

PLANNING STATEMENT

10 BAYFORD ROAD, LITTLEHAMPTON



Whaleback Planning & Design
91 Boundary Road
Hove
BN3 7GA



Site	10 Bayford Road, Littlehampton, West Sussex, BN17 5HL
Project	Prior Approval for the change of use from café (Use Class E) to residential (Use Class C3)
Applicant	Babbayan Investment Holdings Ltd
Our Ref	W2507
Date	March 2022
Version	20220118

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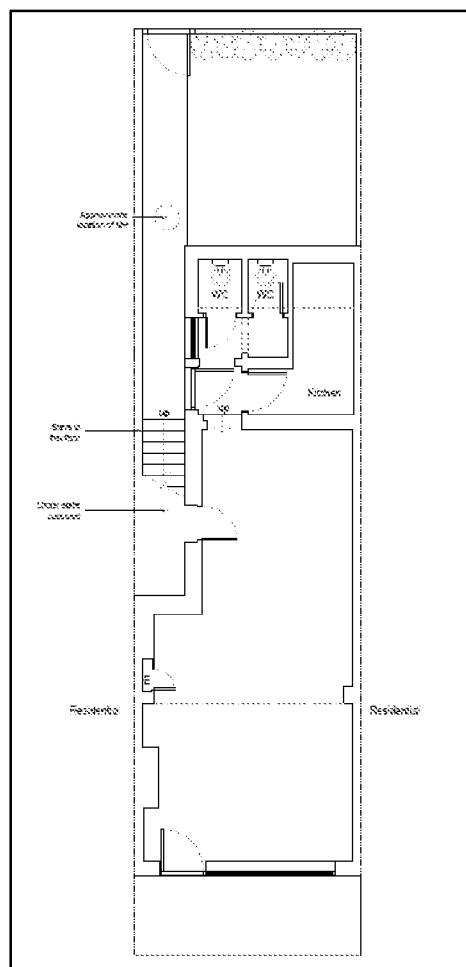
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Introduction

1. Whaleback Planning & Design is instructed by the applicant to prepare and submit an application to ascertain whether the prior approval of the Local Planning Authority is required in respect of the change of use of the ground floor commercial unit of 10 Bayford Road (Use Class E) to a residential use as a self-contained one bedroom flat (Use Class C3), under Schedule 2, Part 3, **Class MA** of the General Permitted Development Order (GPDO) 2015 (as amended).
2. This Planning Statement includes a description of the site and the retail use, an explanation of the proposed conversion and building works, and a demonstration that the conversion proposed fully complies with the restrictions set out in the GPDO.

Site and Surroundings

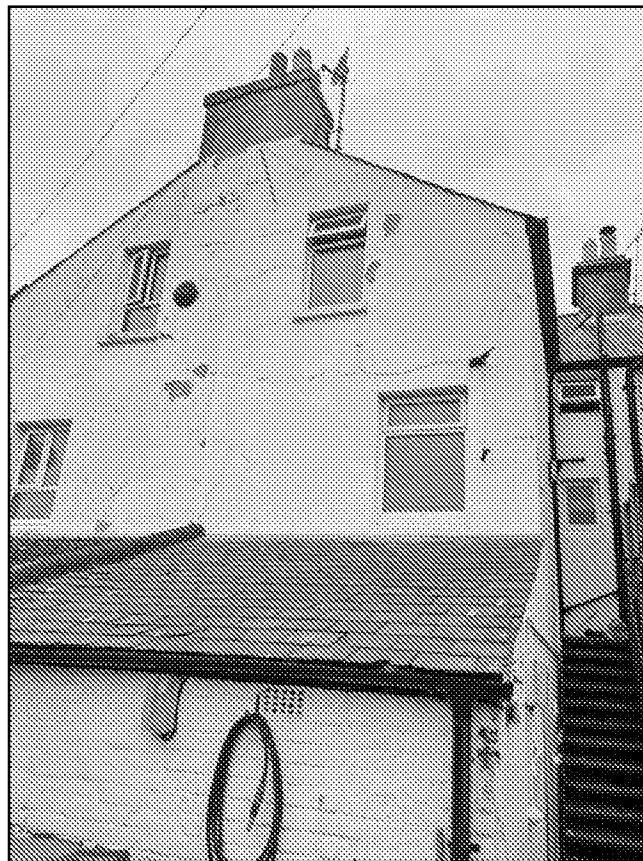
3. The application site comprises a two-storey building located to the east of Bayford Road. The property has a floor area of 41sqm and comprises an open plan café with seating and a serving area in addition to two WCs and a kitchen to the rear. The site also contains an external seating area with a retractable awning above. The upper floors of the unit are accommodated by a residential unit with a rear access route. The site also has a single storey rear extension and a rear garden/storage area. the Use Class of the planning unit is E(b).



Existing ground floor plan



Front Elevation



Rear Elevation



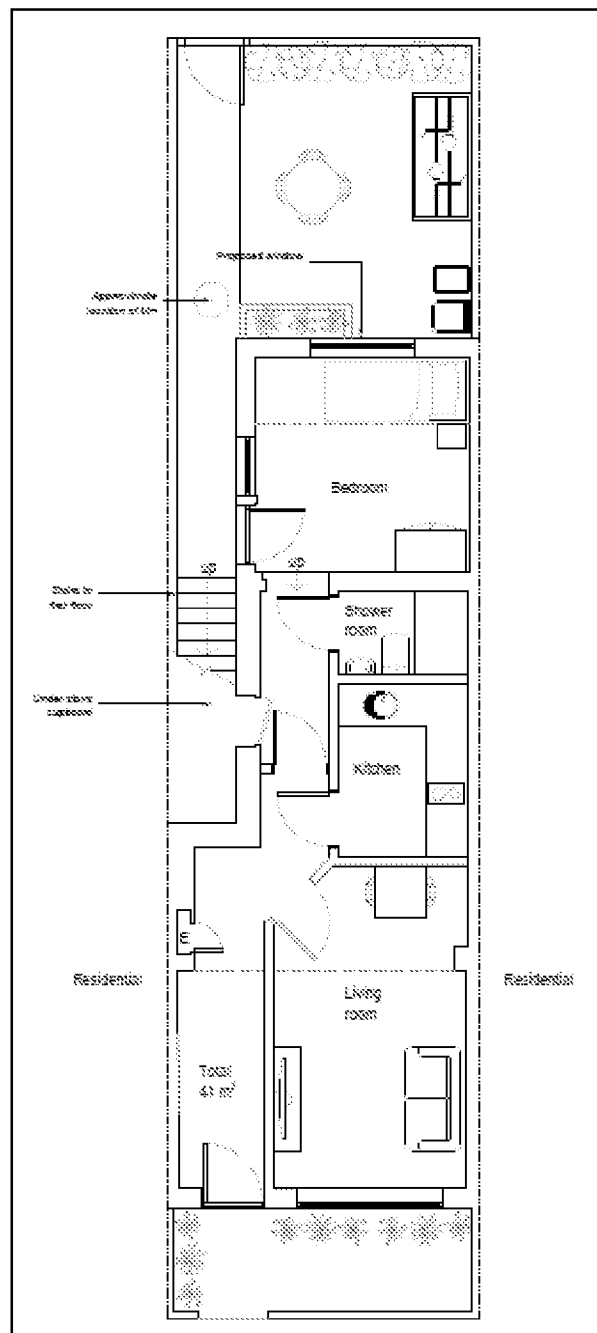
Rear Garden Area



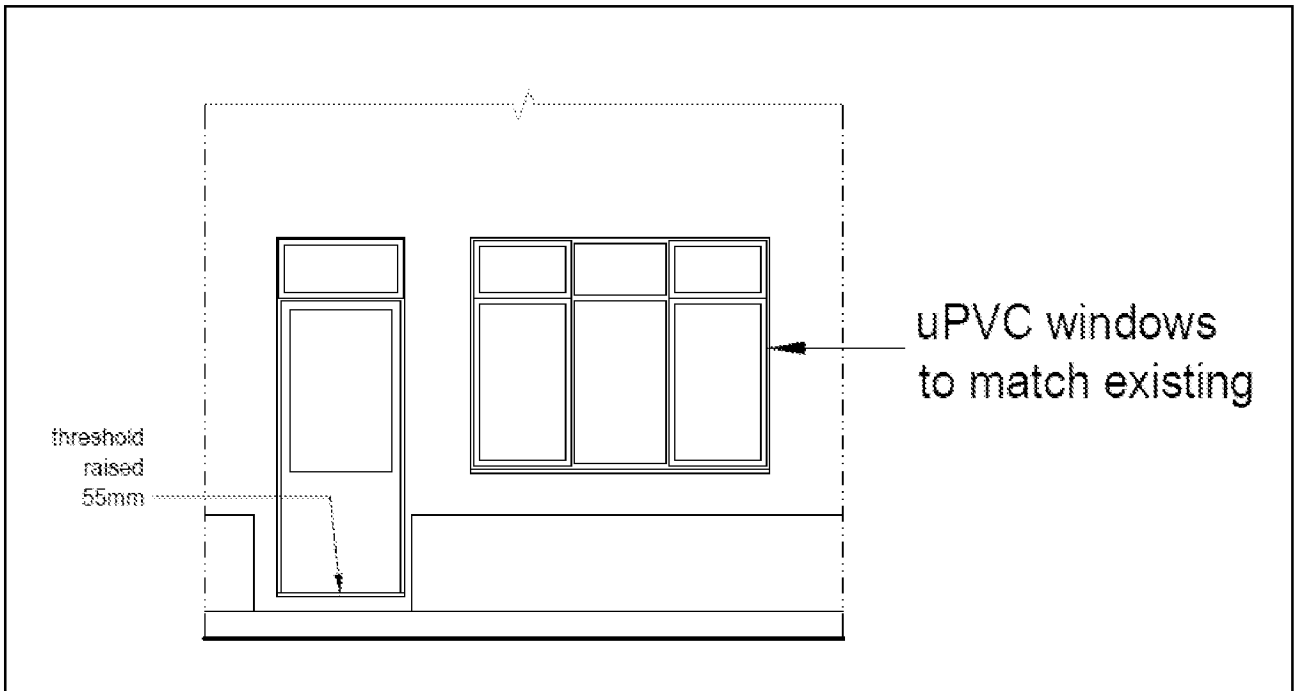
Interior

Development Proposal

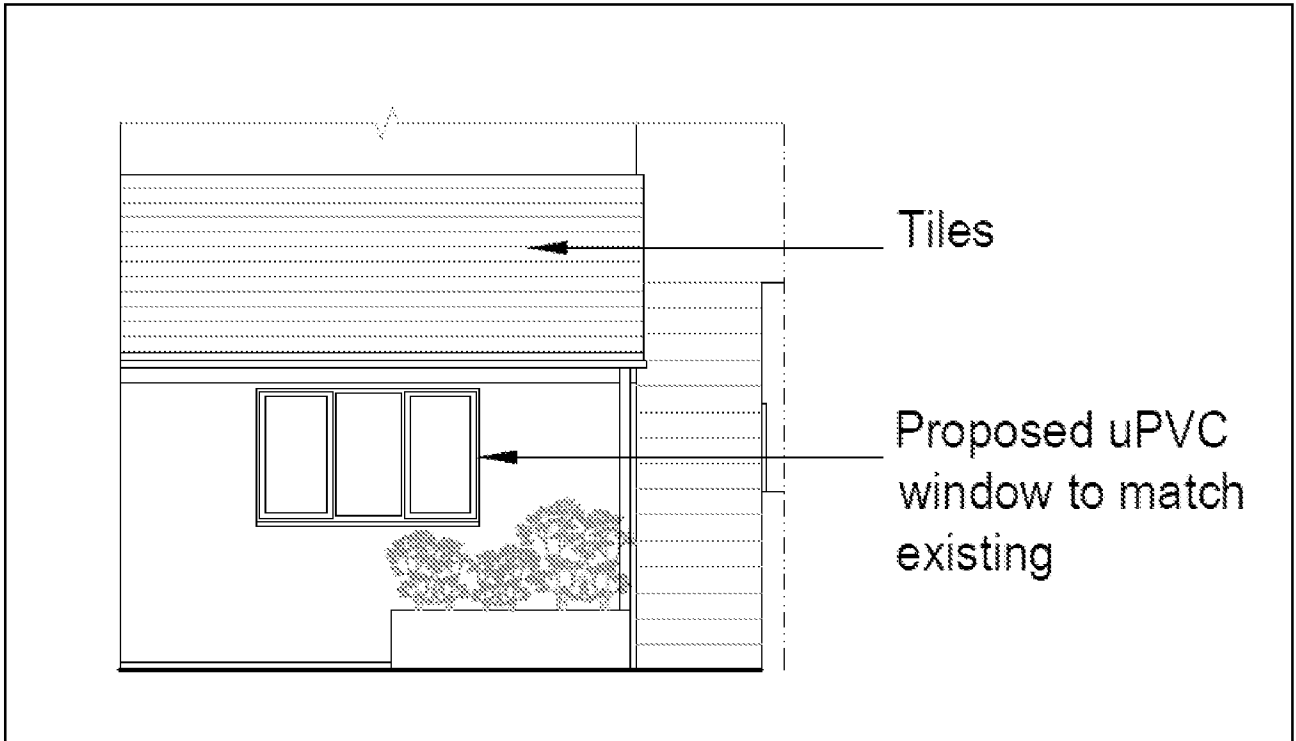
4. It is proposed that the ground floor (Use Class E) be converted to a residential use in the form of a self-contained one-bedroom flat (Use Class C3). The flat would contain a single bedroom, a shower room and separate kitchen and living rooms and kitchen, and a bathroom. The rear garden area would provide an outdoor amenity area with patio, planters, cycle storage and refuse and recycling. The total GIA floorspace of the proposed studio flat is 41 sqm.
5. The existing access for the upper floor unit would be retained and the shopfront would be replaced with UPVC windows and a new front door. A UPVC window would also be installed to the rear elevation. Permission for the external alterations is not sought under this application. A full planning application (ref. LU/40/22/PL) is currently under consideration by the LPA for the external alterations.



Proposed ground floor layout



Proposed front elevation



Proposed rear elevation

Relevant Planning History

6. **LU/18/22/PD** - Notification for prior approval under Schedule 2, Part 3, Class MA for the change of use from commercial, business & service (Class E) to 1 No dwelling house (Class C3). Refused 17-03-22 for the following reason:
 1. *The application fails to demonstrate compliance with Class M.2.(1)(c) flooding risks of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), in relation to the building.*
7. We note that the reason for refusal and the entire assessment within the Officer's report relate to Class M which only allows for the conversion of a laundrette, betting office, pay day loan shop, hot food takeaway (or a specified mixed use)(Sui Generis) to a dwellinghouse (C3), and therefore is not relevant to this application. This application seeks Prior Approval under Schedule 2, Part 3, **Class MA** for the change of use from commercial (Class E) to a single dwelling house (Class C3), as set out in detail below.
8. **LU/467/03/** - Change of use from taxi office to café. Approved 11-02-04.

Class MA Restrictions

9. The proposed change of a café unit (Use Class E) to a residential unit in the form of a self-contained one-bedroom flat complies entirely with the restrictions set out in Class MA, as demonstrated below.

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.

10. The application unit; the ground floor of no. 10 Bayford Road, is of a lawful cafe use (Use Class E). Planning permission was granted in 2004 (ref. LU/467/03/) for the conversion of the site to a café. Business rates records from 2010 and 2017 show the floorspace of the premises logged as restaurant and premises. Historic 'streetview' photography shows the property in cafe use from 2009 onwards. The lawful use of the planning unit is therefore not in question and the unit benefits from the rights set out in Class MA.

Class 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;

(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.

(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.

11. The unit has been vacant since the previous tenant moved from the site on 15th October 2021 to another café within the same parade of shops.
12. As set out above, the unit was last in use as a café and was occupied as such continuously since 2010 up until the site was vacated 15th October 2021. This is supported by business rates records on The Valuation Office Agency website.
13. The total floorspace of the unit to be converted does not exceed 1500sqm.
14. The building is not in a SSI, is not a listed building, is not a scheduled ancient monument, is not in a safety hazard area, is not in a military explosives storage area, is not in an AONB, is not within an section 41(3) area, is not within the Broads, is not within a national park and is not within a World Heritage Site.
15. The site is not occupied under agricultural tenancy.
16. The proposal does not involve the conversion of office floorspace.

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;

17. The proposed residential use is a one-bedroom flat. Therefore, the proposed residential use would not result in significantly increased trip generation or demand for on-street parking. The application site is within an area where parking controls are in place which would ensure that no harm or highway safety risk would result in this regard. Bicycle storage is provided within the rear garden area.

(b) contamination risks in relation to the building;

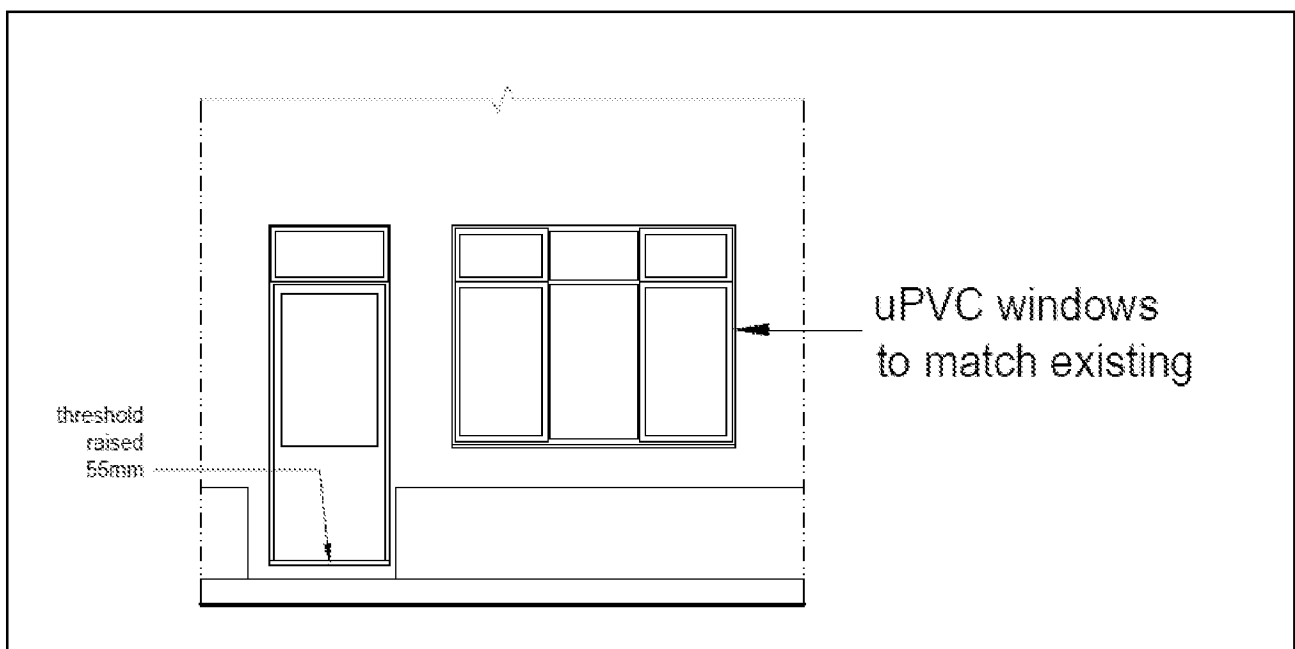
18. There are no known contamination issues associated with the application site. The historic café use of the site is unlikely to have caused any contamination of the land.

(c) flooding risks in relation to the building;

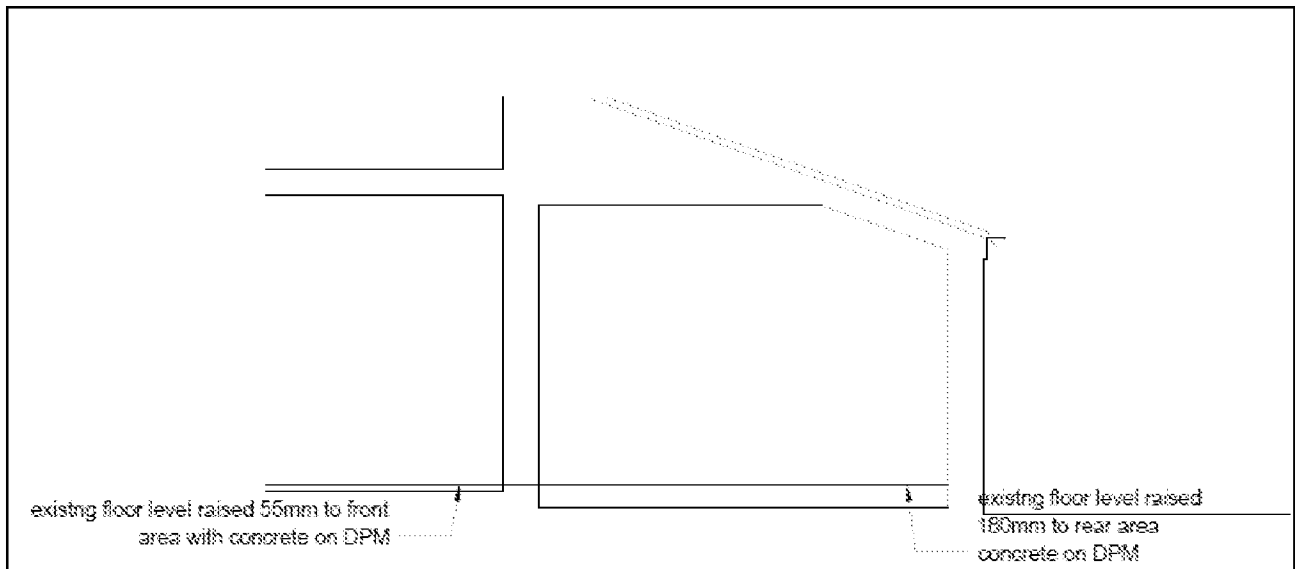
19. The previous application (**LU/18/22/PD**) was refused due to a failure to demonstrate compliance with Class M.2.(1)(c) flooding risks. As set out above, this reason for refusal relates to Class M rather than Class MA, as applied for, however flood risk remains relevant to this application.
20. The application site is categorised by Environment Agency (EA) mapping as Flood Zone 3 (High probability of flooding). The Environment Agency consultation response on the refused application (**LU/18/22/PD**) raised the following objections in response to the Flood Risk Assessment (FRA):

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular the FRA fails to:

- Consider how tidal flooding will affect people and property
 - Provide a comparison of undefended tidal levels to finished floor levels through which to consider flood risk to occupants
 - Assess the impact of climate change using appropriate higher central and upper end allowances.
21. An updated FRA was submitted during the assessment of the refused application in order to address the concerns set out above, however the application was refused without re-consultation with the Environment Agency.
 22. The updated FRA includes the additional information requested by the EA and confirms that the proposed dwelling would be acceptable in terms of flood risk, subject to the following mitigation measures, which are all proposed as part of the development and can be secured by planning condition:
 - An evacuation plan and encouragement of residents to sign up to the Environment Agencies Flood Warning Services.
 - 300mm higher finished floor level from street (as shown overleaf)
 - Installation of Flood Boards
 - Higher positioning of electrical sockets
 23. Furthermore, the development is accessible for emergency access and egress during times of extreme flooding and no flood risk is evident on any of the access routes.
 24. It has therefore been satisfactorily demonstrated, subject to the implementation of the proposed measures, that the site would be safe from flood risk through the duration of its lifetime, subject to the mitigation methods proposed, as set out above. The development of the site for housing is acceptable in principle under the provisions of class MA.



Proposed Raised Floor Level to Front



Proposed Raised Floor Level to Rear

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

25. The site is located on a predominantly residential street and adjoins residential units to either side and above therefore, there would be no harmful noise impacts from commercial premises.

(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;

26. The site is not located within a conservation area.

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

27. The living room would be well served by natural light from the large front window and the rear bedroom would also receive ample light from the rear and side windows. The provision of adequate light would therefore be acceptable.

(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

28. The site does not fall within an area in use for heavy industry waste management, storage and distribution.

(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

29. The proposed development would involve the loss of a registered nursery or a health centre.

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

30. The building is lower than 18m in height and does not contain 7 or more storeys. The development therefore does meet the fire risk condition.

31. In addition to the restrictions set out within Class MA, Article 3 (Permitted Development) of the GDPO sets out additional requirements for new dwellings, as set out below.

(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(a) where the gross internal 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.

32. The proposed unit would be a one person one bedroom unit. The Nationally Described Space Standards require a minimum gross internal floor area (GIA) of 39sqm for a one person one bedroom unit, a minimum floor area of 7.5sqm and a minimum width of 2.15m for a single bedroom. The proposed unit would have a GIA of 41sqm, the bedroom would have a floor area of 9.5sqm and would measure 3m in width.

Conclusion

33. The proposed development complies fully with the restrictions set out in Class MA. It has been demonstrated that the site benefits from class MA rights. There would be no increased highway safety risk as a result of the proposal. There is no known contamination risk associated with the building and the development. The site is acceptable in terms of flood risk subject to the mitigation measures which are proposed as part of the development and can be secured by planning condition. There would be no noise impact from commercial premises on future occupiers, the proposed unit would receive adequate natural light and the unit would meet the Nationally Described Standards for a one bedroom one person dwelling.
34. For these reasons it is respectfully requested that the Local Planning Authority grants prior approval without undue delay.

Engagement with the Local Planning Authority

35. This planning statement has been prepared to assist the Local Planning Authority in the determination of the application with regard to national and local planning policy. However, in the event that the

Local Planning Authority should wish to discuss any element of the scheme, including potential amendments, the applicants would welcome a discussion prior to the determination of the application. Correspondence can be sent to Whaleback Ltd via the contact details set out below.

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