

LDC (Proposed) Report	Application number	2024/2675/P
Officer	Expiry date	
Richard Limbrick	26/08/2024	
Application Address	Authorised Officer Signature	
7 Mansfield Road London NW3 2JD		
Conservation Area	Relevant article 4	
Not relevant	None relevant	
Proposal		
Change of use from commercial (Class E) to dwellinghouse (Class C3).		
Recommendation:	REFUSE Lawful Development Certificate	

- The certificate application is for Change of use from commercial use (the applicant states it was a toy shop) in Class E, to a four-bedroom dwelling in Class C3. The burden is on the applicant to demonstrate lawfulness.
- The application is submitted on the basis that the change of use has permission granted by development order. Class MA of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 grants permission (under Article 3) for:

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.
- It goes on to say that development is NOT permitted unless the use of the building fell within Class E for a continuous period of at least 2 years prior to the date of the application. No information has been provided to satisfy the LPA of this requirement other than stating the use ceased on 01/01/2024.
- The plans and documents submitted are also inconsistent, with some stating there are no external alterations proposed, and others (3D views and roof plans) showing rooflights to be added. Class MA does not include permission for building operations.
- Furthermore, permission is granted under that class, subject to conditions. Condition MA.2. (2) says that **before** beginning development under Class MA, the developer **must** apply to the LPA for determination as to whether the prior approval of the authority is required as to various matters like transport impact, contamination, flooding, and noise, amongst others.
- The rights for change of use under Class MA do not crystallise until prior approval has been granted (or deemed to have been granted). Section 192(2) of the principal Act says (emphasis added):

*If ... the local planning authority are provided with information satisfying them that the use ... would be lawful if **instituted or begun at the time of the application**, they shall issue a certificate to that effect; and in any other case they shall refuse the application.*
- On the date of the application (1 July 2024) no application for a determination for prior approval had been made (or granted) under condition MA.2.(2) so the change of use would not be lawful.
- The change of use granted by Class MA of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 is subject to a determination of whether prior approval is required. No relevant application for prior approval has been made or granted so the change of use would not be lawful.

Recommendation:

9. Refuse Certificate of Proposed Lawful Development.

Reasons:

The change of use granted by Class MA of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 is subject to a determination of whether prior approval is required. No relevant application for prior approval has been made or granted so the change of use would not be lawful.

Class MA does not include permission for building operations which are shown on the proposed plans and drawings, and so the works would not be lawful.

Insufficient evidence has been submitted to demonstrate the use of the building fell within Class E for a continuous period of at least 2 years prior to the date of the application, so the change of use would not be lawful.

Plans and documents:

Application form dated 28/06/2024; Planning Report dated June 2024; V0003.03.01; V0003.03.02; V0003.03.04; V0003.03.20; V0003.03.22.