

OUR REF: R00768/MR/EH/IN
PP REF: PP-13547558
SUBMITTED VIA PLANNING PORTAL

Exeter City Council
Civic Centre
Paris Street
Exeter
EX1 1JN

23 December 2024

Dear Sir/Madam

PRIOR APPROVAL FOR THE CHANGE OF USE OF THE EXISTING COMMERCIAL BUILDING (USE CLASS E) TO 32 NO. RESIDENTIAL DWELLINGS (USE CLASS C3) UNDER "CLASS MA" OF PART 3, SCHEDULE 2 OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015.
CLARENDON HOUSE, WESTERN WAY, EXETER, EX1 2DA

I write on behalf of Chex Developments Limited C/O Zinc RE UK Limited ("The Applicant"), in relation to an application for Prior Approval for the change of use of the existing commercial building (Use Class E) to 32 residential units (Use Class C3) at Clarendon House, Western Way, Exeter, EX1 2DA.

The application is made in respect of the requirements of the Town and Country Planning (General Permitted Development) Order 2015 (GDPO) Schedule 2, Part 3, Class MA (Commercial, business and service uses to dwellinghouses).

The proposal seeks:

"Prior approval for a change of use of the existing commercial building (Use Class E) to 32 no. residential dwellings (Use Class C3) under "Class MA" of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order (GPDO) 2015 (as amended)."

The following information accompanies this application:

- The application form
- This Planning Covering Letter prepared by ROK Planning
- Prior approval application fee
- Site Location Plan prepared by Chapman Taylor, reference D191CHE-CTA-02-XX-DR-A-07100-SITE LOCATION PLAN-P0, dated 11 November 2024.
- Existing and proposed floorplans prepared by Chapman Taylor, dated 11 November 2024.
- Existing and proposed elevations prepared by Chapman Taylor, dated 11 November 2024.
- Noise Impact Assessment prepared by Hydrock, reference CTA-HYD-ZZ-XX-RP-Y-0001 Rev P03,

dated 25 November 2024.

- Daylight and Sunlight Assessment prepared by Hydrock, reference 28626-HYD-XX-XX-RP-Y-5002 Rev P03, dated 28 November 2024.
- Transport Statement prepared by Hydrock, reference 28626-HYD-XX-XX-RP-TP-5001 Rev P04, dated 3 December 2024.
- Contamination Assessment prepared by Hydrock, reference 28626-HYD-XX-XX-RP-GE-1000 Rev P07, dated 16 December 2024.
- Flood Risk Assessment prepared by Hydrock, reference 28626-HYD-XX-XX-RP-WENV-0002 Rev P01, dated 27 November 2024.

This letter is structured covering the below matters:

1. The Site and Surroundings
2. Relevant Planning History
3. Proposed Development
4. Class MA Considerations for Prior Approval
5. Class MA Conditions
6. Conclusion

1. The Site and surroundings

Clarendon House is an existing 5 storey building comprising of partly vacant office space. The site is located in the city centre of Exeter in the Newtown & St Leonard's Ward.

It lies on Western Way roundabout, bounded by Western Way to the West, Russel Street to the East, Heavitree Road to the South and a hotel (Jury's Inn) to the North. Beyond Russel Street to the East is a large council-owned car park known as the 'Triangle Car Park'. The new leisure centre and bus station lie on the other side of the roundabout opposite the site. Other surrounding uses include a cinema and residential.

The site is adjacent to but not within the Lower Summerlands Conservation Area. Southernhay and The Friars Conservation Area is also in proximity on the opposite side of the Western Way Roundabout. There are no statutory or locally listed buildings on site however Grade II Listed Eaton's Place 5, 7 and 9 and Grade II Listed Eaton Place, 11 and 13 are adjacent to the site and Grade II Listed 1-4 and 7-9, Lower Summerlands are in proximity.

2. Relevant Planning History

In relation to planning history on the site, there are only minor applications or advertisement consents available to view on Exeter City Council's online search which are not relevant to the application.

3. Proposed development

The proposal for the Site involve a change of use of the existing commercial building (Use Class E) to form 32 no residential units (Use Class C3), utilising permitted development rights under Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The 32 units comprise 6 studios, 15 1-bed units, and 11 2-bed units, which all meet or exceed National Space Standards.

Studios range between 40-44sqm, 1 beds range between 50-72sqm and 2 beds range between 72-95sqm. Thus, some apartments exceeding standards by more than 20sqm.

The proposed scheme also includes 40 car parking spaces, a 109sqm cycle store and a 69sqm refuse store at ground floor level.

4. Class MA Considerations for Prior Approval

Class MA Permitted Development can be defined as follows:

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.

Paragraph MA.1. then sets out a number of requirements for an application for determination by the local planning authority as to whether prior approval for the proposed change of use pursuant to paragraph MA is required. An assessment of the proposals against these requirements is set out below:

MA.1.—(1) Development is not permitted by Class MA—

MA.1. Part (a)

(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;

From 5th March 2024, this requirement was removed under Statutory Instrument 2024 No. 141 for any application submitted on or after this date under Class MA. This Instrument stated that:

Amendments to Part 3 (changes of use)

3. —(1) Part 3 is amended as follows.

(2) In Class MA (commercial, business and service uses to dwellinghouses), in sub-paragraph (1) of paragraph MA.1—

- (a) omit paragraph (a);*
- (b) omit paragraph (c).*

Therefore, this is no longer applicable to the application.

MA.1. Part (b)

- (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;*

Sub Paragraph 2 is then set out as follows:

(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 existing building complies with Part (b) of sub paragraph 2 as the building has been used for offices since it was granted planning permission on 26 March 1964 under application reference 449-63. This application permitted:

“The erection of a Bowling Centre and Cinema with three floors of Offices over and basement car park on land at junction of Western Way and Heavitree Road, Exeter.”

Whilst the bowling centre and cinema were not implemented on the site, the office block was constructed and has been used as such ever since, most recently by Exeter Job Centre who have occupied the building since 1969. This is therefore considered a Commercial, Business and Service use and covered by Use Class E.

Consequently, this meets the requirement of MA.1. Part (b).

MA.1. Part (c)

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

square metres;

As with MA.1. Part (a), from 5th March 2024, this requirement was removed under Statutory Instrument 2024 No. 141 for any application submitted on or after this date under Class MA. Therefore, this is no longer applicable to the application.

MA.1. Part (d)

- (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;*

Parts (i) to (v) above are not applicable to the Site.

MA.1. Part (e)

- (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;*

Parts (i) to (v) above are also not applicable to the Site.

MA.1. Part (f)

- (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 under an agricultural tenancy and therefore MA.1. Part (f) is not applicable to this application.

MA.1. Part (g)

- (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.

The above is not applicable to this application as it relates to applications made before 1 August 2022.

In addition to the above, there are no Article 4 directions in Exeter preventing prior approval under Class MA.

Furthermore, with regards to the 32 no. residential units proposed, all units are complaint with National Space Standards. This is demonstrated in the table below:

| Unit Mix | No. of units | National Space Standard | Proposed range of areas | Exceedance of space standards |
|----------------|--------------|-------------------------|-------------------------|-------------------------------|
| Studio | 6 | 39sqm | 40sqm-44sqm | 1-5sqm |
| 1 bed 2 person | 15 | 50sqm | 50sqm-72sqm | 0-22sqm |
| 2 bed 3 person | 7 | 61sqm | 72sqm-75sqm | 11-14sqm |
| 2 bed 4 person | 4 | 70sqm | 86sqm-95sqm | 16sqm-25sqm |

5. Class MA Conditions

Paragraph MA.2. of Part 3 of Schedule 2 states that:

“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—

The relevant conditions imposed by Paragraph MA.2. are addressed in turn in the following paragraphs.

MA.2. Part (a)

(a) transport impacts of the development, particularly to ensure safe site access;

A Transport Statement has been prepared by Hydrock to support this application.

The standards included in Table 2 of the Exeter Sustainable Transport SPD (2013) require 1 cycle space per dwelling for 1 or 2 bedroom flats and 2 cycle spaces per dwelling for flats of 3 or more bedrooms. Subsequently for 32 1-2 bedroom flats the required provision would total 32 cycle spaces. One or two space are also required for ad hoc callers. As such, the scheme provides 34 spaces, and therefore complies with the SPD.

The principle for low car development has also been firmly established within the area. This is considered to be suitable due to the attractiveness of public transport, walking and cycling within the vicinity of the site as opposed to travel by the private car. The Site is in a highly sustainable location in proximity to the facilities, services, businesses and commercial uses of the city centre, the bus station, Exeter Central and St James Park Train Stations and pedestrian and cycling links.

The assessment shows that the proposed conversion to residential use would not exacerbate local accidents and would also result in a reduction in the number of vehicle movements associated with the Site.

Overall, the Statement confirms that there are not considered to be any adverse impacts in relation to transport arising from the proposed change of use, which therefore complies with condition MA.2. Part (a).

MA.2. Part (b)

(b) contamination risks in relation to the building;

A Contamination Assessment has been undertaken by Hydrock which concludes that the overall risk from land contamination at the site is considered to be low for the current development, as it is covered by hard standing or buildings limiting the possibility of contact with the soils, as well as the risk of significant rainwater infiltration leading to leaching. Additionally, the conversion of the building to residential use is unlikely to change the risks associated with soil contamination, with there being no areas of plant uptake as the site will remain covered in hardstanding.

Consequently, the Site is deemed to be suitable for conversion to residential use and complies with this condition.

MA.2. Part (c)

(c) flooding risks in relation to the building;

A Flood Risk Assessment has been undertaken by Hydrock to support this application. The report confirms that the Site lies within Flood Zone 1 and therefore has a low probability of flooding from tidal, fluvial, groundwater, sewer and artificial sources of flooding. There is some elevated risk of surface water flooding, however provided the recommended mitigation measures are implemented, the site is also considered to at low risk of flooding from surface water sources

Accordingly, 'Less Vulnerable' uses are proposed for the basement and ground floor levels with 'More Vulnerable' uses at Levels 1 and above, flood resilience measures will be incorporated and a Flood

Evacuation Management plan will be prepared. An exit from the development on the northeast of the Site will be maintained where it is indicated to be flood-free to ensure safe access and egress.

On this basis, the proposed conversion of the building will be adequately flood resistant and resilient and will not increase flood risk elsewhere. This therefore complies with MA.2. Part (c).

MA.2. Part (d)

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

An Environmental Noise Assessment has been undertaken by Hydrock, which sets out mitigation measures to ensure that the residential development will meet the requirements of National and Local policy and guidance. These mitigation measures are achievable through internal upgrade works as part of the conversion of the floorspace and as such the occupiers will experience no adverse noise impacts from commercial premises.

MA.2. Part (e)

(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;*

As detailed in Section 1 the site lies adjacent to but not within the Lower Summerlands Conservation Area. Consequently, condition MA.2. Part (e) is not applicable to this application.

MA.2. Part (f)

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

An Internal Daylight Assessment has been prepared by Hydrock, which assesses the levels of daylight and sunlight within the proposed residential units against the BRE guidelines "Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice – third edition" (2022).

The assessment states that it is important to acknowledge that due to the nature of the application converting an existing building, the optimum strategy for daylight levels within rooms could not be designed. Despite this, out of the 19 spaces assessed from 9 residential dwellings across all orientations from the First and Second Floor of the proposed development, 13 spaces passed the Standard Median Daylight Factor requirements. Of the spaces that did not pass, only 1 assessed failed the hard-to-light criteria.

Notably, on the second floor, all residential dwellings assessed on this floor passed both Standard Median Daylight Factors 2.1% and 0.7% requirements. If assessed, the Third and Fourth Floor would display further improved results over the already passing Second Floor results. As such, the assessment concludes that this shows acceptable levels of daylight to the units.

With regards to sunlight, all living spaces and bedrooms assessed on the South and East facades pass the BRE criteria as well as the majority of windows on the western façade with only a small number of smaller windows dropping below the 1.5 hour requirement.

Whilst windows on the northern facing façade do not meet the criteria, it must be acknowledged that this is in part due to the close proximity to the Leonardo Hotel, which would obstruct sunlight access. Additionally, in general lower sunlight availability would be expected due to the northern orientation. This is therefore acceptable in accordance with the guidance.

As such, the proposed change of use would comply with MA.2. Part (f).

MA.2. Part (g)

(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;

The area is not considered to be important for general or heavy industry, waste management, storage or distribution. Therefore, MA.2. Part (g) is not a relevant condition for the purposes of this application.

MA.2. Part (h)

(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.

The proposed change of use does not involve the loss of either of the services mentioned Part (h) above. Therefore, this is not a relevant condition for the purposes of this application.

MA.2. Part (i)

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

The existing building is not over 18m high or seven storeys above ground level and so does not meet

the fire risk condition. Therefore, this is not a relevant consideration for the purposes of this application.

Conclusion

In conclusion, it has been demonstrated that the key requirements of Paragraph MA.1. of the 2015 Order are satisfied and thus prior approval under Class MA is suitable for this Site. Additionally, it has also been shown that the conditions of Paragraph MA.2 have been met since:

- The proposed development will not have any adverse transport impacts.
- There are no flood related concerns at this site.
- There are no contamination issues at this site.
- The proposed residential units will benefit from an acceptable acoustic environment following the recommended mitigation measures as outlined in the enclosed acoustic report.
- The proposed residential units will be provided with adequate natural light as evidenced by the enclosed daylight and sunlight report.

We therefore trust that the above is in order and that this application can be registered and prior approval subsequently granted. Please do not hesitate to contact either Matthew Roe [REDACTED], Immie North [REDACTED] or myself should you have any queries. We look forward to hearing from you.

Yours faithfully,



Erlina Hale
Planner
ROK Planning Ltd

T: [REDACTED]
E: [REDACTED]