

Planning

Growth & Development

Delegated officer report for planning application

Application no. 137763/P3MA/2023
Date registered valid: 9 August 2023
Proposal: Prior Approval for the change of use first floor from offices to residential flat (Class C3).
Address: 244 Middleton Road, Manchester, M8 4WA
Ward(s): Higher Blackley Ward

Applicant: Mr Guljar Singh
Agent (if any): Steve Shiels, Shiels Design Ltd
Case officer: Adam Mitchell
Tel: 0161 234 4165
Email: adam.mitchell@manchester.gov.uk

Recommendation: APPROVE
Date of recommendation: 19.09.2023

Application details

Type of application: Prior Approval application

Development type: Notifications

Date of site visit: 25 August 2023

Standard consultations:

Printed: 11 August 2023 Expired: 1 September 2023

Neighbour notifications

Printed: 11 August 2023 Expired: 1 September 2023

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of Site/Area

The application site relates to the first floor of a mid terraced brick built two storey property situated within a small parade of 6 commercial premises. The property benefits from a two storey rear outrigger and an existing access point to the formerly operated office space situated within the rear amenity space.

The application site is situated along Middleton Road which is a busy main route connecting north Manchester with the City Centre. The area is of a mixed character. There is a further parade of 8 commercial premises opposite the site along with a petrol filling station. The wider area, however, is residential in nature characterised by two storey properties.

Description of development

The application seeks prior approval for the change of use from offices (Class E) to a use class C3 (dwellinghouse), with no physical external alterations to the building, the first floor premises is currently vacant having formerly operated as offices.

The proposal is for the first floor of the building to be converted into a two bedroom apartment equipped with kitchen, living and bathroom space.

Consultations & Notification Responses

Local residents were notified and no responses were received.

Environmental Health- Conditions are advised in relation to acoustic attenuation, air quality and refuse and have been attached to the consent.

Highways- No objections.

Details regarding waste, cycling provision and air quality are not matters requiring prior approval. Conditions relating to these matters are not able to be considered against a Class MA prior approval application.

Issues

Principle

In August 2021 Class MA 'Commercial, business and service uses to dwellinghouses' was introduced to require the need for a Prior Approval application to be submitted to the local authority. The proposals will be assessed against contamination, flood risk, impacts of from commercial premises, natural light to all habitable rooms and the storage of domestic waste.

Legalisation

Class MA- commercial, business and service uses to dwellinghouses

MA. Development consisting of a change of use of a building and any land within its curtilage from a use class falling within Class E (commercial, business and service) of the Schedule 2 to the Use Classes Order to use falling within Class C3 (dwellinghouse) of Schedule 1 of that Order.

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;

The application details indicate the premises subject of the application have been vacant in excess of 3 months prior to the submission of the application

- (b) Unless the use of the building fell within on or more of the classes specified in subparagraph (2) for continuous period of at least 2 years prior to the date of the application for prior approval;

The building has been in use as a Class E office for at least 2 years prior to its closure in 2023.

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

The cumulative floorspace does not exceed 1,500sqm

- (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 building does not fall within any of these categories.

(e) if the building is within—

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the Secretary of State for the purpose of section 41(3) of the Wildlife and Countryside Act 1981(1);
- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

The building does not fall within any of these areas.

(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

(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 relevant in this instance.

Conditions

MA.2—(1) 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;

The proposals are considered to be located within a sustainable and accessible location within a district centre. It is not considered that the provision of 1 no. dwelling would give rise to significant highway impacts.

- (b) contamination risks in relation to the building;

The building is an established and long standing premises and it is not considered there would be contamination risks given the previous use and the existing use including the ground floor.

- (c) flooding risks in relation to the building;

There are not perceived to be any flooding risks associated with the premises, it is located within Flood Zone 1 having the lowest probability of flooding.

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

Following the assessment of the submitted noise assessment a condition is recommended from Environmental Health officers to ensure a suitable acoustic insulation scheme is installed to protect occupiers from noise generated by the ground floor and wider area.

(e) where—

- (i) the building is located in a conservation area, and
- (ii) the development involves a change of use of the whole part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;

Not relevant in this instance.

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

All the rooms apart from the bathroom towards the rear of the application site would have the benefit of natural light via windows on the external elevations of the building. Given the size and placement of these windows it is considered that the dwellings and specifically habitable rooms would benefit from 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

(h)where the development involves the loss of services provided by—

(i) a registered nursery, or

(ii) a health care maintained under the 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

Not applicable

Conclusion

The premises is now vacant after being in use for several years as offices. The submitted information indicates that the property has been vacant for more than 3 months. The agent has outlined that the proposed dwelling would meet the nationally described space standards residential flats.

The proposals are considered to meet the requirements of Class MA save for the attaching of a condition relating to acoustic insulation of the dwelling to protect the amenity of occupiers from commercial properties.

Other Legislative Requirements

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights

conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: APPROVE

The City Council is satisfied that this development has minimal transport impacts, that there are no known contamination or flood risks at the site, and that the proposal would provide adequate natural light to habitable rooms of the dwellinghouses. It has been determined that a condition is required in respect of acoustic insulation of the property to mitigate impacts on the intended occupiers of the development and an appropriately worded condition is appended to this decision.

The proposal therefore complies with the requirements of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Approval is hereby granted in accordance with drawings numbered A.03 1 Plans and Elevations received by the City Council, as Local Planning Authority, on 04 August 2023.

Condition(s) to be attached to decision for approval

a) Before the development commences a scheme for acoustically insulating the proposed residential accommodation against noise from Middleton Road and Windle Avenue shall be submitted to and approved in writing by the City Council as local planning authority. There may be other actual or potential sources of noise which require consideration on or near the site, including any local commercial/industrial premises.

The potential for overheating shall also be assessed and the noise insulation scheme shall take this into account. The approved noise insulation and ventilation scheme shall be completed before any of the dwelling units are occupied.

Noise survey data shall include measurements taken during a rush-hour period and night time to determine the appropriate sound insulation measures necessary.

b) Prior to first occupation of the residential units, a verification report shall be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that the internal noise criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the internal noise criteria.

Reason - To secure a reduction in noise from traffic or other sources in order to protect future residents from noise disturbance, pursuant to Policy DM1 in the Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Greater Manchester Police

Top Flat, 242 Middleton Road, Manchester, M8 4WA
246 Middleton Road, Manchester, M8 4WA
1 Windle Avenue, Manchester, M8 4NY

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH AREA