

Delegated Report		Analysis sheet		Expiry Date:		09/09/2024	
Prior Approval GPDO Part 3, Class MA		N/A / attached		Consultation Expiry Date:		26/08/2024	
Officer				Application Number(s)			
Miriam Baptist				2024/3001/P			
Application Address				Drawing Numbers			
7 Mansfield Road London NW3 2JD				See Decision Notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Change of use from Commercial, Business and Service (Class E) to 2x Dwellinghouses (Class C3).							
Recommendation(s):		Refuse Prior Approval					
Application Type:		GPDO Prior Approval Class MA Change of use of Class E to Class C3					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	0	No. of responses	0	No. of objections	0
Neighbour Consultation:		<p>A site notice was published on 02/08/2024 and expired on 26/08/2024. Neighbour letters were sent out to the following addresses on 13/09/2024 and expired on 4th October 2024: Flat 1, 9 Mansfield Road, Flat 2, 9 Mansfield Road, Flat 3, 9 Mansfield Road, Flat 4, 9 Mansfield Road, Flat A, 5 Mansfield Road, 7 Oak Village and 5 Mansfield Road.</p> <p>No responses were received from neighbouring occupiers.</p>					
CAAC/groups comments:		No consultation responses from local groups were received.					
Site Description							
<p>The application site is located on the south side of Mansfield Road, approximately midway between the two junctions with Oak Village. It is not within a conservation area but lies to the south of the Mansfield Conservation Area. In relation to land use, the site is not subject to an Article 4 direction.</p> <p>The application property comprises a two-storey end-of-terrace building which was last in commercial use, although currently vacant. The site comprises a 2-storey end-of-terrace property. The building is understood to have previously accommodated a children's toy shop, although it is currently vacant. The existing shopfront includes a large, glazed shop window, presently covered by a protective metal grid, a door to the side with a fanlight above, and a gateway to a small area of a side passage.</p>							

Relevant History

2024/2675/P - 7 Mansfield Road - *Change of use from commercial (Class E) to a single dwellinghouse (Class C3) (Class MA, Part 3 of the GPDO).* – **Lawful Development Certificate refused on 04/07/2024** on the following grounds: 1. *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.* 2. *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.* 3. *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.*

Relevant policies

The Camden Local Plan 2017

Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015

Technical Housing Standards - Nationally Described Space Standards 2015

The National Planning Policy Framework 2023

Assessment

1. Proposal

- 1.1. The application relates to the existing commercial property at 7 Mansfield Road which was previously a children's toy shop. Prior approval is sought for the change of use to residential under the General Permitted Development Order (GPDO, 2015) Schedule 2, Part 3, Class MA - commercial, business and service uses (Class E) to dwellinghouses (Class C3), to create 2 dwelling units on ground and first floors, a 1-bed property and a 2-bed property.
- 1.2. The proposed ground-floor flat would be single-aspect, with just a window to the front of the property serving the bedroom and a long roof light to the rear above the living area. The first-floor flat would have windows to the front and rear.

2. GDPO Acceptability

- 2.1. The Town and Country Planning (General Permitted Development) (Amendment) (England) Order (GPDO) 2015, Schedule 2, Part 3, Class MA, allows for the change of use of a building from a use falling within Class E, to a use falling within Class C3 (dwellings) of that Schedule, subject to a prior approval process as well as conditions. Class M(b) also allows for buildings operations reasonably necessary to convert the building.
- 2.2. Development that accords to sub-paragraph MA.1(a)-(g) are permitted by this class, subject to several conditions listed within sub-paragraph MA.2 (1)-(6). Prior approval procedure requires the developer to apply to the LPA for a determination as to whether prior approval of the authority would be required as to:
 - 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 dwellinghouse;
- 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 uses; and
- h) where the development involves loss of services provided by -
 - (i) a registered nursery,
 - (ii) or 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 the services lost.

2.3. Paragraph W sets out the procedure for applications for prior approval under Part 3. This application seeks to ascertain whether the proposed change of use would constitute permitted development and whether prior approval is required. Part W (13) of the legislation notes that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

3. Assessment under Part 3, Class MA of the GDPO the Compliance with paragraph MA.1

3.1. Development is not permitted by Class MA

3.1.1. (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 proposal complies: Google Maps Streetview (investigated by the Council) suggests that the building has been vacant for more than three months. The Council has no reason to dispute the shop's vacancy over the last three months.

3.1.2. (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 proposal complies: Google Maps images (investigated by the Council) suggest that the toy shop has occupied the building since records began in 2008 (Class E). The applicant confirms the property has been a toyshop for a substantial period of time and business rates and articles in the press support this. The Use Class Order confirms that buildings used "for the display or retail sale of goods, other than hot food, principally to visiting members of the public" fall within Class E of the Use Class Order. The sale of toys falls within this definition.

3.1.3. (c) If the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

Proposal complies: The existing gross internal area (GIA) floorspace proposed for the change of use is approximately 145 sqm.

3.1.4. (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;

Proposal complies: The application site does not form part of the above specified areas or designations.

3.1.5. (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(1);
- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

Proposal complies: The application site does not form part of the above specified areas or designations.

3.6.1. (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

Proposal complies: the site is not occupied under an agricultural tenancy.

3.1.6. (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.

Proposal complies: The proposed development does not fall within Class O.

Considering the above, the proposal would accord with criteria of paragraph MA.1.

Compliance with paragraph MA.2

3.2. Where the development proposal follows paragraph MA.1, development is permitted subject to the conditions that before beginning the development, the developer must apply to the local planning authority for a determination as to whether prior approval of the authority will be required. Each criterion will be discussed in turn as follows:

3.2.1. (a) Transport and highways impacts of the development, particularly to ensure safe site access

3.3. The application site has a reasonable level of accessibility by public transport, with a PTAL level of 4.

3.4. As this is for a change of use, with the building works being restricted to the internal layout of the building only, it is considered that the development can proceed without recourse to a Construction Management Plan. It is similarly considered that a highways contribution would

not be necessary.

- 3.5. The proposed unit must be secured as a 'car-free' dwelling via a section 106 legal agreement. This would prevent new residents from accessing parking permits to promote more sustainable modes of transport and prevent increases in poor air quality and congestion. The failure of the applicant to enter into a S106 legal agreement for car-free development constitutes a reason for refusal. Were the development considered acceptable this could have been overcome via a legal agreement.
- 3.6. In line with Policy T1 of the Camden Local Plan, we expect cycle parking at developments to be provided in accordance with the London Plan standards. For 1 bedroom 1 person flats the requirement is for 1 space per unit, whilst for 1 bedroom 2 person flats the requirement is for 1.5 spaces per unit. This requires 2.5 spaces for this development, or 3 spaces when rounded up to the nearest whole number. The proposed ground floor plan shows an area for cycles and bins within the side alleyway. Whilst no formal stands are shown, it is considered that sufficient space exists to accommodate 3 cycles if required. It is recommended that the area be covered to protect it from the elements.
- 3.7. The failure to enter into a S106 agreement for a contribution to on-street parking spaces and failure to secure car-free development by way of S106 Agreement constitutes a reason for refusal.

3.7.1. (b) Contamination Risks in relation to the building

- 3.8. Council records do not show any historic potentially contaminative land at the site. Given this, the site is considered to pose a low risk, noting ground disturbance is likely to be limited with the current building remaining on site with internal alterations.
- 3.9. If prior approval were to be recommended the following condition would be applied in the event that any contamination is encountered during the development:

'If during construction/demolition works, evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not recommence until an appropriate remediation scheme has been submitted to, and approved in writing by, the local planning authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to, and improved in writing by, the local planning authority.'

3.9.1. (c) Flooding risks in relation to the building

- 3.10. Although the site is within flood zone 1 and has a low probability of flooding from rivers and the sea, the site is at risk from surface water flooding. In reference to the Strategic Flood Risk Assessment (2024), it is noted that the proposal is in an area at risk of flooding, the reasons are listed below:
- Mansfield Road was a previously flooded street in 1975
 - There is a high risk of surface water flooding in the vicinity of the site
 - It is located in an area with 21-40 reported sewer flooding incidents
- 3.11. Whilst it is not located within a local flood risk zone, it is in close proximity (on boundary at the rear of the property). No basement is proposed as part of this application. There are two egresses at the main door and the door to the bin/cycle storage. The entrance has a minor raised step, but information on whether there are also raised steps at the egress

point at the bin/cycle storage area is not available.

3.12. The utility / store room is right next to the egress of the bin/cycle area. To minimise damage, it can be raised from ground level. Sensitive equipment in the utility/store room should be elevated or moved to an upper floor when flooding is expected.

3.13. Local Plan policy CC3 requires that where a site is known to have a particular drainage issue, development should not place additional strain on adjoining sites or the existing drainage infrastructure. It also requires that the development is designed to cope with being flooded. The policy requires developments to reduce their water consumption, the pressure on the combined sewer network and the risk of flooding by:

- (a) incorporating water efficient features and equipment and capturing, retaining and re-using surface water and grey water on-site;
- (b) limiting the amount and rate of run-off and waste water entering the combined storm water and sewer network through the methods outlined in part a) and other sustainable urban drainage methods to reduce the risk of flooding.
- (c) reducing the pressure placed on the combined storm water and sewer network from foul water and surface water run-off and ensuring developments in the areas identified.... as being at risk of surface water flooding are designed to cope with the potential flooding.

3.14. The applicant must demonstrate how a), b), and c) above will be included in the proposals to ensure no additional strain on adjoining sites or the existing drainage infrastructure that the development will cope with being flooded. e.g. by limiting flood waters entering and damaging the building fabric or allowing flood water to enter the building but limiting the damage it will cause.

3.15. The cumulative impact of small prior approvals in high-risk areas should be considered (Residential use typically uses much more water than offices, resulting in increased impact on the sewer system due to the generation of more waste water). The replacement of the forecourt with a permeable surface is encouraged.

3.16. As the proposal is located in an area of high flooding risk, several conditions would be attached to the approval if granted in relation to flood mitigation and resilience measures, such as water efficiency. As such, with suitable flood protection in place the residential use would be acceptable in this regard.

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

3.18. The applicant has not provided an internal noise survey to assess the impact the new residential property. The new residential unit faces the street where noise nuisances could arise. However the street concerned is not a busy main road nor plays a significant role in the night time economy therefore is not considered unsuitable for residential uses to front onto in Camden. It is therefore not considered that a proposed dwelling in this location would be unduly at risk of noise impacts.

3.19. **(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;

3.20. The application site does not lie within or adjacent to a Conservation Area and therefore the change of use would not impact the character or sustainability of the any conservation area.

3.21. **(f) The provision of adequate natural light in all habitable rooms of the dwellinghouse.**

3.22. The Building Research Establishment publishes the leading industry guidelines on daylight and sunlight in BR209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (third edition, 2022) (BRE). BRE suggests Spatial Daylight Autonomy (sDA) and sunlight exposure targets. For daylight rooms have been tested against the sDA targets set out within the UK National Annex (UKNA) on BS EN 17037:2018. sDA is a climate-based metric representing the portion of a space achieving a certain illuminance target (measured in lux) for more than half of the daylight hours in the year. The recommendation within BR 209 and EN 17037 is for at least 50% of the spaces to achieve a given illuminance target based on the room use.

3.23. The new CBDM methodology is based on the British Standard 'Daylight in Buildings' (BS EN17037). The CBDM methodology is based on target illuminances from daylight. The calculations are based on localised weather data. The British Standard contains advice and guidance on interior daylighting for all buildings across Europe but also has a UK National Annex which provides suggested targets for dwellings in the UK. The UK Annex gives illuminance recommendations of 100 Lux in bedrooms, 150 Lux in living rooms and 200 Lux in kitchens. These are median illuminances to be achieved over 50% of the assessment area for at least half of the daylight hours. However, it also says that a living room target of 150 Lux could be used for a combined living/kitchen/dining room.

3.24. There are no windows to the lounge/dining room on the ground floor. There are also no windows in the kitchen area. An existing roof light would light the lounge/dining space, and as the site to the rear appears to be overshadowed by the adjacent outriggers, it is unclear how much natural light would reach the interior below. To a lesser extent, there is concern regarding the first floor bedroom which appears to be served by one small window. Without a Daylight/Sunlight assessment demonstrating otherwise, it is likely that habitable rooms in the development would fail to receive sufficient natural light. The proposal would therefore not comply with MA.2. condition (f).

3.25. **(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 generally heavy industry, waste management, storage and distribution, or a mix of such uses; and**

3.26. The area where the application site lies is not characterized by general heavy industry, waste management, storage and distribution, or a mix of such uses. Future occupants would not be impacted by such uses and therefore the proposal complies in this regard.

3.27. **(h) Where the development involves 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 the service lost.**

3.28. The proposed development would not involve loss of a registered nursery or a health centre maintained under section 2 or 3 of the National Health Service Act 2006.

- 3.29. (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building (as interpreted under Paragraph MA.3).

Paragraph MA.3 - 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:**

9A – (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.**

- 3.30. The proposed development would not contain two or more dwellinghouses, nor would it be 18 storeys in height or contain 7 or more storeys. As such, the fire safety impacts on the intended occupants of the building are not required to be determined as part of this application.

4. Conclusion

4.1. Prior Approval is refused for the following reasons:

1. In the absence of a Daylight/Sunlight Assessment to demonstrate that all habitable rooms would receive adequate natural light, it is considered that the proposal has failed to demonstrate that it would provide an acceptable level of natural light contrary to MA.2 (f) of Class MA, Schedule 2, Part 3 of the GPDO.
2. The proposed development, in the absence of a Section 106 legal agreement to secure the residential units as car-free, would contribute unacceptably to parking stress and traffic congestion in the surrounding area. It is therefore contrary to MA.2 (a) of Class MA, Schedule 2, Part 3 of the GPDO.