

APPLICATION REPORT – 24/01078/P3PAN

Validation Date: 9 February 2024

Ward: Chorley North West

Type of Application: Prior Approval from Retail to Dwelling

Proposal: Prior approval application under Schedule 2, Part 3, Class M(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed change of use from retail (Use Class E) to 9 no. apartments on the first and second floors.

Location: Dickinsons Furniture 137 - 143 Market Street Chorley PR7 2ST

Case Officer: Mr Iain Crossland

Applicant: Mr Trevor & Herbert Witts

Agent: Mr Peter E Gilkes

Consultation expiry: 4 March 2024

Decision due by: 4 April 2024

RECOMMENDATION

1. Prior approval is required, and it is recommended that it should be granted.

SITE DESCRIPTION

2. The application site comprises a long established retail shop that is located at the southern end of Market Street and is in Chorley town centre within a secondary shopping frontage. The site comprises a three storey building of traditional form that is at the end of a block of development. The surrounding area is of mixed character and comprises a range of different uses with good pedestrian access to a wide variety of amenities.

DESCRIPTION OF PROPOSED DEVELOPMENT

3. This application seeks prior approval under Schedule 2, Part 3, Class M(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed change of use from retail (Use Class E) to 9 no. apartments on the first and second floors.

REPRESENTATIONS

4. One representation in objection has been received raising concerns about the absence of any parking provision, lack of on street parking opportunities and potential impact that this may have on the business functions of the Chorley Masonic Hall.

CONSULTATIONS

5. **Regulatory Services - Environmental Health:** No comments have been received.

6. **Waste & Contaminated Land:** has no concerns over ground contamination in relation to this site. The site is unlikely to be determined as Contaminated Land.
7. **Lancashire Highway Services:** does not have any objections regarding the proposed prior approval application under Schedule 2, Part 3, Class M(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed change of use from retail (Use Class E) to 9 no. apartments on the first and second floors, and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.
8. The site is within a sustainable location and no off street car parking is requested. The proposed dwellings would not be eligible for on street residents parking permits.

PLANNING CONSIDERATIONS

Procedural matters -

9. Part 3, Class M(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), permits 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.

Assessment -

10. Development is not permitted by Class M(a) (assessment in bold):
11. (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 application form submitted with the application states that the building has been vacant for at least 3 months prior to the date of the application (09 February 2024) and there is no evidence to indicate that there have been any intervening uses during this timeframe. On this basis it is considered that the building has been vacant for more than 3 months prior to the date of the submission of the prior approval application.

12. (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 application form submitted with the application states that the building has been used for 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, whilst the Council's records demonstrate that the long established use of the building is as a retail shop. There is no evidence to indicate that there has been any material change of use of the building within the previous 2 years and, therefore, it is considered that the established lawful use of the building would have fallen within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 prior to the introduction of the updated Use Classes in September 2021, and within Class E since this time.

Use Class A1 and E are specified at subparagraph 2 of this part of the GPDO and the development, therefore, accords with the above criterion (b).

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

The cumulative floorspace of the existing building is less than 1,500 square metres.

14. (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;

There is no conflict with the above criterion (d) (i to v).

15. (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;

There is no conflict with the above criterion (e) (i to v).

16. (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.

17. (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.

A direction under article 4(1) of this Order does not apply to the site.

Prior approval -

18. Development under Class MA is permitted subject to the condition 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, 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.

a) Transport and highways impact of the development

19. The proposed development would result in the provision of 9 no. dwellings. There would be no off street parking or dedicated parking spaces for occupiers of the dwellings. The site is, however, located in a highly sustainable location with excellent pedestrian access to shops, food stores, a wide range of amenities and public transport options. It must also be considered that the existing use generates a parking requirement that is not currently fulfilled by dedicated parking provision.

20. LCC Highways have recognised that the location is sustainable and have confirmed that they do not have any objections regarding the proposed change of use from retail (Use Class E) to 9 no. apartments on the first and second floors, and are of the opinion that the proposed development will not have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. On the basis of this advice and the sustainability of the location it is considered that there would be no unacceptable transport impacts as a result of the development.

b) Contamination risks on the site

21. The Council's Waste and Contaminated Land Officer has stated that based on the available information the Council currently have no concerns over ground contamination in relation to this site and the site is unlikely to be determined as contaminated land.

c) Flooding risks

22. Paragraph W.6 of Part 3 of the GPDO states:

Where an application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency where the development is—

- (a) In an area within Flood Zone 2 or Flood Zone 3; or*
- (b) In an area within Flood Zone 1 which has critical drainage problems, and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.*

23. In this case the application site does not lie within flood zone 2 or 3, or within an area that has critical drainage problems.

d) Impacts of noise from commercial premises

24. There are several commercial premises located within the immediate locality, most notably including a public house, immediately adjacent and attached to the north side of the building, and an events venue and bar within the Masonic Hall to the rear of the site on the opposite side of George Street. These uses are not restricted by planning conditions and have the potential for noise generation. It is, however, noted that the site is within a town centre location where a mix of such uses is anticipated and encouraged, whilst the presence of these amenities would be a known factor to potential residents. It is therefore considered that there would be no unacceptably adverse impacts on the occupiers of the proposed apartments in the context of this town centre location.

e) Impacts on character or sustainability of the Conservation Area

25. The application site is not located within a Conservation Area.

f) Provision of adequate natural light in all habitable rooms

26. Floor plans have been submitted demonstrating that natural light can be achieved to all habitable rooms subject to the provision of new window openings and internal alterations noted on the proposed floor plans. It is therefore considered that adequate natural light would be provided across the development.

g) Impact on intended occupiers of the development 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

27. The application site is not located in an area that 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;

28. The development would not involve the loss of services provided by a registered nursery, or a health centre maintained under section 2 or 3 of the National Health Service Act 2006.

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

29. Paragraph MA.3 states that development meets the fire risk condition if it relates to a building which would contain two or more dwellinghouses and 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.

30. The proposed development relates to a building that would contain 9 no. dwellinghouses, however, the building is less than 18 metres in height and contains less than 7 storeys and, therefore, the fire risk condition is not applicable in this instance.

CONCLUSION

31. It is considered that the proposed change of use meets the criteria of the legislation. It is recommended, therefore, that prior approval is required and that it is granted subject to required conditions.

RELEVANT HISTORY OF THE SITE

Ref: 82/00317/FUL **Decision:** PERFPP **Decision Date:** 13 July 1982

Description: Alterations to front elevation and rear extension and alterations to furniture shop

Ref: 80/00401/FUL **Decision:** PERFPP **Decision Date:** 10 September 1980

Description: Rebuilding furniture shop

RELEVANT POLICIES: Schedule 2, Part 3, Class M(a) of The Town and Country (General Permitted Development) (England) Order 2015 (as amended)

Suggested Conditions

1. The development must be completed within a period of 3 years starting with the date of this letter.

Reason: As required by Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

2. The building permitted to be used as dwellinghouses shall remain in use as dwellinghouses 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.

Reason: As required by Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

3. The development hereby permitted shall be carried out in accordance with the approved plans below:

Location Plan received by the Local Planning Authority on 09 February 2024

Floor Plans received by the Local Planning Authority on 18 March 2024

Reason: For the avoidance of doubt and in accordance with Schedule 2, Part 3, Paragraph W(2)(bc) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).