

DELEGATED REPORT			
Application Reference		2024/0129/PACOU	
Description of Development		Application to determine if prior approval is required under Schedule 2, Part 3, Class MA for a proposed change of use from redundant post office (Use Class E) into a ground floor flat (Use Class C3)	
Case Officer		James Sheldrake	
Site Address		Moorland Stores And Post Office School Road KIRKBY-IN-FURNESS LA17 7TF	
Relevant Site History			
<p>Application Ref: CU/2023/0011 Proposal: Application to determine if prior approval is required for a proposed change of use from redundant shop and post office (Use Class E) two ground floor flats (Use Class C3) Decision: PRIOR APPROVAL REQUIRED & REFUSED Decision Date: 07/12/2023</p> <p>Application Ref: SL/2022/0935 Proposal: Internal and external alterations to Moorland Cottage, partial change of use of shop, change of use of Redundant Post Office, and proposed two storey extensions to create a 3-bedroom semi-detached house, two 2-bedroom apartments, one 1-bed apartment, and the retention of existing 1-bedroom dwelling. Decision: REFUSED Decision Date: 08/03/2023</p>			
Consultation Responses			
<u>Consultee</u>	<u>Consulted</u>	<u>Responded</u>	<u>Response</u>
Kirkby Ireleth Parish Council		15/03/2024	Object
Public Responses			
Objection letters received	25		
Support letters received	0		
Observation letters received	0		
Site and Proposal			
<p>The application site consists of a vacant two-storey mixed commercial and residential building within the centre of Kirkby-in-Furness. The building is unlisted and the site falls outside any Conservation Area and outside any area of flood risk.</p> <p>The application seeks confirmation that the partial conversion of the building to residential falls under permitted development and that the proposed works are acceptable with regards to the procedure set out under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and relevant</p>			

government guidance.

The proposed floor plans show the loss of the Post Office (the smaller, separate unit to the rear) and the creation of 2 flats (1 new). Minor internal renovations have been carried out to the rear flat and the Post Office has not been converted to residential. Therefore, the proposed development is considered prospective and not retrospective as the change of use hasn't occurred.

Conversion of the convenience store is not being considered as part of this application as the application solely relates to the two rear units at ground-floor. The Planning Authority has no evidence to prove any of the floor area to be converted falls under Use Class F.2 and, therefore, the units to be converted and amalgamated are considered to fall under Use Classes C3 and E.

Representations

Parish Council: Objection:

1. *The property was previously subject to refusal under application number SL/2022/0935. Under that application a reason for refusal was given as:*

Reason 1: The proposed development would result in the complete loss of the Post Office and a significant reduction in the size of the shop and its storage space. The application has failed to demonstrate that the shop and post office are unviable and, additionally, has failed to demonstrate that the reduction in the size of the shop won't harm its long-term viability. The proposals fails to accord with Policies CS1.1, CS3.1, and CS7.5 of the Core Strategy; Policies DM1, DM2, and DM17 of the Development Management Development Management Policies Development Plan; and the aims and objectives of the NPPF.

This application would result in the same, loss of the Post Office and Shop, not just a reduction in them.

In addition, the Parish Council is not aware of the Shop or Post Office being actively advertised on the open market to rent or available during the past twelve months.

2. *The proposal appears to create flats within the combined property which creates a higher occupancy rate than was previously available at the premises. With that the Parish Council feels the result will be an overbearing development which is not in keeping with the local area and village setting.*
3. *The Parish Council does not believe there is sufficient off-road parking available within the combined properties for the proposed occupancy.*

4. *Within the refusal notice relating to SL/2022/0935, it states: Reason 3: The proposed development would fail to provide an acceptable standard of amenity for the occupiers of the proposed residential units due to the proposed layout and the small and poor quality areas of amenity space proposed. The proposal fails to accord with South Lakeland Core Strategy Policies CS1.1 and CS8.10; South Lakeland Development Management Policies Development Plan Document Policies DM1 and DM2; and the aims and objectives of the NPPF (2021).*

The Parish Council are of the opinion that this application still fails to provide an acceptable standard of amenity and would suggest that all the above points are still applicable.

5. *There is a substantial level of concern and objection within the local community to this application, with that the Parish Council would request that this application be considered at Planning Committee so that local residents are given the opportunity to address their concerns in person.*

Public Representations:

The reasons for objection are as follows:

- The loss of the community use, the needs of the wider community, and the poor access to nearby services, particularly by sustainable transport modes;
- The previous refusal of planning permission to convenience the shop and the post office;
- The previous closure of the shop;
- The conversion of storage space at the back the convenience store and the post office;
- The convenience store falling under Class F.2;
- The carrying out of internal works within the convenience store prior to the submission of the prior notification application including the insertion of internal partitions;
- The amount of holiday lets within the vicinity and the potential use of the proposed residential units for tourist accommodation;
- The lack of space to store waste;
- The lack of parking on-site and within the vicinity;
- The lack of electric charging points;
- The lack of external amenity space;
- the construction of a fence to the rear of the property;
- fire safety.

Legislative Background

Permitted development rights to change the use of buildings falling within commercial, business, and service uses to a dwellinghouse are granted by Schedule 2, Part 3 (Change of Use), Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class MA.1 (1) states that

“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;

(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;

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

(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;

(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;

(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

(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.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes 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 – crèche, 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.”

The applicant has made a declaration that the building was vacant for a period of at least 3 months prior to submission of the application.

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. Paragraph W confirms that, when determining whether prior approval will be required, local planning authorities must have regard to the National Planning Policy Framework (NPPF) so far as relevant to the subject matter of the prior approval.

The conditions of the proposed change of use are set out under MA.2, which states that *“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 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 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; and

(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, the impact on the local provision of the type of services lost; and

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.”

The 30th September 2020 press release by the Ministry of Housing, Communities & Local Government states that prior approval applications to convert buildings to dwellings must also meet the national space standards.

Assessment

The site does not fall within an area the authority considers important for *“general or heavy industry, waste management, storage and distribution”* and the development doesn't involve the loss of a registered nursery or health centre, so MA.2 (2) (g) is not relevant to the proposal. Separately, the fire risk condition does not apply as the building is only two-storey in height.

Principle of Development

The convenience store was *“a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where the shop's premises cover[ed] an area not more than 280 metres square, and there is no other such facility within 1000 metre radius of the shop's location* and is considered to fall within Use Class F.2 (Local Community). The convenience store has been omitted from the current application and the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 explanatory note explains that a Post Office will fall within Use Class E, not Use Class F.2. Post Offices do provide essential services, however, essential services are not included within the definition of F.2. The Post Office is considered to fall under Use Class E and, therefore, the principle of development is acceptable.

Transport Impacts of the Development

The proposed development would provide safe access to the application site and there would be sufficient parking in the vicinity for the occupants of the dwellings to park their cars. Therefore, the transport impacts of the development are considered acceptable.

Contamination Risks in Relation to the Building

The historic uses of the building, its village centre location, and the architectural style of the building mean it is unlikely that there are any contamination risks are present within the building. Petrochemical contamination is extremely unlikely and potential asbestos risk from internal insulation can be dealt with under other legislation.

Impacts of Noise from Commercial Premises

There are no adjacent commercial uses that would result in significant noise impacts on the occupiers of the proposed residential units.

Amenity of the Occupiers (Including the Provision of Natural Light)

The proposed development would consist of the following additional and reformed units:

- Flat 2, a 74 square metre 4-bedroom and 4-person unit; and
- Flat 3, a 37 square metre 1-bedroom and 1-person unit.

The single bedrooms are too small to accommodate an additional person, so the proposed units could not occupy additional people. Both flats fall within the requirements of the National Space Standards. Separately, each of the proposed living spaces would benefit from significant natural lighting, so the proposal complies with requirement for natural light in all habitable rooms.

Other Matters

In response to the issues raised by the public representations and not covered above:

- The loss of the Post Office facility to the local community is not a consideration under the permitted development legislation;
- The convenience store is not part of the current application;
- Space for storage of waste, outdoor amenity space, and electric charging points are not a requirement of the General Permitted Development Order;
- The amount of tourist accommodation in the vicinity is not relevant to the considerations set out in the legislation;
- The construction of the fence in the rear garden appears to fall under permitted development;
- It is not necessary for the application to be determined at the Planning Committee as applications for prior approvals are delegated matters; and
- Fire safety is not considered a planning issue in this circumstance and is dealt with by building regulations.

Conclusion

The principle of development is acceptable as the existing use falls with Use Class E; the gross internal floor areas of the proposed meet the national space standards; and prior approval of transport impacts of the development, contamination risks in relation to the building, flooding risks in relation to the building, and impacts of noise from commercial premises on the intended occupiers of the development is not required.

Recommendation	APPROVED
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Planning Officer: James Sheldrake

Authorising Officer: N Howard

Date: 19 March 2024