requires the Environment Agency⁵⁸ to be consulted, a site-specific flood risk assessment;

(j) (ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,”;

(b) 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”; (c) after sub-paragraph (6) there were inserted—

“(6A)Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”; (d) in sub-paragraph (7) for “(5) and (6)” there were substituted “(5), (6) and (6A)”; (5) Development must be completed within a period of 3 years starting with the prior approval date.

We understand the LPA would inform us of the above with an informative.

(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.

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.

Complies – the height of the existing building is less than 18m. A change of use of the building will result in the creation of one new dwelling post construction. The application does not meet the fire risk condition and therefore does not require a fire statement.

Minimum Space Standards for Dwellings

Applying to applications made after 6th April 2021, Paragraph 9A to Article 3 of the GDPO states that:

'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 standards issued by the Department for Communities and Local Government on 27th March 2015.

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

Complies – for a 1b2p, single storey residential unit measuring 53sqm and would meet the minimum size standards with appropriate in built storage would also being provided.

Based on the above requirements we consider that the proposal would be acceptable.

Regards,

CUBE Planning Ltd