

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/23/2090/0F1
2.	Proposed Development:	PRIOR APPROVAL FOR A PROPOSED CHANGE OF USE FROM BUILDING SITE OFFICE TO ONE BEDROOMED RESIDENTIAL UNIT
3.	Location:	KEEKLE ESTATE OFFICE, KEEKLE MEWS, WHITEHAVEN ROAD, CLEATOR MOOR
4.	Parish:	Cleator Moor
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: NO Site Notice: YES Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: SITE AND LOCATION <p>This application relates to the Keekle Estate Office, situated at Keekle Mews in Keekle. The building is situated adjacent to Whitehaven Road, leading from Whitehaven to Cleator Moor.</p> <p>The building is sited at the entrance to a courtyard which accommodates 10 other properties which were previously barns and are now residential dwellings.</p> <p>Access is taken from a central access point situated within the Keekle Estate Office and 7 Keekle Mews. Parking is available within the courtyard to serve the existing residential properties.</p>	

RELEVANT PLANNING HISTORY

Residential conversion of the large barns were approved in both 2004 and 2005 (applications 4/04/2498/0 and 4/05/2036/0 relate).

Conversion of site office to one residential unit, refused in November 2005 (application reference 4/05/2708/0 relates);

Change of use from building site office to 1 bedroomed residential unit, withdrawn (application reference 4/23/2061/0F1 relates).

PROPOSAL

This application provides notice for prior approval for the change of use of an estate office to form a one bedroomed residential dwelling.

The proposal includes a living/kitchen on the ground floor and a bedroom and bathroom on the first floor. A staircase will lead between the two and be situated at the rear of the property.

Externally, windows will be added to the first floor of the front elevation to serve the bedroom and the ground floor side elevation to serve the living room.

Parking is available within the courtyard at Keekle Mews and the adjoining store building to the east.

CONSULTATION RESPONSES

Cumbria Highways

We consider that there is little material change from being a site office to a dwelling, the access and parking arrangements are already pre-existing for this private site, the submitted Design & Access statement confirms that these elements are to remain as current, furthermore the D&A confirms that visitor parking exists as a shared arrangement which is common for these types of development and also confirms that land under the control of the applicant can be used as an overspill.

With the above in mind we are content that there is no additional impact over what previously existed on the local highway system, access or parking as proposed.

Public Representation

The application has been advertised by way of a site notice.

9 responses from 5 neighbouring dwellings have been received raising the following concerns:



Cumberland Council

- The car parking will cause issues for other residents at Keekle Mews;
- Query whether business rates have been paid for the commercial use of the property;
- Query why the application has been submitted under Class MA as opposed to Class O;
- Concerns with regards to the presence of bats which may have an affect on the conversion;
- The site has not been used as an office in many years;
- Question the planning status of the office
- Question the registration of the property as an office on the Councils Land and Property Gazetteer
- Emergency vehicles will not be able to pass due to all of the parked cars;
- The new windows will overlook the existing properties;
- Access from the main road causes a danger due to the narrow access point;
- The parking situation does not comply with the Council's accepted guidelines;
- The plan does not show the footpath which services 7, 8 and 9 Keekle Mews;
- An area of grass with a separate entrance at the north of the car park could be used for at least 4 extra parking spaces;
- The construction phase will prevent entry and exit for a long period of time;
- Query who will pay for damages should the development go ahead;
- There are not 11 parking places on site, as stated within the application;
- There is no space for bin storage.

PLANNING LEGISLATION

Class MA – commercial, business and service uses to dwellinghouses

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.

Development not permitted

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;

(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(1);
- (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.

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

ASSESSMENT

The proposal is for the conversion of an existing estate office (Use Class E(i)) for use as a residential dwelling (Use Class C3). Under Class MA of the General Permitted Development Rights 2015, this development can be completed under Permitted Development provided that the works meet a number of criteria and the Local Planning Authority receive a Prior Approval application.

On the basis of the information submitted, I am of the opinion that the proposal meets the criteria for conversion under Class MA. In relation to this site:

- MA.1 1a) The building has been vacant for at least 3 months immediately prior to application;
b) The building was used as an office for a continuous period of at least 2 years prior to the date of the application for prior approval;
c) The cumulative floor space does not exceed 1500 square metres;
d) and e) The building has no statutory designation, nor is it within the curtilage of one or designated area;
f) There is no agricultural tenancy;
g) The application is submitted after 1 August 2022;

- 2a) The building would have fallen under Class B1 (business) prior to 1st September 2020;
b) The building now falls under Class E (commercial, business and service).

MA.2 2a) The transport impacts of the development will not cause a material increase from the previous use as an office. Further assessment is detailed below due to objections raised from neighbouring dwellings.

- b) There are no known contamination risks on the site;
c) The site is within flood zone 1 therefore does not pose a flood risk;
d) There are no noise concerns associated with the development due to this being a residential area;
e) The development is not situated within a Conservation Area therefore this is not applicable;
f) Natural light has been provided to all habitable rooms;
g) The area is residential therefore this is not applicable;
h) The development does not represent a loss of services therefore this is not applicable.

3. The application has been received after 1 August 2021.
4. This relates to a change of wording to the policy that is noted
5. The development must be completed within 3 years starting with the prior approval date.
6. The Applicant should note that the dwelling must remain as a dwellinghouse.

Concerns raised due to access and parking

Several objections from 5 neighbouring dwellings have been received with respect to the parking for the proposed dwelling.

The Keekle Estate office was approved prior to 1993, when the Council's planning records are available from. It is therefore difficult to establish the approved parking for the estate office. An application was approved in August 2004 for the conversion of the unused barns to 4 no. mews type cottages (application reference 4/04/2498/0 relates) which approves parking for 7-9 Keekle Mews. This shows 11 car parking spaces to the south of the site, adjacent to 1-5 Keekle Mews, 3 parking spaces – one outside of each dwelling (7-9 Keekle Mews) and 3 parking spaces to serve the Keekle Estate Office – one to the side and two in front.

It is therefore considered that the initial proposed plans submitted by the Applicant reflect the approved situation, to the best of the Council's knowledge. Several letters have been received from neighbouring dwellings with concerns relating to this parking layout, stating that it will likely cause congestion and amenity issues for the neighbours. The Council's Highways Officer reviewed the plans and considered that the proposed change of use to a dwelling is unlikely to create a material increase in traffic to and from the site. It is the Council's opinion that, in fact, the use as a one bedroomed dwelling is likely to be a less intensive use of the property, with the office having a potential for several cars to be present on the site and the likelihood of a one bedroomed property only having one car.

Whilst the objectors raised concerns with regards to the use of the building and stating that it has not been used as a site office for a number of years, the Applicant was able to provide evidence of a Building Rates receipt for zero fees (due to the floor area) which is produced every year. Furthermore, the site is identified as an Estate Office within the Council's GIS and Gazetteer. Although this has been questioned by one of the objectors there is a live record of office use on the VOA nondomestic rates database. The Council's LLPG is matched to this in terms of property type and classification. There has been no planning history on the site to change the use from an office. However, the Council records show that the applicants address for the planning application submitted in 2004 for the conversion of the adjoining barns was listed as the Estate Office. On this basis it is considered to be reasonable to assume that the established use of the building is as an office.

On this basis, it is considered that the building could be actively used as an office at any time, which is likely to create more car movements than a one bedroomed dwelling.

In an attempt to appease the concerns of the neighbouring properties, the Applicant

submitted a plan to show the car parking spaces outside the property deleted and proposing the use of the adjoining store for car parking. As the parking on site is private and outside the control of the Council, the parking for the site is considered to be a private legal matter.

The policy relating to the Permitted Development of this change of use under Class MA states the need to assess “transport impacts of the development, particularly to ensure safe site access”. The site access is used daily by a total of 11 properties – including 10 existing dwellings and the estate office. The access is existing and the proposed use for a further dwelling will not significantly change this existing arrangement. As previously stated, the access is likely to be used less intensively if this small building was used as a dwelling than its potential as an estate office.

On this basis, it is considered that the requirements of the conditions set out within Class MA for the assessment of transport impacts of the development, particularly to ensure safe site access have been met. No objections have been received from the Highways Authority who have fully considered the proposal including the requirement for access by emergency vehicles.

Other concerns raised by neighbours

Whilst the concerns listed below received from the neighbours are not required to be considered under the criteria for Class MA, in order for transparency and fairness on the effects of the residents, they have been assessed in planning terms.

1. Query why the application has been submitted under Class MA as opposed to Class O.

Ultimately it is the applicants choice as to what type of application to submit. The proposal as set out in the application falls within the scope of Class MA. The application has been registered as valid on that basis.

2. Concerns with regards to the presence of bats which may have an affect on the conversion.

Bats are referenced within the submitted Design and Access Statement. Although it has been indicated that bats have been seen within the locality, there is no evidence which confirms whether bats will be affected by the proposal. Bats are a protected species and any damage to a bat or its roost is an offence that would be assessed and enforced against under the Wildlife Protection Act. It is ultimately the responsibility of the applicant to ensure that there is no harm to any protected species as part of their proposal. An informative will be added to the decision notice to remind the Applicant of their legal obligations.

3. The new windows will overlook the existing properties.

The windows are to be situated in the ground floor side and upper front of the building – these would be considered to be permitted development once the building has been approved for use as a dwelling under Schedule 2 Part 1 Class A Conditions A.3 (b) of the (General Permitted Development) (England) Order 2015.

4. The plan does not show the footpath which services 7, 8 and 9 Keekle Mews.

Footpaths appear to be shown to the north and south of 7, 8 and 9 Keekle Mews.

5. An area of grass with a separate entrance at the north of the car park could be used for at least 4 extra parking spaces.

The use of this area of grass for parking is considered to be a legal matter, depending on ownership status and legal rights of way. The Applicant did not request its use, therefore this has not been considered as part of the planning application.

6. The construction phase will prevent entry and exit for a long period of time.

The legal responsibility is on the developer to ensure that legal rights of way and access are maintained at all times. This is not a material planning consideration.

7. Query who will pay for damages should the development go ahead.

The developer has a legal responsibility to ensure that no damage occurs and that any damages are rectified satisfactorily. This is not a material planning consideration.

8. There are not 11 parking places on site, as stated within the application.

The plans submitted represent the parking arrangement as approved in March 2005 (application reference 4/05/2036/0 relates). Any changes to this have been made over time and without the knowledge of the planning authority. This is considered to be a legal matter due to ownership and rights of way on the site. Following the comments made by a neighbour, the Applicant submitted further plans to show 10 car parking spaces and a bin store to the south of the site, adjacent to 1-5 Keekle Mews.

9. There is no space for bin storage.

There is a communal bin storage to the west of 1-5 Keekle Mews. As the building was previously used as an estate office, the arrangements for bin storage will continue as existing.

Conclusion

In my opinion, the proposal meets the criteria set out within Class MA. Off street parking is

	<p>proposed within the site, and/or within the store building adjoining the proposed dwelling – the Highway Authority raised no objections to the proposal as there is likely to be a material decrease in cars visiting the site as a result of the proposal. The building has previously been used as an office but is surrounded by residential properties, therefore the proposal will fit in with the surrounding area without creating any amenity issues.</p> <p>There will be no noise impacts created and the building has not been used for anything that would likely lead to contamination. The property is within the lowest category flood zone, and the location/siting is considered appropriate for a change of use.</p> <p>On the basis of the above, the proposal meets the criteria set out within Class MA of The Town and Country Planning (General Permitted Development)(England)(Amendment) Order 2021 and therefore constitutes a permitted change of use from an office to a dwelling without the requirement for full planning permission.</p>
8.	<p>Recommendation:</p> <p>PRIOR APPROVAL IS NOT REQUIRED</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> 1. It is a requirement of condition MA.2 (5) of the GPDO that the Development under Class MA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. 2. It is a requirement of condition MA.2 (6) of the GPDO that 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 3. The development must be carried out entirely in accordance with the details submitted.
9.	<p>Statement:</p> <p>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</p>

	development as set out in the National Planning Policy Framework.	
10	<p>Informative</p> <p>1. Prior to the commencement of development, the building must be surveyed for the presence of bats. Should there be any discovery of bats or evidence of their presence, all works must stop and further advice sought. Bats are a protected species and any damage to a bat or its roost is an offence that would be assessed and enforced under the Wildlife Protection Act. It is the responsibility of the developer to ensure that there is no harm to any protected species.</p>	
Case Officer: Sarah Papaleo		Date : 23/05/2023
Authorising Officer: N.J. Hayhurst		Date : 25/05/2023
Dedicated responses to:-		