

**KIRKLEES METROPOLITAN COUNCIL
DEVELOPMENT & MASTER PLANNING SERVICE**

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015(as amended) - Schedule 2, Part 3, Class MA**

**DELEGATED DECISION FOR PRIOR APPROVAL FOR CHANGE OF USE
FROM COMMERCIAL, BUSINESS AND SERVICE USES TO
DWELLINGHOUSES**

Reference no. 2025/CL/90833/E

**Site Address 37, Bradford Road/ 2 & 4 King
Street, Cleckheaton, BD19 3JN**

**Description Prior notification for change of use
from commercial/business/service
to form 8 additional dwellings**

Recommending Officer Kerri Simpson

DECISION - REFUSED

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Kevin Walton

AUTHORISED OFFICER

Date:22-May-2025

Officer Report

Reference No. 2025/90833

Site Address: 37, Bradford Road/ 2 & 4 King Street, Cleckheaton, BD19 3JN

Proposal: Prior notification for change of use from commercial/business/service to form 8 additional dwellings

Site Description

The application relates to a two-storey building group of adjoined building comprising No.37 Bradford Road and No's 2 and 4 King Street located on the western side of Bradford Road and at the Junction of King Street, Cleckheaton. The building currently comprises an existing first floor flat within No.2 King Street, the remainder of the building is within a commercial use.

The site is bounded to the north by a commercial car wash/garage, to the east by the highway of Bradford Road, to the south by a mixed use commercial and residential building (No. 35 Bradford Road) with a Public House (Pub) beyond; to the west is an industrial yard (No.3 Sickle Street). The site is not within a conservation area, nor are there any listed buildings within close proximity.

Description of Proposal

The proposal seeks to confirm that the change of use from a commercial building (Class E) to 8 additional dwellings (Class C3) is permitted development under Class MA of the General Permitted Development Order (2015) (as amended). The proposal would convert the existing building into a total of 9 dwellings (flats). The proposal would include the replacement and installation of new windows and doors on the north, east and south elevations. An existing first floor flat will be altered to form a 2-bedroom dwelling. It should be noted that Class MA does not permit any building operations necessary to convert the building and such work may need full planning permission.

History of Negotiations

No negotiations were undertaken during the assessment of this application. As the proposal has been submitted under Schedule 2, Part 3, Class MA of the General Permitted Development Order (GDPO) 2015 (as amended), it is the responsibility of the applicant to ensure that sufficient information is provided as the time of submission to enable the Local Planning Authority to assess whether the proposed development qualifies for permitted development rights and complies with the relevant conditions and limitations of Class MA.

There is no statutory requirement for the Local Planning Authority to request additional information or engage in post-submission dialogue. In this case the application has been assessed on the basis of the information submitted.

Relevant Planning History

- **2018/90425 (2 King Street)** - Prior approval for change of use from office (B1) to dwellinghouses (C3)
Decision: Granted Date: 04.04.2018
- **2017/91785 (1-3 King Street):** Prior notification for change of use of offices to dwelling
Decision: Refused Date: 19.07.2017

Reason: The applicant has failed to provide sufficient evidence that the building, as indicated on the submitted location plan, was used for a use falling within Class B1(a) (offices) of the schedule to the Use Class Order.

- **2018/90426 (4 & 6 King Street):** Prior approval for change of use from light industrial (B1(c)) to dwellinghouses.
Decision: Refused Date: 30.04.2018

Reason: By virtue of the definition of buildings as described in paragraph 2 (interpretation) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018, the proposed change of use from light industrial to residential under Class PA does not apply to part of a building. As such the local planning authority is unable to grant prior approval for the proposed change of use of the building from light industrial to dwellinghouses under Class PA of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Representations

The application was publicised on the council website and by site notice on 30th April 2025.

Procedural Matters

The above-described proposal constitutes development as defined within Section 55 of the Town and Country Planning Act 1990. The General Permitted Development Order 2015 Schedule 2 Part 3 Class MA (As inserted 2021) permits the following 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.’

The proposal (other than the alterations) is considered to be covered within this Class, and is thus authorised subject to the restrictions, conditions and prior notification procedure outlined in Paragraphs MA.1, MA.2 and MA.3.

Limitations for Part 3, Class MA.1 Development

Development is not permitted: -

<p>(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</p>	<p>The applicant has not provided sufficient information to demonstrate that the buildings have been vacant for a continuous period of at least three months prior to the date of the application.</p> <p>The onus is on the applicant to ensure there is clear and sufficient evidence to demonstrate compliance with criterion set out in Part 3, Class MA of the GDPO although equally the Council has no clear evidence to demonstrate otherwise in order to substantiate a refusal.</p>
<p>(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;</p>	<p>Pass: Based on the available business rates data and planning history, it appears that No.37 Bradford Road (Use Class E (a) (Retail)) and No.4 King Street (Use Class E (g) (iii) (Light Industrial)) were each in uses that fall within Class E of the Use Classes Order. Records published by the Valuation Office Agency indicate that each building has been assessed for business rates since at least 2017 and remain listed at present. On the balance of probabilities, this suggest that No.37 Bradford Road and No.4 King Street have been in continuous use for a period of at least two years prior to the date of the application.</p> <p>Regarding No.2 King Street, planning records indicate that prior</p>

	<p>approval was granted under application reference number 2018/90425 for the conversion of offices to two self-contained flats. However, based on the submitted plans, it appears that only one flat has been created, spanning the floor area of the former office space. This does not reflect the approved layout, and no application has been submitted to regularise the development. Further, Council tax records do not show the flat as a registered residential address.</p> <p>However, the existing flat is not part of the proposed change of use to substantiate a refusal of this application.</p>
<p>(c) The cumulative floor space of the existing building changing use under Class MA exceeds 1500 square metres;</p>	<p>Pass: The cumulative floor space of the existing building changing use under Class MA would not exceed 1500 sqm.</p>
<p>(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;</p>	<p>Pass: The land covered by, or within the curtilage of, the building does not all within any of the categories labelled from i to v.</p>
<p>(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(3); (iii) the Broads; (iv) a National Park; or (v) a World Heritage Site;</p>	<p>Pass: The building is not in any category in Paragraph (e).</p>
<p>(f) if the site is occupied under an agricultural tenancy, unless the</p>	<p>Pass: The site is not occupied under any agricultural tenancy.</p>

express consent of both the landlord and the tenant has been obtained;	
(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.	Pass: The building is not within any land affected by an Article 4 Direction.

Paragraph MA.2 outlines a set of three conditions that the developer must adhere to. MA.2(2) states:

‘(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;
- (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'

Paragraph MA.3 stipulates the need for the developer to comply with Paragraph MA.2(2)(i) which ensures developments meet the fire risk condition, the fire safety impacts on the intended occupants of the building.

Assessment

As per Part 3, Class MA, Paragraph MA.2(2), the local planning authority must assess the impact on several matters.

Transport and Highway Impacts

While the site lies within a town centre location with good access to public transport, the application does not include any information regarding refuse storage/collection, cycle parking provision, to provide clarity over whether there would be any off-street parking facilities or the impact of the development on access and servicing. Moreover, King St is an unadopted road accessing land to rear and the applicant has not demonstrated that either parking/cycle or bin storage facilities can be accommodated on this land. In the absence of this information, the Local Planning Authority cannot be satisfied that the proposal would not lead to on-street bin storage or parking and thus would result in an unacceptable impact on highways safety.

Contamination Risks

The site falls within a potentially contaminated land designation given its former industrial use, a Mining Remediation Authority Development High Risk Area, and a Class 2 Radon Gas area. The proposal involves a change of use with internal and façade alterations, and no intrusive groundworks are proposed. While the applicant has not submitted a Phase 1 Contamination Report or a Coal mining Risk Assessment, in this instance, such matters could reasonably be addressed through the imposition of appropriate planning conditions. However, as the application is recommended for refusal on other grounds, this matter has not been pursued further.

Flooding Risks

The site does not fall within a flood risk zone and there is no known flood risks associated with the site.

Noise Impacts

In accordance with MA.2 (2) (d), the Local Planning Authority must assess the potential noise impact from surrounding commercial uses on future occupiers of the development. The site is located within a town centre and is in close proximity to Bradford Road (A Classified Road), with a number of nearby noise-generating uses including a car wash/garage, a public house with beer garden, and various industrial and retail premises.

No noise impact assessment has been submitted to demonstrate that future occupiers could be adequately protected from external commercial noise sources. While this is a matter that may be addressed through a planning condition, it would likely involve alterations to existing windows and the introduction of mechanical ventilation which may in themselves require planning permission as alterations to the building. As prior approval is being refused on other grounds, the feasibility of noise attenuation has not been pursued further in this instance.

Conservation Area

MA.2(2)(e) requires the LPA to consider the heritage impacts of the development '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 within a conservation area.

Provision of Natural Light

MA.2(2)(f) requires the provision of adequate natural light in all habitable rooms of the dwellinghouse.

Proposed Units 2, 3, 7, 8 and 9 would all be single aspect, whereas Units 1 and 5, along with the existing flat (unit 6), would be dual aspect. All proposed flats would include habitable rooms served by windows. However, the development fails to demonstrate that adequate natural light would be provided to a number of habitable rooms within the proposal.

At first floor Unit 7, and at ground floor, Unit 2, would be positioned approximately 5.5m from the site elevation of No.35 Bradford Road/ 1 King Street, a substantial neighbouring building of a part one, two and three storey height. Due to the scale and proximity of this building, the habitable room windows of these unit would experience a significant restriction in access to natural light, particularly given their alignment along the southern façade.

Unit 3 would similarly be affected by the adjacent garage/car wash building to the north, which is approximately 1.5 storeys in height with a pitched roof and located around 5m from the proposed habitable room windows. These windows

are small and offer limited glazed area, coupled with their position would result in an inadequate light provision.

No daylight and sunlight assessment or 25-degree line test drawings (as per the Building Research Establishment (BRE) guidance) have been submitted to demonstrate that each habitable room would be afforded an acceptable natural light provision. In the absence of such evidence, and based on the siting, orientation and physical constraints of the site, the proposal fails to demonstrate that adequate natural light would be provided to all habitable rooms, contrary to the requirements of MA.2(2) (f) of the GPDO.

Commercial Impacts

MA.2(2)(g) is not considered applicable as the site does not lie within an area designated by the Local Plan as being of importance for general or heavy industry, waste management, storage and distribution, or a mix of such uses. Furthermore, the proposal does not result in the loss of a nursery or health care centre and would therefore accord with MA.2(2)(h).

Fire Risk

MA.2(2)(i) states that where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building. The development is for 8 dwellings which would not exceed the height of the building as outlined within article 9A of the General Management Procedure Order 2015. Therefore, the proposal would meet the fire risk condition.

Space Standards

Article 3(9A) of the Town and Country Planning (General Permitted Development) (England) Order (as amended) precludes any grant of planning permission where the gross floor area of any new dwelling does not exceed 37 sq. metres or does not meet nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

- Unit 1 (1 Bedroom 2 Person) - Bedroom circa 13sqm, built-in storage circa 3sqm, total GIA circa 44.48sqm
- Unit 2 (1 Bedroom 2 Person) – Bedroom circa 13sqm, built-in storage circa 1.7sqm, total GIA circa 48sqm
- Unit 3 (1 Bedroom 1 Person) – Bedroom circa 11.14sqm, built-in storage circa 1.7sqm, total GIA circa 42.45sqm
- Unit 4 (1 Bedroom 1 Person) – Bedroom circa 7.68sqm, built-in storage circa 1sqm, total GIA circa 40.64sqm

- Unit 5 (1 Bedroom 1 Person) - Bedroom circa 8.68sqm, built-in storage circa 2.22sqm, total GIA circa 41.30sqm
- Unit 7 (1 Bedroom 2 Person) - Bedroom circa 11sqm, built-in storage circa 1.3sqm, total GIA circa 46.90sqm
- Unit 8 (1 Bedroom 2 Person) - Bedroom circa 11.42sqm, built-in storage circa 1.3sqm, total GIA circa 42.85sqm
- Unit 8 (1 Bedroom 2 Person) - Bedroom circa 10.10sqm, built-in storage circa 0.87sqm, total GIA circa 49.47sqm

Each proposed unit would have one bedroom, with a floor area of less than 11.5sqm but more than 7.5sqm suggesting one bedspace (single occupancy) per unit. The nationally described space standards set out that single storey, one bedroom, one person dwellings should have minimum gross internal floor area of 39sqm or 37sqm where a shower room instead of a bathroom is proposed. It is noted that the proposed floor plans show each unit to have “bath”, it is therefore reasonable to assume that each unit would be served with a bathroom and should have a minimum gross internal area of 39sqm. All proposed units would exceed the minimum gross internal area requirements, bedroom size requirements and provide adequate built-in storage. As such, it is considered that the proposal would be acceptable in this regard.

Representations

There were no letters of representation received.

Conclusion

The proposed development is therefore considered to not benefit from a general planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in accordance with Part 3, Class MA of Schedule 2 of the Order.

Recommendation: Prior Approval Refused

Decision Authorisation – Delegated Powers

Application Number: 2025/90833

Officer Recommendation: Refuse

Reasons for Refusal:

1. The development fails to demonstrate that all habitable rooms within the proposed dwellings would receive adequate natural light, as required under Paragraph MA.2.2(f) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Habitable rooms on the south elevation would face, in close proximity, to a three storey building. The applicant has not demonstrated that both direct and ambient light would not be reduced to an unacceptable level.

1. The application fails to provide any information to assess the transport and highways impacts of the proposed development, as required by Paragraph MA.2(1) (a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). No information has been provided to satisfy the Local Planning Authority that sufficient space can be provided for bin storage and off-street cycle or car parking within the application site.

2. By virtue of the industrial heritage of the building, the site falls within land designated as contaminated land. The application has not demonstrated that the site can be mitigated against the contaminated land contrary to Paragraph MA.2.2(b) and Paragraph W(10)(c) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	-	-	03/04/2025
Existing Plans	-	-	03/04/2025
Existing Elevations	-	-	03/04/2025
Proposed Plans	-	-	03/04/2025
Proposed Elevations	-	-	03/04/2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application.

No post-submission negotiations or requests for further information were undertaken in the assessment of this prior approval application. The responsibility lies with the applicant to submit all information necessary to

demonstrate that the proposed development meets the qualifying criteria and the prior approval matters can be properly assessed.