

<u>APPLICATION NO:</u>	23/00145/PDC	<u>CASE OFFICER:</u>	John Fleming
<u>WARD:</u>	St Gabriels	<u>PARISH:</u>	
<u>LOCATION:</u>	St Johns Surgery, 2 Greenfield Walk, Huyton, Knowsley, L36 0XP		
<u>PROPOSAL:</u>	PRIOR APPROVAL FOR CHANGE OF USE FROM AN OFFICE (USE CLASS E) TO FORM 1 NO. RESIDENTIAL DWELLING (USE CLASS C3)		

Site Description

The application site relates to a single storey building and associated hardstanding and parking area. The application site is located on Greenfield Road. It is enclosed by a 2.4m high palisade fence to its front and side elevation. The remaining boundaries are provided in the form of enclosed high brick walls.

The application site is surrounded by residential development of various age. The nearest to which are nos. 4 and 6 Greenfield Walk which are located approximately 7m away and face the side elevation of the application property.

The common law boundary at the rear is shared by Nos. 40 – 46 Sandiway and is defined by a brick wall and the south western boundary backs on to Nos. 34 and 36 which is also defined by brick wall.

New build residential development is located opposite the application site.

With regards to the building itself, it is currently vacant and has a hip roof together with a small gable frontage. The property is brick facing and has a number of openings which are currently secured with metal shutters.

Proposal

The application relates to a determination as to whether prior approval is required for the change of use of the existing building from an office (Class E) to 1no. dwelling house (Class C3) under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3).

The building is single storey. The new dwellinghouse would have 3no. bedrooms, 1no. en-suite, 1no. family bathroom, 1no. w/c, 1 no. living room and 1no. kitchen and dining room together with an entrance porch.

Externally, the building would remain as currently in situ. The applicant does not intend to increase the buildings footprint or add any additional fenestration.

The application is supported by a block plan which illustrates the proposed parking layout, cycle storage bays, bin storage and electrical charging facilities. However, Class MA does not allow for the provision of any building works and they are not to be considered or given any weight under the prior approval process.

Consultations

Highway Authority – No objection subject to condition.

Environmental Heath – No objection subject to condition.

LLFA/Drainage – No objection to the proposed development subject to the areas of hardstanding not increasing post development.

Merseyside Fire Service – No objection. Request informative to be added to decision notice.

Building Control – No comments received.

Representations

This application has been publicised by letters sent to 18 neighbours and displayed by Site Notice. One letter of objection has been received from neighbours.

The objection raises concern over visual amenity and states that the design of the building would not be appropriate for a domestic premises. The objection does state that should a more visually appropriate solution be suggested then they would support the application.

In responding to the concern raised by local residents, these matters should not be considered in the determination of this application because they are not material planning considerations given that Class MA permits commercial, business and service uses to be converted to dwellinghouses subject to limitations and consideration of issues as outlined in this report.

However, this should not prevent the consideration of the principle of the change of use under Class MA. If approval is granted, then the applicant will be required to submit a subsequent application for planning permission for those works.

Planning History

APP. NO: K/APP/9591: ERECTION OF BUILDING FOR USE AS DOCTORS SURGERY AND ASSOCIATED CAR PARK. Granted. 7 August 1986

APP. NO: K/APP/13962: ERECTION OF 2.4-METRE-HIGH STEEL PALISADE FENCING TOGETHER WITH GATES TO CAR PARK AND ERECTION OF ANTI VANDAL ROLLERS TO CORNERS OF SITE. Granted 27 March 1992.

APP. NO: 13/00454/COU: CHANGE OF USE FROM SURGERY (USE CLASS D1) TO OFFICES (USE CLASS B1). Granted 9 October 2013.

APP. NO: 22/00644/PDC: PRIOR APPROVAL FOR CHANGE OF USE FROM AN OFFICE (USE CLASS E) TO FORM 2NO. RESIDENTIAL DWELLINGS (USE CLASS C3). Granted 13th December 2022.

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so

would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

Knowsley Local Plan Core Strategy (Adopted 2016)

CS2 – Development Principles
CS7 – Transport Networks
CS17 – Housing Sizes and Design Standards
CS19 – Design Quality and Accessibility in New Development
CS24 – Managing Flood Risk

Knowsley Replacement Unitary Development Plan Saved Policies (Adopted 2006)

H5 – Development within Primarily Residential Areas
T7 – New Development and Walking & Cycling Routes
ENV2 – Noise and Vibration
ENV5 – Contaminated Land

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Assessment

Prior to determining whether or not prior approval from the Local Planning Authority will be required, the Local Planning Authority must first determine whether the proposed works comply with the criteria required of Class MA.

Development under Class MA of the GDPO is subject to a number of limitations and conditions. If the development does not comply with these as set out in Schedule 2, Part 3, paragraph MA.1, then it is not permitted development. Provided that the development complies with these limitations, then the relevant conditions under Schedule 2, Part 3, paragraph MA.2 must be complied with. The following aspects are relevant to the consideration as to whether prior approval is required.

Permitted Development

MA. 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.

MA1. –

(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;

Local Planning Authority's response – The application form confirms that the building has been vacant for a period of 3 months prior to the application being submitted. In addition, the previous prior approval application for 2no. residential dwellings under application 22/00644/PDC granted 13th December 2022 was supported by photographs dated in July 2022 which indicated the premises were vacant. Following a site visit, this remains the case. Officers are satisfied the building was vacant for more than 3 months prior to this application.

(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;

Local Planning Authority's response – Prior approval for the change of use to 2no. dwellings was required under 22/00644/PDC but works have not been undertaken. As such, the last use granted planning permission in 2013 for offices which fell within Use Class B1 (business), included in sub-paragraph (2). The premises was in use for a continuous period of 2 years prior to the submission of the application. As part of that application there are no conditions of that permission which restrict the use within Use Class B1.

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

Local Planning Authority's response – The building covers a floor space of approximately 102m² and does not exceed the above threshold.

(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 forms part of a military explosives storage area;*

Local Planning Authority's response – The application site does not fall within any of the designated areas listed above.

(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;*
- (iii) The Broads;*
- (iv) A National Park; or*
- (v) A World Heritage Site;*

Local Planning Authority's response – The application property is not located within any of the areas listed above.

(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

Local Planning Authority's response – The site is not subject to 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.

Local Planning Authority's response - The application was submitted after 1st August 2022.

(2) The classes mentioned in sub-paragraph (1)(b) are the following of the Use Classes Order-

(a) The following classes of the Schedule as it had effect before 1st September 2020-

- i. Class A1 (shops);
 - ii. Class A2 (financial and professional services);
 - iii. Class A3 (food and drink);
 - iv. Class B1 (business);
 - v. Class D1(a) (non-residential institutions – medical or health services);
 - vi. Class D1(b) (non-residential institutions – creche, day nursery or day centre);
 - vii. Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;
- b. On or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Local Planning Authority's response – The last use of the premises was as an office which falls within Class E.

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;
 - (b) Contamination risks in relation to the building;
 - (c) Flooding risks in relation to the building;
 - (d) Impacts of noise from commercial premises of the intended occupiers of the development;

Local Planning Authority's response – Consideration of whether prior approval of the authority as mentioned above is considered in the appraisal set out in the section below.

(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;

Local Planning Authority's response – The application site is not located within a conservation area.

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

Local Planning Authority's response – Consideration of whether prior approval of the local planning authority will be required as to (f) and (g) will be undertaken in the appraisal set out below.

- (h) *Where the development involve 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.*

The impact on the local provision of the type of services lost; and

Local Planning Authority's response – The proposal does not involve the loss of services referenced above.

- (i) *Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.*

Local Planning Authority's response - The building would contain 1no. unit and would not meet the height condition stated in 9A (3) of the DMPO.

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

Local Planning Authority's response – The application was 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...*
- (5) *Development must be completed within a period of 3 years starting with the prior approval date.*
- (6) *Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse 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.*

Local Planning Authority's response – (4) relates to application procedure. (5) and (6) to be conditions of any prior approval granted.

Space standards

The GDPO 2015 (as amended) states at paragraph 3. (9A) (Permitted Development) that *“schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse-*

- (a) Where the gross 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.”*

The Nationally Described Space Standard (NDSS) requires a minimum gross internal floor space for a 3no. bedroom, 6-person 1 storey dwelling to provide a gross internal floor space of 95m² with 2.5m² built in storage. The proposals would provide a gross internal floor space above 101m² and would provide 5.2m² of built internal storage. As such, the application plans would meet the standard for gross floor area.

The standard requires a dwelling with two or more bedspaces should have at least one double (or twin bedroom). In order to provide 1 bedspace a single bedroom should have a floor area of at least 7.5m² and is at least 2.15m wide. In order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m² and one bedroom should be at least 2.75m wide with every other double (or twin) bedroom to be at least 2.55m wide.

The proposed bedrooms comply with the above minimum measurements.

Officer Appraisal

As referred to above, Class MA only allows the Local Planning Authority to assess the application in respect of flooding, highways and transportation issues, land contamination and noise from existing commercial premises on future occupiers of the development and provision of adequate natural daylight in all habitable rooms of the development.

The proposal complies with the limitations of MA.1 and is therefore permitted development. As such, it now requires the assessment of the prior approval matters set out below.

Transport impacts of the development

The application site is situated within a Primarily Residential Area and has access to a range of local amenities and public transportation which is within an acceptable walking distance.

The existing hardstanding located at the side of the application property has capacity to accommodate car parking for 6no. vehicle spaces. The layout demonstrates that adequate off-street parking will be provided for 2no. vehicle spaces one of which will benefit from electrical charging facilities and would be in accordance with the Local Planning Authority's standards for parking provision for 3no. bedroom homes.

The Highways Authority raise no objection to the proposed development subject to the condition relating on the need for visibility splays to be provided on each side of the access. A planning condition can only be imposed if it relates to the development itself. Accordingly, the requirement for visibility splay to ensure safe access can be achieved as part of the development is within the limitation of the prior approval process. Subject to the condition, the proposed change of use is considered acceptable with regards to transport impact of the development.

Contamination risks in relation to the building

There would be no ground works as part of the change of use for the building itself. As such, it is not considered that there will be an impact arising in terms of

contamination works. Furthermore, no concerns have been raised from Environmental Health regarding contaminated land. Environmental Health has however requested that a condition be attached to the decision notice relating to construction hours in order to protect the amenity of surrounding residents. However, this would fall outside of the scope of the prior approval process.

Impacts of noise from commercial premises on intended occupiers

As stated above, the application site is located within a primarily residential area and is surrounded by residential properties. The commercial premises located on Manor Farm Road are the nearest commercial premises which comprise a shopping parade approx. 75m away and Ashton Medical Centre located 85m to the east. It is not considered that the existing uses of these locations would give rise to noise complaints or would have a detrimental impact on future occupiers of the proposed dwelling.

Provision of adequate natural daylight

A condition attached to MA is that adequate natural daylight to all habitable rooms is provided. Part 3 states that habitable rooms means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.

In accordance with the above interpretation the provision of natural light should only be applied to living areas and bedrooms. Bedrooms 1 and 3 and the living room would have access to windows either facing the street scene or the existing parking area located at the side and would therefore have adequate access to natural light.

The kitchen and dining area would benefit from a window at the side facing the parking area and the rear of the building which is located 1.8m from the existing brick boundary wall. However, in combination they would provide sufficient access to natural light.

Bedroom 2 would have 1no. window facing the existing brick boundary wall located 2m away from the rear elevation. Paragraph 119 of the NPPF(2021) requires effective use of land to meet the needs for housing and other development but the environment and living conditions must be safeguarded. Paragraph 130(f) of the NPPF(2021) requires development to create places with a high standard of amenity for existing and future users and requires local planning authorities to refuse applications which they consider fail to make efficient use of land taking into account the policies in the Framework taken as a whole. In this regard, a flexible stance should be taken in relation to daylight and sunlight, where they would otherwise prevent making efficient use of the site as long as the scheme as a whole would provide acceptable living standards in accordance with paragraph 125 of the NPPF (2021).

The NPPF(2021) does not provide a definition of 'adequate' and that only natural light should be considered as opposed to direct sunlight or daylight. As such, the adequacy of light is therefore subjective and a matter of debate. In that regard, whilst the proximity of windows of bedroom 2 and the dining area are within close proximity to the existing boundary wall at the rear which would result in a poor outlook, it would still have access to natural light. As such, it is considered that the bedrooms and habitable rooms would have sufficient access to natural daylight.

Conclusion

The proposal accords with the requirements of Class MA of the Town and Country Planning (General Permitted Development Order) (2015).

The application can only be assessed against the criteria set out in this report and no objections are raised subject to conditions. Accordingly, it is recommended that prior approval is required and granted subject to conditions and informatives.

Recommendation

That prior approval is required and granted subject to the following condition(s):-

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended) and with paragraph MA.2 (5) of Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 2) The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

- 3) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse 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 dwellinghouse.

Reason: To accord with paragraph MA.2 (6) of Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 4) No part of the development shall be brought into use until visibility splays of 2 metres by 2 metres have been provided on each side of the access. The depth shall be measured from the back of footway/verge into the site and the width measured outward from the edges of the access. The splays shall be provided clear of obstructions to visibility above the height of 0.6 metres measured from the footway/verge level. Once created, the visibility splays shall be maintained clear of any obstruction and shall be retained at all times.

Reason: To provide the driver of a vehicle using the access and other users of the public highway with adequate inter-visibility and to comply with Policy CS19 of the Core Strategy, adopted January 2016.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
08.03.2023	139_SP_001	REV A	LOCATION PLAN AND BLOCK PLAN
08.03.2023	139_SP_006	REV A	SITE PLAN AND ROOF PLAN
08.03.2023	139_SP_010	REV F	PROPOSED FLOOR PLAN AND SITE PLAN
08.03.2023	139_SP_011	REV D	PROPOSED ROOF PLAN
08.03.2023	139_SP_012	REV B	PROPOSED FRONT AND REAR ELEVATIONS
08.03.2023	139_SP_013	REV C	PROPOSED SIDE ELEVATIONS

Signed Case Officer¹: **John Fleming**_____

**Signed Authorising
Officer²:** **K Foster**_____

Date: **25 April 2023**_____

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed.

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed.

Appendix 1 – Site Photographs



INFORMATIVES

NOTE FOR APPLICANT: The applicant's attention is drawn to the following comments:

- 1) Application for Planning Permission

This decision does not confer approval under the prior approval process for any associated external works or building operations associated with the change of use shown on the submitted plans. A separate application for planning permission for any external development associated with the change of use will be required,

2) Coal Mining Standing Advice

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

3) Merseyside Fire and Rescue

The comments of Merseyside Fire and Rescue in their letter dated 23rd March 2023 (attached).

4) Contaminated Land - Advisory Note

Based on the information available to this division we are not aware of any contamination on this site. However, the responsibility to properly address contaminated land issues lies with the owner/developer of the site, irrespective of any involvement by this Authority. The applicant/developer is requested to contact the Council's Environmental Protection Unit (Tel: 0151 443 4712) as soon as is practicable should contamination be encountered during the development of the site. If contaminated material is encountered the applicant/developer is required to dispose of the contaminated arisings appropriately. They should also be aware of their health and safety responsibilities to workers in respect of handling such materials. The developer should also ensure that no pathways are created by which any contamination may either migrate off-site or affect site users.

5) Street Naming and Numbering

The developer will be required to contact: street.naming.numbering@knowsley.gov.uk to arrange for addresses to be allocated to the development. Please note there is a fee for this process and details can be found on the Council's website by following the link below: <https://www.knowsley.gov.uk/residents/building-and-planning/register-street-name-or-house-number/street-naming-and-numbering-charges>