

DELEGATED DECISION REPORT

DET/2024/0018
Valid 20/05/2024

37 MANCHESTER ROAD
CHAPEL-EN-LE-FRITH

APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED FOR -
CHANGE OF USE FROM
COMMERCIAL USE TO
CREATE ONE DWELLING

(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)

MAIN ISSUES

- Whether the proposed development complies with the relevant parameters of Schedule 2, Part 3, Class MA of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

DESCRIPTION OF SITE

The site comprises a two storey detached property that has been in commercial use. It is situated on the southern side Manchester Road within the defined settlement limits of Chapel-en-le-Frith. Included in the application site is an area of hardstanding which has a gated access.

The surrounding area is largely residential with some commercial uses interspersed including FR Somerset, haulage company, which is situated to the rear of the site. The site is not within a conservation area and is flood zone 1.

PROPOSAL

The application is seeking residential use via the Class MA of the Town & Country Planning (General Permitted Development) (England) Order 2015 process.

The submitted floor plans show that there would be minimal changes to existing internal configuration of the building the main change is the staircase being relocated. The internal layout is arranged with a garage and kitchen at ground floor level and a lounge, bedroom and bathroom at first floor level.

Externally it is proposed to replace the existing PVC shop front windows and signage with a black roller shutter door. It is also proposed to change the first floor front window to satisfy Building Regulations means of escape requirements.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2007/0349 - Change Of Use Of Former St. John's Ambulance Hall To Hairdressing Salon On Ground Floor And Sun Tan Studio On First Floor – Approved 03.07.2007

HPK/2009/0524 - Change Of Use From Hairdresser (A1) To Offices & Training Room (b1) – Approved 13.11.2009

HPK/2010/0027 – Retention of Shop front – Approved 03.03.2010

CONSULTATIONS

County Highways

There are no objections to the principle of the development; however the 'garage' is substandard in terms of its length to accommodate a parked vehicle. But, the statement submitted in support of the application indicates that the 'garage' is to be used for the bike storage and other items. You may wish to the inclusion of a condition to control the use of the garage but this would seem difficult to enforce. It is recommended that the 'garage' door is of a roller/shutter type and that this is conditioned.

The application also proposes the use of the space to the side of the premises for parking. This space is served by a footway crossing and is of a suitable size to accommodate a vehicle.

There are no highway authority objections to the application.

OFFICER COMMENTS

This is an application for prior approval, change of use from commercial to residential, and should be assessed against Schedule 2, Part 3, Class MA of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended):

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 (dwellinghouse) of Schedule 1 to that Order.

This is subject to a prior notification procedure where the Local Planning Authority can consider;

- (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*

- (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.

The application was submitted after 5 March 2024 after the changes to Class MA coming into force Applications no longer have to demonstrate that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of an application for prior approval. Additionally, Class MA was amended to remove the floorspace upper limit for buildings changing use under the right.

Assessment of the proposal

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 (dwellinghouse) of Schedule 1 to that Order.

Each relevant criteria of Class MA is addressed in turn below.

MA.1 (a) Development is not permitted by Class MA unless the building has been vacant for a continuous period of at least 3 month immediately prior to the date of the application for prior approval;

Recent changes to Class MA means this no longer needs to be demonstrated.

MA.1 (b) Development is not permitted by Class MA 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 application form states the building has been used for a continuous period of at least 2 years prior to the date of the application for prior approval.

It has understood that the property has been in commercial use for over 15 years. Planning permission was granted for a change of use from hairdressers to office in 2009. It is believed the EMH Care were the last commercial occupiers of the building.

MA.1 (c) Development is not permitted by Class MA if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

Recent changes to Class MA means this no longer needs to be demonstrated.

MA.1 (d) Development is not permitted by Class MA 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;***

The application site is not and does not form part of any of the criteria specified above and as such complies with the requirements of this part of the legislation.

MA.1 (e) *Development is not permitted by Class MA 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;

The application is not within any of the areas specified above and as such complies with the requirements of this part of the legislation.

MA.1 (f) *Development is not permitted by Class MA 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 application site is not subject to an agricultural tenancy and therefore is compliant with the above section of legislation.

MA.1 (g) *Development is not permitted by Class MA before 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.

Class O permitted development rights have subsequently been superseded by Class MA.

MA.2 allows the Local Planning Authority to determine whether prior approval is required and where necessary are required to assess the following:

- (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 considered 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.

(a) Transport impacts of the development, particularly to ensure safe site access;

The property has an existing driveway to the side of the property, which could fit two vehicles if tandem parked. The proposal also includes an integral garage. However, the Highway officer comments that the garage space isn't large enough as ideally garage spaces should be 6m x 3m and the proposed garage is only 5.4m deep. Nevertheless there is sufficient space to park vehicles on the adjacent driveway and therefore the proposal will not result in adverse highway impacts.

(b) Contamination risks in relation to the building

The site of the proposed development has not been identified as contaminated land.

(c) Flooding risks in relation to the building

The site of the proposed development is within flood zone 1. As such, the proposed development is considered acceptable in terms of flood risk.

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

The surrounding properties are principally residential but there are some commercial premises in vicinity, in particular FR Somerset, haulage company, which is situated to the rear of the site.

Undoubtedly there will be some disturbance from the frequent comings and goings of the haulage vehicles but this is an existing issue for the adjacent residential properties. The disturbance from the haulage vehicles will be from HGVs entering and leaving the haulage yard but in any event Manchester Road is a busy B road which experiences existing levels of traffic noise from other through traffic. The noise is not therefore considered to be excessive

(e) Where-

(i) the building is location 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

The application site is not located within a Conservation Area.

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

All habitable rooms have windows.

(g) The impact on the intended occupiers of the development of the introduction of residential use in an area the authority considered to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

The site is not in a predominantly industrial area, there are some occasional commercial uses interspersed with residential uses. As noted previous a haulage company is in the vicinity but the main disturbance will be traffic movements but the Manchester Road is already a busy main thoroughfare. Accordingly, it is considered that the residential occupiers would not be unduly disturbed by any noise associated from any nearby industrial uses.

(h) Where the development involves the loss of services provided by-

(i) a registered nursery

(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

N/A

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

N/A

CONCLUSION / PLANNING BALANCE

As the proposal is compliant with the conditions, limitations and restrictions of Part 3, Class MA of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015 and the guidance contained within the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), therefore it is considered as permitted development as described by the Class MA provisions.

OFFICER RECOMMENDATION : Prior Approval Required and Given

Case Officer: Rosie Dinnen

Recommendation Date: 05.07.24

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council