
Appeal Decision

Site visit made on 4 November 2025

by **P Barton BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

Appeal Ref: APP/D0121/W/25/3366616

45-47 High Street, Nailsea BS48 1AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr N Hume against the decision of North Somerset Council.
 - The application Ref is 25/P/0149/CM2A.
 - The development proposed is change of use of existing vacant commercial floorspace (Use Class E) to create four residential dwellings.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of existing vacant commercial floorspace (Use Class E) to create four residential dwellings at 45-47 High Street, Nailsea BS48 1AW in accordance with the application 25/P/0149/CM2A and the details submitted with it and subject to the conditions in the schedule below.

Preliminary Matters

2. The address on the appeal form differs from that on the application form. The appellant has confirmed the address of the appeal site, which I have used in the above banner heading.
3. The appellant has submitted an updated noise assessment (NA) and amended plans illustrating a very minor change to the layout of Flat 1 to the ground floor. The bedroom would be located to the rear of the building and the open plan living space to the front.
4. Due to the nature of the information and the amended plans, and that the Council has had the opportunity to review them and welcomes them, I am satisfied that taking them into account would not cause procedural unfairness to anyone involved in the appeal. As such I have accepted the updated NA and the amended plans.
5. The Council has stated that following consideration of the updated NA and amended plans, it does not seek to defend the sole reason for refusal given in the Decision Notice relating to the living conditions of future occupiers. The Council adds that its position is subject to the proposed revised mitigation not constituting operational development, and the revised and/or previously approved mitigation being secured by condition.

Background and Main Issue

6. Article 3(1) and Schedule 2, Part 3, Class MA of the GPDO, permits the change of use of a building and any land within its curtilage from Use Class E to Use Class C3, subject to limitations and conditions. The Council does not dispute that the development would meet the limitations in paragraph MA.1. Based on the evidence before me, I see no reason to disagree.
7. The conditions in paragraph MA.2. require that an application is made for a determination as to whether prior approval is required for the development as to various matters listed (a) to (i). There is no dispute that prior approval is either not required or should be granted in respect of matters (a) to (c) and (e) to (i). Based on the evidence before me, there is no reason to disagree. As such, there is no need to give them further consideration in this decision. It is also not disputed that prior approval is required in respect of matter (d), 'impacts of noise from commercial premises on the intended occupiers of the development'.
8. The main issue is therefore whether prior approval should be granted for the development, with particular regard to the impacts of noise from commercial premises on the intended occupiers of the development.

Reasons

9. The appeal property consists of vacant commercial floorspace within a mixed commercial and residential area. The proposed development would create a single flat to the ground floor and three flats to the first floor.
10. On the opposite side of a footpath, that runs to the immediate east of the appeal site, is the Royal Oak Public House. A car park faces the High Street frontage that also contains some external seating, with the main public house building behind it and the main beer garden positioned to the rear. I understand that the public house is open until 11:00pm on weekdays and is open later on Friday and Saturday nights, and it often hosts disco and live music events. This public house is the Council's main noise concern with this proposal.
11. A noise survey undertaken in May 2024, associated with an earlier application, took noise level readings from outside the appeal property. There is no dispute between the parties that noise mitigation in the form of standard and uprated double glazing, acoustical-grade window trickle vents and mechanical vent extracts via existing roof vent openings, would achieve the desirable noise levels within habitable rooms with closed windows. There is an extant planning permission¹ for these external changes. Nevertheless, the Council was concerned that being reliant on closed windows to achieve the desirable noise levels could adversely impact upon the health and quality of life of future occupants.
12. The updated NA includes the findings of a further noise survey undertaken at the appeal site in April 2025 and included noise level readings from inside the appeal property. This identified that the desirable noise levels within habitable rooms would be achieved following the implementation of the mitigation measures when windows were both open and closed. The updated NA highlighted that living conditions would be further enhanced by locating the ground floor flat bedroom to the quieter rear of the building as well as an internal acoustic upgrade to the

¹ Planning Permission Ref: 24/P/1604/FUL

existing roof structure, which is identified as an acoustic weak spot in the building's construction. Due to their nature and internal location, I am satisfied that these further mitigation measures would not constitute operational development requiring separate planning permission.

13. In conclusion, the mitigation measures subject to the extant planning permission and the additional measures detailed in the updated NA would create acceptable living conditions for future occupiers of the flats, with regard to the impact of noise from commercial premises.
14. For the above reasons, with particular regard to the matter stated at condition MA.2.(2) of Class MA, prior approval should be granted for the development.

Other Matters

15. The Council did not refuse the application on ecological grounds. Whilst the site has the potential to be used by bats there is no convincing evidence before me that there is a reasonable likelihood of bats being present and affected by the development.
16. It has been raised by an interested party that Councils have powers to auction lettings of vacant high street commercial properties, and the proposal would result in the loss of a retail unit. However, this falls outside the scope of matters that can be considered under Class MA.

Conditions

17. I have had regard to the conditions put forward by the Council and the appellant's comments on these. The wording has been amended where necessary in the interest of clarity. I have also had regard to the tests of the National Planning Policy Framework and the Planning Practice Guidance and the GPDO.
18. It is not necessary to impose a time limit condition or restrict the use of the flats. Paragraph MA.2.(5) stipulates that development under Class MA must be completed within a period of 3 years starting with the prior approval date. Moreover, paragraph MA.2.(6) requires 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.
19. On the basis that amended plans have been submitted, including the revised layout to flat 1, and to ensure certainty, I have attached a condition setting out the approved plans.
20. Paragraph W (13) of Part 3 of Schedule 2 of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. Conditions requiring necessary mitigation measures would be related to one of the matters for which prior approval may be required.
21. Therefore, I have imposed conditions ensuring that the proposal is not occupied until the noise mitigation measures subject to the separate planning permission have been installed, in addition to the internal sound insulation measures to the

roof as detailed in the updated NA. This is in the interest of future occupiers of the new dwellings being safeguarded from noise impacts.

22. The Council suggests that evidence of these mitigation measures having been installed is required to be submitted prior to first occupation. In addition to being precise, these conditions are enforceable based on evidence that could be gathered from an inspection of the property. Therefore, the further submission of such evidence is not necessary.
23. A condition relating to cycle storage is reasonable and necessary in the interests of the transport and highway impacts of the development.

Conclusion

24. For the reasons given above the appeal should be allowed and prior approval is granted.

P Barton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos. 0600/P03 Proposed GA Roof/Site Plan, 0605/P01 Proposed GA Ground Floor Plan- Dwelling, 0211/P02 Proposed GA First Floor Plan, 0612/P03 Proposed GA Roof Plan and 0215/P03 Proposed Elevations.
- 2) No dwelling hereby permitted shall be occupied until the external changes to the building as approved under planning permission 24/P/1604/FUL have been completed.
- 3) No dwelling hereby permitted shall be occupied until the internal sound insulation measures to the roof, as detailed in the 'Noise Assessment for Planning Appeal' by DKN Acoustics Report No. 0573.1 rev 2 May 2025, have been installed.
- 4) No dwelling hereby permitted shall be occupied until details of secure parking facilities for 4 bicycles have been submitted to and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use prior to first occupation of the development and shall thereafter be retained.

****END OF SCHEDULE****