

Class MA Prior Approval Conversion from Class E to form 4 x C3 units
26 Leigh Road, Eastleigh

1. Introduction

This planning application has been prepared by Kode Architecture on behalf of the applicant, Mr S Gaglani, who is seeking prior approval Under the General Permitted Development Order (GPDO 2015 as amended) Schedule 2, Part 3 Class MA for the change of use of existing offices (Use Class E) to create four one-bed residential dwellings (Use Class C3) at 26 Leigh Road, Eastleigh.

Whilst the building is vacant, it is worth noting that the Legislation changed on March 5th 2024 to remove the requirement for a 3 month vacancy period, in a drive from the Government to boost the delivery homes.

The proposal creates residential accommodation meeting space standards, providing housing in an sustainable manner in an area suited to it. The application has been submitted via the Planning Portal and includes:

- Application form (duly completed);
- Existing and Proposed Site Location and Block Plan;
- Existing and Proposed Floor Plans;
- Existing and Proposed Elevations;
- This statement and
- The application fee paid via the Planning Portal

2. Class MA Criteria

In terms of the criteria for Class MA, we have set this out below to illustrate that the proposal is compliant. Responses are shown in *orange*.

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;

This part of the legislation was removed on 5th March, 2024.

(b)unless 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 building has been in use class E(c) (and its previous incarnation A2) for over two years continuously.

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

The total floor area is 176 sq/m. However, this part of the legislation was removed on 5th March, 2024.

- (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 site is not covered by or within the curtilage of any of the above designations

(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;

The site is not within any of the above designations.

(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

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 being made post 1st August 2021 and is not of a description falling within Class O.

3. Class MA Conditions

Development under Class MA.2. is permitted subject to the following conditions. 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 site is located within Eastleigh Town Centre, with access to all the amenities, shops, services and travel links the town offers. Transport links are excellent with bus stops within a short (0.1 mile) flat walk. In addition, the railway station is less than 10 minutes walk away which provides mainline travel to Winchester, Southampton and beyond.

Notwithstanding this, the proposed flats will each have a designated car parking space.

To encourage the use of sustainable transport, a secure cycle store is also provided with space at 1:1.

Considering the existing use of the site and historical car parking as evidenced on Google Streetview, the conversion from Class E to C3 will result in a reduction of trips and therefore have less impact in terms of Highways.

The existing vehicular access is utilised, no change is proposed. The proposed car parking layout with designated spaces and turning is a betterment over the existing where a higher number of parked cars could lead to unsafe vehicular access and movements.

Specific details are included on the Existing/Proposed Block Plan..

(b) contamination risks in relation to the building;

The site is not known to be contaminated and the proposed development only involves the conversion of the existing building with no ground disturbance,

(c) flooding risks in relation to the building;

Referring to EA mapping, the site is not located in an area at risk from flooding. The site is also not located in an area susceptible to surface water flooding. Being a conversion, no change to the existing floor levels are proposed.

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

Whilst the area is considered mixed use, the immediate and only building neighbouring the site, to the West is residential in use and so no noise impacts occur. The proposed change of use provides a use class more in keeping with the area. Other nearest neighbouring sites include: a C3 block to the North, behind, a Care Home adjacent to the East.

As this is a Prior Approval application, limited consideration can be given to other impacts, however the application drawings show the proposed flats fronting Leigh Road to have secondary glazing to mitigate against any noise, in addition the internal arrangement places bedrooms away from Leigh Road.

(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 site is not located in a conservation area.

- (f)the provision of adequate natural light in all habitable rooms of the dwelling-houses;

Refer to submitted drawings A103, every habitable room has at least one glazed opening. The majority of habitable rooms have more than one window and so natural light is plentiful.

It is important to note that no external alterations are required in order to provide adequate natural light to all habitable rooms.

- (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 site is not located within an area which is important for general or heavy industry, waste management, storage and distribution, or a mix of such uses. Therefore, there would be no impact on intended occupiers of the development from these uses.

- (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(2), the impact on the local provision of the type of services lost.

The proposed development does not involve the loss of either 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.

The building is not 18 metres or more in height; or contains 7 or more storeys, therefore there is no requirement for a Fire Statement to assess the fire safety impacts or consult with the Health and Safety Executive.

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

The application has been made after 1st August 2021.

- (4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”.

- (5) Development must be completed within a period of 3 years starting with the prior approval date.

The development will be completed within 3 years of approval.

(6) Any building permitted to be used as a dwelling house by virtue of Class MA is to remain in use as a dwelling house within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwelling house.”.

The proposed development is for Class C3 use and the restriction is noted.

4. Summary

It is noted that Class MA does not include building operations. This is inline with Classes O and PA, which Class MA replaced. So, planning permission will be required in the vast majority of cases for external alterations to the building, including new doors and windows.

As noted above, access in to the building and provision of adequate natural light to all habitable rooms is achieved without the need for external alterations. Any external alterations proposed are to improve the layout of the flats and so a separate application will be made for these.

It is entirely proper for an application for building works to be made before, at the same time as, or after a prior approval application in respect of a change of use of the same building.

Support for this approach can be found in, by way of example, appeal reference APP/L5240/W/15/3136875.

It is considered that the proposed development would meet the criteria and conditions of Schedule 2, Part 3, Classes MA of the GPDO and is, therefore, permitted development and prior approval is not required.