RAPLEYS

Planning Department
Manchester City Council
PO Box 532
Town Hall
Manchester
M60 2LA.

Our ref: 23-01974
Date: 12th March 2024

Dear Sir/Madam,

Class MA Prior Approval at 11-13 New Wakefield Street, Manchester, M1 5NP

This statement has been prepared by Rapleys LLP on behalf of Timber SPV Limited, the applicant and freehold owner of the site. It supports a prior approval application for a change of use from commercial (Class E) to residential (Class C3) on part of the ground floor and the entire 2nd and 3rd floors of the building. The application is made under Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Site Description

The application site is located on New Wakefield Street immediately to the southeast of Oxford Road train station within the defined city centre of Manchester. It comprises a 4 storey brick building, plus basement and rooftop addition, which includes:

- Basement: Kable nightclub (Sui Generis)
- Ground and 1st floor: Brickhouse Social, a food and drink use (Class E)
- 2nd and 3rd floor: offices (Class E)
- 4th floor: flats (Class C3)

The application concerns a portion of the ground floor and the entirety of the 2nd and 3rd floor office suites.

The site is located outside any Conservation Areas, but is within Flood Zone 3.

Proposed Development

The proposed development involves creating a new bike store at ground floor level within the existing commercial unit and converting the 2nd and 3rd floors into 8 x flats.

The bike store will provide 8 cycle spaces, one per flat, and will be accessed using one of the existing entrances onto New Wakefield Street. The existing bin store, which has its own access to the street, will be used to accommodate the new resident's waste and recycling facilities.

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The 2nd and 3rd floor residential layouts are very similar, each with 4 x flats. Overall, the residential offer includes 8 x 1 bed (1 person) flats, all of which meet the Governments Technically Described Space Standards.

The only external works – which are not included in this application - involve minor alterations to 4 x windows at the rear of the building, namely introducing obscure glazing and replacing / reconfiguring windows within their existing apertures. These works are not considered to require planning permission and will be carried out prior to occupation.

Legislative Requirements

The content of Class MA - *commercial, business and service uses to dwellinghouses* - is copied below for convenience (in blue font). Each of the criteria is addressed in turn insofar as they relate to the proposed development:

> *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 (dwellinghouses) of Schedule 1 to that Order.*

Both the ground floor use (Brickhouse Social, a food and drink use) and the 2nd / 3rd floors (offices) fall within Use Class E. The proposed flats and associated bike store fall within Use Class C3.

> *Development not permitted*
>
> *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;*~~ [1]
>
> *(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 ground floor was trading as the Brickhouse Social from at least July 2019 as shown on Figure 1 below, which is a food and drink use (Class E).

It is understood that the 2nd and 3rd floors have been in office use (Class E) for at least 10 years.

[1] Deleted by 2024No.141 (The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024)

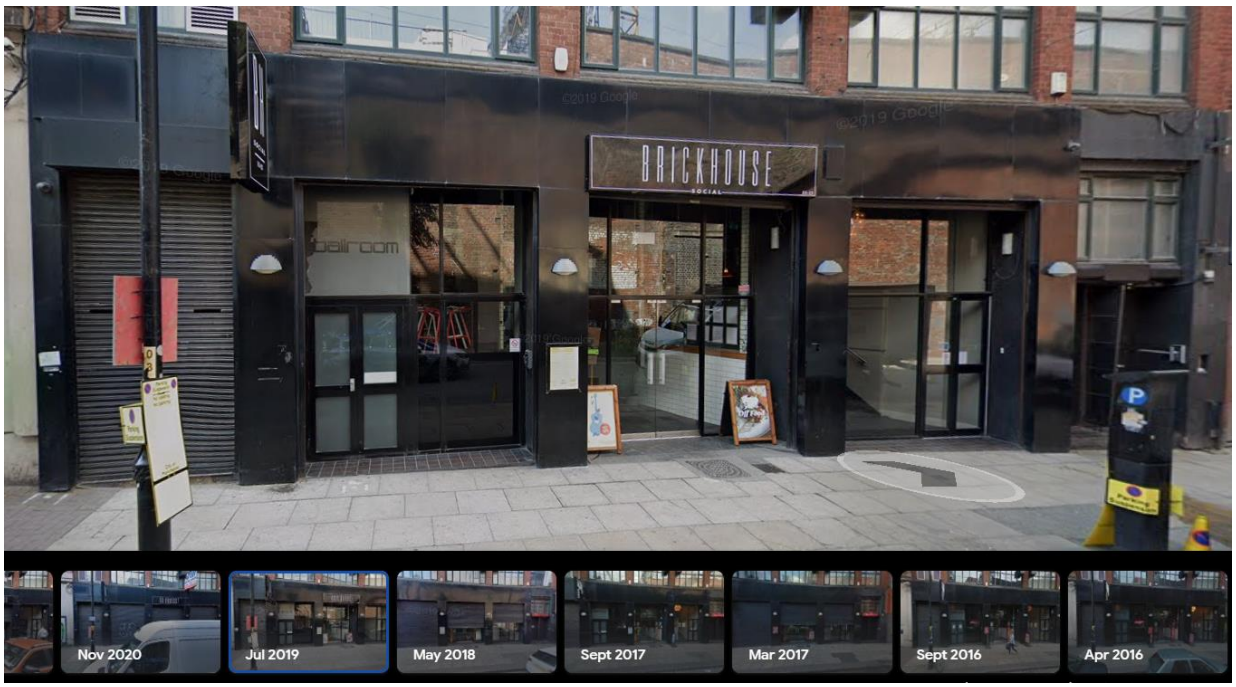


Figure 1: Google Streetview extract showing the site in July 2019

~~*(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;*~~[2]

(d) if land covered by, or within the curtilage of, the building—

(i) is or forms part of a site of special scientific interest;

The site is not within a SSSI.

(ii) is or forms part of a listed building or land within its curtilage;

The site is not listed nor within the curtilage of a listed building.

(iii) is or forms part of a scheduled monument or land within its curtilage;

The site is not a SAM or within the curtilage of one.

(iv) is or forms part of a safety hazard area; or

The site is not within a safety hazard area.

(v) is or forms part of a military explosives storage area;

The site is not within a military explosives area.

(e) if the building is within—

(i) an area of outstanding natural beauty;

[2] Deleted by 2024No.141 (The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024)

The site is not within and AONB.

(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981

The site is not within such an area.

(iii) the Broads;

The site is not within the Broads.

(iv) a National Park; or

The site is not within a National Park.

(v) a World Heritage Site;

The site is not within a World Heritage Site.

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

The site is not occupied under an agricultural tenancy.

(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.

This application is submitted after 1st August 2022, so these criteria are not applicable.

Conditions

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;

Access to the flats will remain as per the existing office access - via the pavement on New Wakefield Street. Access to the bin and bike store will make use of existing doors onto New Wakefield Street.

The site is sustainably located in the defined City Centre of Manchester, in close walking distance to a wide range of shops, amenities, transport links and employment opportunities. As such, it is considered to be well placed to accommodate a car free development.

The change of use from office to residential is unlikely to have a material impact on trip generation given the sustainable location of the site. Since the office staff would likely have arrived to work at as similar time, the proposal may result in a reduction in peak hour movements.

A new cycle store is proposed at ground floor level with one cycle space per flat (8 in total). This is within the existing building and will therefore be secure and sheltered.

Residents of the new flats will make use of the existing office bin store, which is located at ground floor level. Waste and recycling bins will be provided to meet local requirements. Collections will be from New Wakefield Street as existing.

Taking the above into account, the proposed development is considered to be acceptable in highway terms.

(b) contamination risks in relation to the building;

The proposal relates to the change of use of office space at 2nd and 3rd floor level to deliver new flats. Neither the office use nor any other uses in the building are known to present a risk of contamination. The proposal will not involve any ground disturbance, so the risk of contamination is considered to be minimal, and no further assessments are considered necessary.

(c) flooding risks in relation to the building;

The application site is located within Flood Zone 3 and, as such, a Flood Risk Assessment (FRA) has been undertaken. The accompanying FRA by Calibro reaches the following conclusions:

- The site is at risk of flooding from rivers but at low risk from all other sources.
- The only ground floor proposals are bike and bin stores. The flats will be elevated above potential flood levels so will be at negligible risk of suffering flood damage. As such, the only mitigation proposed is to develop a robust but proportionate Flood Emergency Plan.
- The flats themselves would provide a place of safe refuge during flood events, with evacuation very unlikely be required.
- Site occupiers and the management company representatives will sign up to the Environment Agency Floodline.
- The proposed development – being a change of use only - would have negligible impact on local drainage.
- Overall, the FRA concludes that the development will be safe for its lifetime and therefore meets the requirements of the NPPF and PPG.

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

The windows and u-values of the building will be upgraded to ensure suitable internal noise levels for future residents. A condition requiring such upgrades prior to occupation would be acceptable to the applicant.

(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 not located within a Conservation Area.

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

The 2nd and 3rd floors are served by numerous existing windows, all of which are generously proportioned. The proposed flat layout has been designed to ensure that all habitable rooms are served by an existing window and that each will receive adequate natural daylight. This is clear from the proposed plans.

Given the nature of surrounding development, which includes large towers to the east and west, along with the high wall of the railway track to the north, a Daylight Assessment has been carried out and submitted with this application. The assessment finds that, of the 16 habitable rooms assessed, all meet the minimum recommendations of the UK National Annex of EN BS 17037 and the BRE Guidance, using the Daylight Factor Method.

As a result, all habitable rooms will benefit from 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; and

The application site is not located in an industrial area. The surrounding uses are typically office, residential and commercial.

(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

The proposed development will not affect a registered nursery or health centre.

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

Paragraph MA.3. states that 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.

Article 9A(3) of the of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states:

(3) The height condition is that—

(a) the building is 18 metres or more in height; or

(b) the building contains 7 or more storeys.

Article 9A(7) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states:

(7) For the purpose of paragraph (3)—

(a) the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms);

As such, for a development to meet the fire risk condition, it must have 7 or more storeys or be 18m or more in height, measured from ground level up to the top floor surface of the building (excluding rooftop plant and machinery).

In this instance, the building is 4 / 5 storeys in height, measuring 14.6m. As such, it does not meet the fire risk condition.

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

This application is made subsequent to 1st August 2021.

Paragraph W

The relevant elements of Paragraph W are addressed below for the sake of clarity:

The application must be accompanied by—

(a) a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must in the same application include any building or other operations;

A written description of the proposed development is provided on page 1 of this statement.

(b) a plan indicating the site and showing the proposed development;

Accompanying drawing 01 includes a site location plan with the application site edged in red, along with existing plans and elevations of the building. Drawing 03A shows the proposed floor plans and elevations.

(ba) in relation to development proposed under Classes G, M, MA, N, O, P, PA and Q of this Part, a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, "net increase in dwellinghouses" is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);

The net increase in dwellinghouses will be 8.

(bc) in relation to development proposed under Class G, M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;

Proposed drawing 03A shows the proposed flat layout with individual flat GIA figures annotated. There is a scale bar and the drawing can be measured to establish any relevant dimensions.

Development Plan Policy & Conditions

It is well established through case law that applications for prior approval are to be determined against the requirements of the GPDO, rather than Development Plan policy, and that any conditions attached to the prior approval must relate to the subject areas / assessment criteria set out under the relevant class of the GPDO, in this case, Class MA.

Conclusion

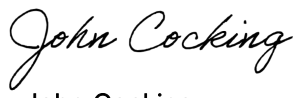
This application seeks prior approval for a change of use from commercial (Class E) to residential (Class C3) on part of the ground floor and the entire 2nd and 3rd floors of 11-13 New Wakefield Street under Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

It has been demonstrated that the requirements of Class MA have been satisfied in full and that the site is eligible to rely on Class MA permitted development rights. It has also been demonstrated that the prior approval application satisfactorily addresses the key assessment criteria set out in the GPDO.

On this basis, it is considered that prior approval can be given for the proposed change of use.

If you have any queries or wish to discuss the content of the application, please do not hesitate to contact me.

Yours faithfully,



John Cocking

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