

Delegated Report		Analysis sheet		Expiry Date:	12/01/2021
				Consultation Expiry Date:	25/12/2021
Officer			Application Number(s)		
Ewan Campbell			2021/5675/P		
Application Address			Drawing Numbers		
10 Little Turnstile London WC1V 7DX			Please refer to draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Change of use from Commercial, Business and Service (Use Class E) on the first, second and third floors to create two bedroom flat.					
Recommendation(s):		Prior Approval Refused			
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					
	No. of responses	00	No. of objections	00	
Neighbour Consultation	A site notice was published on 01/12/21 and expired on the 25/12/2021 No responses for received from neighbouring occupiers				
Bloomsbury CAAC	Bloomsbury Conservation Area Advisory committee (CAAC) have raised no objection to the proposal				
Site Description					
The site is located on Little Turnstile Street which runs off High Holborn and Gate Street. The street is small and alley-like with numerous retail, commercial and restaurant uses on the ground floor. Gate Street and Little Turnstile are two narrow, highly enclosed streets leading from the north-west corner of Lincoln's Inn Fields, reflect the historic street pattern and are defined by mainly 19th century commercial buildings					

The property is not listed but is within the Bloomsbury Conservation Area and is named within the management appraisal as a positive contributor and a shop front of merit.

Relevant History

Relevant planning decisions at the application site:

2013/5495/P - Use of premises as mixed use (Sui Generis) including sandwich bar (A1) and café (A3). – Refused (11/12/2013)

2014/1298/P - GPDO change of use from class A1 to class A3 for 2 years from 01/04/2014.. – Notified (14/01/2016)

Part 2A of the environmental Protection Act 1990

Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012

National Planning Policy Framework (2021)

Chapter 2: Achieving sustainable development

Chapter 4. Decision-making

Chapter 5. Delivering a sufficient supply of homes

Chapter 7. Ensuring the vitality of town centres

Chapter 8. Promoting healthy and safe communities

Chapter 9. Promoting sustainable transport

Chapter 14. Meeting the challenge of climate change, flooding and coastal change

Chapter 16. Conserving and enhancing the historic environment

The Town and Country Planning (General Permitted Development) Order 2015 (as amended): Part 3, Class MA

Assessment

1. PROPOSAL

1.1. The applicant seeks Prior Approval permission under Schedule 2, Part 3, Class M of the GPDO (2015 as amended) for change of use of the first, second and third floor from Class E to a self-contained residential dwelling (Class C3)

1.2. The application form indicates that the proposal would not include any external alterations.

2. Prior Approval Procedure

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 accord to sub-paragraph MA.1(a)-(g) are permitted by this class, subject to a number of 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 and highways impacts;
- 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 generally heavy industry;
- 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 service 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 GPDO

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;

3.2. Proposal does not comply: No information has been submitted to demonstrate that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application

3.2.1. (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;

3.3. Proposal does not comply: More information is needed. Google Maps images (investigated by the Council) suggest that the building was occupied by a restaurant but it is not possible to know the use since then. Based on the Council's Retail Survey information and Google street view images, the premises have seemingly been a – restaurant from 2009 to 2017. However in 2018 the site is listed as an A5 use. In the absence of evidence to confirm that 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 application should not be allowed to proceed.

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

3.4. Proposal complies: The existing gross internal area (GIA) floorspace proposed for the change of use is 71.0sqm.

3.4.1. (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;**

3.5. Proposal complies: The application site does not fall within any of the areas indicated at points (i) to (v);

3.5.1. (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;**

3.6. Proposal complies: The application site does not fall within any of the areas indicated at points (i) to (v);

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

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

3.7.1. (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.**

3.8. The proposal complies: The proposed development does not fall within Class O of this Part.

3.9. In light of the above, the proposal would not accord with paragraph MA.1. It will not fall within the remit of development permitted subject to prior approval under paragraph MA.2. Nonetheless, the prior approval impacts have been considered below.

3.10. Article 3 – Permitted Development of the GPDO – (9A) Schedule 2:

3.11. ‘(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse:— (a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015(a)’ This came into force on 6th April 2021

- 3.12. Proposal does comply: the flat has a GIA of 71 sqm passes the minimum requirement of 70sqm for for 2 bed 1 person dwelling over two storeys and all bedrooms exceed minimum standards. The proposal would therefore comply with Article (9A) of the General Permitted Development Order above.

Compliance with paragraph MA.2

- 3.13. Where development proposal is in compliance with 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 criteria will be discussed in turn as follows:

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

- 3.14. The application site is located within an excellent level of accessibility by public transport, with a PTAL level 6b.

- 3.15. Given the modest level of building operations proposed, in this instance the operational development aspect of the proposed development would not be considered likely to result in detrimental impacts upon the highways network. However, in order to ensure that the development promotes sustainable modes of transport and mitigated against a potential worsening of local traffic, parking and air quality conditions. The development would be expected to be 'car-free' with rights to on-street parking permits removed and would be required to provide adequate storage for cycles.

- 3.16. The proposed unit would be required to be secured as a 'car-free' dwelling via a section 106 legal agreement. This would prevent new residents from accessing parking permits in order 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 agreement for car-free development constitutes a reason for refusal. Were the development otherwise considered acceptable this could have been overcome via a legal agreement.

- 3.17. No cycle parking spaces have been shown on the proposed plans and no reference to cycle parking has been made in the submitted documents. Given the constraints of the site, the internal layout and the scale of the units, facilities for some level of internal storage to accommodate a bike may not be feasible. In such cases, a contribution would be sought towards the provision of secure and covered on-street parking spaces (bike hangers) for future occupants. However, the failure to enter into a S106 agreement for a contribution to on-street parking spaces does not constitute a reason for refusal. Prior Approval applications are assessed on whether the scheme is likely to result in 'a material increase or change in the character of traffic in the vicinity of the site' and as such the lack of a contribution does not constitute a reason for refusal in this instance.

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

- 3.18. The Council's records indicate that the site is not at risk of land contamination. The supporting statement confirms that there do not appear to be any significant contamination issues associated with the site. The statement suggests practical measures to ensure there would be no increased risk to human health from redevelopment of the site for the proposed residential use, which is accepted and therefore do not form a reason for refusal.

3.18.1. (c) Flooding risks in relation to the building,

- 3.19. There has been no Flood Risk Assessment submitted with this proposal. The application

site is not located within any Environment Agency's Flood Zones and will be located on the upper floors. In this instance, whilst the creation of the new residential unit would generally have a much higher water use than commercial uses the unit would occupy the upper floors of a former restaurant in an area that is not within flood zones.

3.20. Therefore this change of use would not present an unreasonable risk to flooding of the area and the occupiers of the property.

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

3.21. The applicant has not provided an internal noise survey to assess the impact of the commercial premises on the ground floor and the new residential above. The commercial unit is directly above the living/kitchen/dinning area and therefore noise disturbance could be significant. The applicant has provided details of acoustic wall, ceiling and staircase systems have been provided as mitigation measures. However, these alone are insufficient to satisfactorily demonstrate that the intended occupiers would not be significantly impacted by the noise from the commercial premises on the ground floor.

3.22. Without any survey being undertaken the Council cannot properly assess the impact of noise from the commercial premises on the intended occupier's. Therefore, this does provide a reason for refusal.

3.22.1. (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;**

3.23. The application site lies within Bloomsbury Conservation Area. The conservation area is characterised by a mixture of uses, mainly of commercial use at ground floor with some residential use above. The commercial use at ground floor contributes to a sense of activity and liveliness throughout the conservation area.

3.24. Whilst there will be a loss of commercial floor space in an area with a highly commercial character, the ground and basement floors are being retained as Class E. This is crucial as it continues to positively contribute to the character of the area by activating the ground floor with a commercial use. Therefore, the proposal is considered acceptable in this regard.

3.25. As such, the proposed change of use would not harm the character and sustainability of the conservation area. Paragraph W of Part 3, states that the NPPF must be considered as though it were a planning application.

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

3.26. No details have been submitted to demonstrate that the flat would receive adequate natural light. A supporting Daylight/Sunlight assessment is required with the relevant calculations and considerations of VSC values (for daylight) taking into account the size and number of windows serving each individual room, the overall size and orientation of the rooms. The Daylight/Sunlight assessment should provide overall percentage value in accordance with BRE guidance (BS 8206-2 Code of practice for daylighting recommends ADF values of 2% in kitchens, 1.5% in living rooms and 1% in bedrooms).

3.27. The site appears to be heavily overshadowed by the adjacent blocks of flats and in the absence of a Daylight/Sunlight assessment demonstrating otherwise, it is considered that

habitable rooms in the development would fail to receive sufficient natural light. The proposal would therefore not comply with MA.2. condition (f).

3.27.1. (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

3.28. The area where the application site lies is not characterised 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.

3.28.1. (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.

3.29. 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.

3.29.1. (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 either 18 storeys in height or contain 7 or more storeys. As such, the fire safety impacts on the intended occupants of the building is not required to be determined as part of this application

4. Conclusion

4.1. The proposal does not comply with the criteria in (a) – (g) of MA.1 of Schedule 2, Part 3, Class MA of the GPDO (2015 as amended) so it cannot be considered for a change of use from Class E to residential. It has not been demonstrated that the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application (a) and it has not been demonstrated that the building was in use for a purpose specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application (b)

4.2. Finally, the proposal does not comply with conditions (a) (Transport), (d) (Noise) and (f) (Natural light) of MA.2 of Schedule 2, Part 3, Class MA of the GPDO (2015 as amended).

4.3. Prior Approval should therefore be refused for the following four reasons:

1. It has not been demonstrated that the building has been vacant for a continuous period of at

least 3 months immediately prior to the date of the application and it has not been demonstrated that the building was in use for a purpose specified in sub-paragraph (2) of MA.1 of the Schedule 2, Part 3 of the GPDO for a continuous period of at least 2 years prior to the date of the application. The proposal is therefore contrary to criteria under MA.1 (1) (a) and (b) 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 and would not promote the use of sustainable transport. It would therefore be contrary MA.2 (a) of Class MA, Schedule 2, Part 3 of the GPDO and the National Planning Policy Framework 2021 chapter 9, paragraphs 110, 111 and 112.
3. In the absence of a Noise or Acoustic assessment the proposal fails to satisfactorily demonstrate that the intended occupiers would not be significantly impacted by the noise from the commercial premises, and is therefore contrary to MA.2 (d) of Class MA, Schedule 2, Part 3 of the GPDO, Chapter 15 of the NPPF 2021 and policy A4 of the LB Camden Local Plan 2017.
4. 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 living accommodation contrary to

MA.2 (f) of Class MA, Schedule 2, Part 3 of the GPDO, Chapter 12 of the NPPF 2021, the Technical housing standards – nationally described space standards 2015 and policy D1 (Design) of the LB Camden Local Plan 2017.