

DELEGATED DECISION REPORT

DET/2023/0015
Valid 06/10/2023

8 LONDON HOUSE
TERRACE ROAD
BUXTON

PROPOSED CHANGE OF USE
OF UPPER FLOOR FROM
COMMERICAL, BUSINESS
AND SERVICE (CLASS E) TO 1
X 3NO. BEDROOM
DWELLINGHOUSE AT NO.8
'LONDON HOUSE' TERRACE
ROAD, BUXTON

(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)

MAIN ISSUES

- Whether the proposed development complies with the criteria set out under Schedule 2, Part 3, Class G, Paragraph G.1(a)-(c)
- Whether Prior Approval is required in relation to any of the matters set out under Schedule 2, Part 3, Class G, Paragraph G.1(d).

DESCRIPTION OF SITE

The application site relates to No.8 'London House' Terrace Road, Buxton.

The building in question is three storey, situated at the corner of Terrace Road and Hardwick Street, which has a ground floor which operates as a retail unit known as 'Potters'.

PROPOSAL

This Prior Notification application submitted under Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended seeks permission for the conversion of the upper floor of No.8 'London House' Terrace Road, Buxton to a 3no. bedroom residential unit (flat).

CONSULTATION COMMENTS

HPBC Environmental Health

No objections

AES Waste

I can confirm that the developer would need to ensure that there is suitable storage provision for 2 x 240 litre wheelie bins (it should be 3 but I am assuming that they will not have any garden waste), at the rear of the property – there is legislation to prevent the storage of bins on the pavement and looking at the plans there is an access to the rear.

The bins must be stored within the property boundary and be moved to the presentation point without the need to go up or down steps or through the property – the presentation point in this instance would be the end of the accessway on Hardwick Street. Garden gates need to be wide enough to accommodate a standard 240l wheeled bin.

HPBC Conservation Officer

I have no concerns with the change of use in principle. However, the site concerned in this application is within the Buxton Central Conservation Area and surrounded by a number of heritage assets. As such, I would expect a Heritage Statement to accompany any and all proposals concerning this address.

DCC Highways Authority

The location of the premises is Town Centre with all of the expected amenities in close proximity to the site and there are extensive waiting restrictions in place in the vicinity of the site controlling roadside parking. Whilst accepting that future occupiers of the proposed dwelling unit within the premises will have no dedicated off street parking, based on the location of the site and the existing waiting restrictions, there would be no grounds for a highway related objection to the proposal.

OFFICER COMMENTS

1. Whether the proposed development complies with the criteria set out under Schedule 2, Part 3, Class G, Paragraph G.1(a)-(c)

Schedule 2, Part 3, Class G permits development consisting of a change of use of a building from a use within Class E (commercial, business and service) to a mixed use for any purpose within that Class and as up to 2no. (residential) flats.

In order to be permitted, the proposal must comply with all relevant criteria set out under Paragraph G.1. An assessment of the proposal against such criteria is carried out as follows:

- G.1 Development permitted by Class G is subject to the following conditions**
- (a) some or all of the parts of the building used for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat**

The application is supported by an Application Form and Proposed Floor Plan that confirms that the ground floor commercial/retail unit would remain in situ with the

proposed 3no. bedroom residential flat above. It is therefore accepted that the proposed development complies with Paragraph G.1(a).

- (b) where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat**

As shown by the image from Google Street View (June 2023) the existing retail unit 'Potters' would be retained with no residential use proposed at ground floor level. As such, the proposal is compliant with Paragraph G.1(b).



- (c) a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence) –**
- (i) by a single person or by person living together as a family, or**
 - (ii) by not more than 6 residents living together as a single household (including a household where care is provided for residents)**

The Proposed Plans show the proposed residential flat as having 3no. bedrooms, with an assumed maximum capacity of 6no. people. The flat would be functional as a planning unit, and as a joint household (not as a House in Multiple Occupation).

The Application Form confirms that the flat will function in a manner that is compliant with the above criteria. It is therefore judged that the proposal complies with Paragraph G.1(c). It is recommended that a compliance condition be added to the Decision Notice to make clear that the flat cannot be sub-divided or used as a HMO with bedrooms rented out individually with a shared communal space (C4 Use).

- 2. Whether Prior Approval is required in relation to any of the matters set out under Schedule 2, Part 3, Class G, Paragraph G.1(d).**

Paragraph G.1(d) states that before beginning 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 to –

- (i) contamination risks to relation to the building;
- (ii) flooding risks in relation to the building;
- (iii) impacts of noise from commercial premises on the intended occupiers of the development;
- (iv) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- (v) arrangements required for the storage and management of domestic waste;

Each matter is considered and assessed as follows:

Contamination Risks

The Environmental Health Officer in considering all matters of public amenity including land contamination, has confirmed that there are no objections to this proposal. As such, Prior Approval is not required with regards to contamination risks.

Flooding Risks

The site lies within Flood Zone 1 and is not located within an area identified as being at risk by the Environment Agency. As such, Prior Approval is not required with regards to the flood risk.

Impacts of Noise

The proposed residential flat would be situated above a commercial premises that operates primarily as a clothing store, understood to trade within normal working hours. The site is also located within the Town Centre of Buxton and thus a degree of low level noise associated with town centre uses should be taken into account when considering the potential impacts on future occupants.

Having regard to the nature of the proposed retail unit at ground floor level and the sites location within the Town Centre, it is considered that the introduction of a residential dwelling on the upper floors of the building would not give rise to any adverse noise impacts and therefore Prior Approval is not required in this regard.

Provision of Adequate Light

The Proposed Plans show that each habitable room would be served by a reasonably sized window, thereby offering a generous amount of natural light into the property. As such, Prior Approval is not required with regards to the provision of natural light.

Arrangements for Waste

In response to comments received from AES Waste services, the applicant has submitted a plan (Ref: Potters G Bin Location) showing the location of bin storage, within the rear private yard. The bins would be taken through a rear gate for presentation and returned the same way.

This plan is considered to satisfy matters of bin storage and as such Prior Approval is not required in this regard.

Other Matters

Heritage and Conservation

Further to the comments provided by the Conservation Officer, a Heritage Statement has been submitted by the applicant. However, given that matters of design or indeed heritage are not considerations for whether the application is permitted and are not listed within the issues that require an assessment of whether Prior Approval is required, matters of heritage are not material to the assessment and determination of this application.

Nutrient Neutrality

As the proposal relates to the change of use to include a new dwelling(s), it would fall within the scope of nutrient neutrality. Permitted development rights and the prior approval process does not override the requirement to comply with other permissions, regulations or consent regimes. Therefore, in accordance with Article 3(1) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) the permitted development cannot lawfully commence until an application under Regulation 77 of the Conservation of Habitats and Species Regulations has been submitted to and approved in writing by the Local Planning Authority. Failure to gain approval under Regulation 77 of the Habitats Regulations prior to the commencement of development will render the development unlawful. 28. Although this is an application submitted under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) the Local Planning Authority is required to determine the application in accordance with the requirements of the Order and the developer will not be required to address the issue of nutrient neutrality at this stage. An informative will be attached to the decision advising that an approval under Regulation 77 of the Habitats Regulations must be obtained before the development can commence.

CONCLUSION / PLANNING BALANCE

The above assessment has shown that the proposed conversion of the upper floor of No.8 Terrace Road, Buxton, which functions as a retail unit at ground floor level, would constitute permitted development having regard to all relevant criteria under Schedule 2, Part 3, Class G, Paragraph G.1(a)-(c) of the GPDO.

There are no grounds for Prior Approval being required in relation to matters set out under Paragraph G.1(d).

OFFICER RECOMMENDATION : Prior Approval Not Required

Case Officer: James Stannard

Recommendation Date: 28th November 2023

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council