

DELEGATED DECISION REPORT

DET/2024/0035
Valid 09/10/2024

41 KINDER ROAD
HAYFIELD

APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED FOR -
THE CAFE HAS BEEN
CLOSED, A ONE BEDROOM
FLAT CAN BE CREATED, TO
OFFER RENTED
ACCOMMODATION OR SELF
CONTAINED ANNEX TO THE
MAIN RESIDENTIAL
PROPERTY ATTACHED.

(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)

MAIN ISSUES

- Whether the proposal complies with all relevant parameters under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended
- Whether Prior Approval is required having regard to all matters set out under Paragraph MA.2 and whether the proposal is compliant with all relevant conditions contained within

DESCRIPTION OF SITE

The application relates to the ground floor of 41 Kinder Road. The ground floor of no. 41 was previously used as a café but has since been closed. The remainder of the building is a two storey dwellinghouse of stone and slate.

The building forms an end terraced property in the Hayfield conservation area and has a timber shop frontage.

PROPOSAL

The proposal seeks to convert the existing ground floor café into an annex to the existing dwelling on site, or to be used as an individual residential unit for rental.

The proposed flat will have one bedroom, and one bathroom with an open plan living and kitchen area.

RELEVANT PLANNING POLICIES

Town and Country Planning (General Permitted Development) Order (as amended) 2015

National Planning Policy Framework

Section 9 Promoting Sustainable Transport

Section 14 Meeting the Challenge of Climate Change and Flooding

Section 15 Conserving and Enhancing the Natural Environment

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2009/0234 Change of use from hairdressers to Café APPROVED 16/06/2009

CONSULTATION COMMENTS

Environmental Health

Conversion of café to residential, with adjoining premises having residential use. I can confirm that High Peak Borough Council, Environmental Health have no observations to make concerning this application.'

Derbyshire County Council Highways

'there would appear to be no material impact on the public highway because less vehicle trips would be expected from a one bedroom flat than a café and therefore the Local Highway Authority has no comments to make.'

HPBC Waste

None received

OFFICER COMMENTS

Whether the proposal complies with all relevant parameters under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

Schedule 2, Part 3, Class MA was amended in March 2024 and permits the following:

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 (Dwellinghouses) of Schedule 1 to that Order

A proposal must comply with all relevant parameters under Paragraph MA.1 in order to be permitted. An assessment of the application against this criteria is undertaken below.

MA.1 Development is not permitted by Class MA –

- a) Deleted.
- 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 building is has, until recently been used as a café, but has subsequently closed. This falls within the Class A3 (food and drink) class as listed in sub-paragraph (2) (a)(iii). Since September 2020 this has been incorporated into Class E as listed in sub-paragraph (2) (b). The planning history for the site suggests that this planning permission was granted in 2009 for the café use. Therefore the development complies with this criteria.

- c) Deleted.

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;

The site is not constrained by any of the above designations and as such the application is compliant with this requirement.

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;

The site is not constrained by any of the above designations and as such the application is compliant with this requirement.

- 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, and as such the application is compliant with this requirement.

(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.

Not applicable, the site has operated as an A3 use, and subsequently A Class E use.

Whether Prior Approval is required having regard to all matters set out under Paragraph MA.2 and whether the proposal is compliant with all relevant conditions contained within.

Having established that the proposed development complies with all relevant parameters under Paragraph MA.1 and thus constitutes permitted development, the Local Authority now must consider the potential impacts and acceptability of the proposal having regard to all matters of Prior Approval and relevant conditions set out under Paragraph MA.2.

Matters of Prior Approval are considered below.

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

Chapter 9 of the NPPF contains the relevant national planning policies relating to highway safety. Paragraph 114 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 115 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application site lies within the built-up area of Hayfield in a predominantly residential area of Hayfield. While no off-street parking is proposed or available on site, Kinder Road has unrestricted on-street parking.

It is considered that less individual journeys will be generated by the proposed residential unit, rather than by the existing café use. As such, DCC Highways have raised no objection to the proposed residential unit. As such the transport implications of the development are considered acceptable

(b) contamination risks in relation to the building;

The site is located in a residential area and was previously used as a café. Planning history shows the site was previously a hairdressers before the café use was granted permission in 2009. Neither of these uses are considered to cause any site contamination risks. The site has not been used for any industrial or waste uses. HPBC Environmental Health Officers have raised no objection to the proposed residential unit. As such, there are not considered to be any contamination risks in connection with this building.

(c) flooding risks in relation to the building;

Chapter 14 of the NPPF contains the relevant policies relating to the challenge of climate change including the need to address flood risk. The site lies within Flood Zone 1 within the urban area and the application does not include any new physical development. As such, the building is not considered to be at risk from flooding.

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

The remainder of the application site is currently used as a four bedroom dwellinghouse. There are no other commercial units located in the nearby vicinity. As such it is considered that the development is compatible with the adjacent buildings and there will be no impacts of noise from commercial premises on the intended occupiers.

(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;

The application site is located within the Hayfield conservation area. The proposed change of use will impact upon part of the ground floor. However, no external changes are proposed. The front elevation features an attractive timber shop frontage. The submitted plans indicate that this is to be retained and as such the proposed change of use will not impact upon the character or sustainability of the conservation area.

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

The proposed floor plans show that all habitable rooms are served by generously sized windows, and as such the residential unit will be adequately served by natural light, providing a high standard of amenity for future occupiers.

(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;

The building is located in a predominantly residential area, and already contains one four bedroom residential dwelling. There are not considered to be any general or heavy industry, waste management, storage or distribution facilities in the vicinity, that would give rise to any harm to the amenity of the future occupiers.

(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

Not applicable.

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

The building is two storey and has a height of less than 18 metres thereby not triggering the need to consult the Fire Service. Building Regulations that sit outside of the planning system are understood to cover fire regulations and subject to compliance with such regulations there are not considered to be any issues in this regard.

OTHER MATTERS

Compliance with Nationally Described Space Standards (NDSS)
The GPDO requires all applications for Prior Notification which include the creation of new residential units to demonstrate compliance with Nationally Described Space Standards (NDSS), which are as follows:

1 Bedroom 1 Person - 39m²
1 Bedroom 2 Persons - 50m²

In addition, a single bedroom must have a minimum width of 2.15m and an overall floor area of 7.5m², whilst every double bedroom must have a width of 2.75m and floor area of 11.5m².

The submitted floor plans show an overall floorspace on 39 sqm, with the bedroom having a floor area of 8sq. Therefore, the unit is only suitable for one person occupation. A condition is recommended to secure this level of occupancy.

CONCLUSION / PLANNING BALANCE

The above assessment confirms that the application complies with all parameters set out under Schedule 2, Part 3, Class MA of the GPDO thereby constituting permitted development. An assessment of all matters of Prior Approval has concluded that is Prior Approval Required and Granted

OFFICER RECOMMENDATION : Prior Approval Required and Granted

Case Officer: Rachel Robinson

Recommendation Date: 2nd December 2024

X *J. Colley*

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council