

<b>HYNDBURN BOROUGH COUNCIL – Committee Report</b>	
<b>APPLICATION REF:</b>	<b>11/25/0303</b>
<b>APPLICATION ADDRESS:</b>	<b>21 Union Street, Accrington, Lancashire BB5 1PL</b>
<b>DEVELOPMENT DESCRIPTION:</b>	<b>Prior Approval: Partial Change of use of 21 Union St, Accrington BB5 1PL (Class E) to 8no, flats (Class C3)</b>
<b>DATE REPORT WRITTEN:</b>	<b>26 August 2025</b>

### **Site and Proposal**

21 Union Street is a two-storey mid-terrace building within Accrington Town Centre. It comprises a commercial unit at ground floor with office above (both Use Class E).

The application seeks determination as to whether the prior approval of the Local Planning Authority is required for the partial change of use of the application building to eight flats (Use Class C3) under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015).

There will be a front access door, which would lead to a communal area, bike storage, a refuse bin storage area and a staircase to access the first floor. It is acknowledged that the windows approved under planning application 11/25/0136 have not yet been introduced.

### **Consultations**

Lancashire County Council Highways – No response received at the time of writing (responses due by 27 August 2025). However, any response subsequently received shall be reported to members during the Planning Committee.

Hyndburn Borough Council (HBC) Environmental Health: 17 August 2025:

- The nearby business may operate within normal office hours. However, there are air handling units in the area, which work throughout the day and night, as well as an extraction flue. This includes visible indications of extraction on the roof of the application building, which it is unclear if they would be retained. The bus station to the rear does not run to normal office hours.
- While they would not see the above as a barrier to development, they recommend that the above sources of noise and odour are assessed, which could be dealt with by condition.

## **Publicity**

Neighbour notification letters were sent to the adjacent and opposite properties. No response received at the time of writing (responses due by 27 August 2025). However, any responses subsequently received shall be reported to members during the Planning Committee.

## **Relevant Planning History**

11/25/0136 - Full: New windows at the first floor on the side and rear elevations to facilitate new office space - Approved with conditions: 3 June 2025.

## **Observations**

Permitted development rights are a national grant of planning permission, which allow certain building works and changes of use to be carried out without having to make a planning application. They are subject to conditions and limitations.

‘Prior approval’ is required as a condition of some change of use permitted development rights. This means that a developer must seek approval from the local planning authority (LPA) that specified elements of the development are acceptable before work can proceed. The LPA cannot consider any other matters when determined a prior approval application.

The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process, which applies where the principle of development has already been established. It is important that the LPA does not impose unnecessarily onerous requirements and does not seek to replicate the planning application system.

Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015) permits 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) to a use falling within Class C3 (dwellinghouses) subject to a number of conditions and limitations as follows:

M.A.1. Development is not permitted by Class MA—

- (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;

**Response: The building has been used for financial services (former Use Class A2 and now Use Class E) for a continuous period of at least 2 years immediately prior to the date of this application, which is a use specified in subparagraph (2).**

- (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;

**Response: The land covered by, or within the curtilage of, the building does not form part of a site of special scientific interest; does not form part of a listed building or land within its curtilage; is not and does not form part of a scheduled monument or land within its curtilage; and is not and does not form part of a safety hazard area or 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 198156;
  - (iii) the Broads;
  - (iv) a National Park; or
  - (v) a World Heritage Site;

**Response: The building is not within a World Heritage Site, a National Park, an Area of Outstanding Natural Beauty or the Broads.**

- (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

**Response: No part of the land covered by or within the curtilage of the building is occupied under any agricultural tenancy agreements.**

- (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.

**Response: The proposed development is not of a description falling within Class O (offices to dwellinghouses) as the development would be after 1 August 2022.**

### **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;

**Response: No car parking is provided but given the position of the site within a highly sustainable town centre location it is considered that the parking standards can be relaxed. The site is located within Accrington Town Centre and as such can be considered highly accessible with excellent access to goods, services and transport links. Some town centre car parks are also within close walking distance of the site. A bike storage area would be located on the ground floor. Therefore, prior approval should not be required with regard to transport impacts.**

(b) contamination risks in relation to the building;

**Response: There are no significant construction works proposed with only minor alterations. No known contamination risks have been mentioned within the submitted Planning Statement nor have any concerns be raised by Environmental Health. Therefore, prior approval should not be required with regard to contamination risks.**

(c) flooding risks in relation to the building;

**Response: The site lies within flood zone 1 and as such, there is a low chance of flooding. It is noted that the building is bordered by zone 2 but all of the proposed accommodation is to be located at first floor level with just the bike and bin storage at ground floor level. As the change of use would not introduce more hardstanding areas there is no concern in terms of flood risk. Therefore, prior approval should not be required with regard to flooding risks.**

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

**Response: HBC Environmental Health note that various noise sources, which could adversely affect the living conditions of future occupants. However, they do not see them as a barrier to development, subject to a condition requiring a noise impact assessment, which meets specific standards. Therefore, prior approval should be required with regard to noise from commercial premises and should be granted subject to condition.**

(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;

**Response: The building is not located within a conservation area. Therefore, this condition is not applicable.**

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

**Response: The proposed plans show windows that have been granted planning permission under application reference 11/25/0136 but have not been installed yet. Subject to the installation of the approved windows, all habitable rooms would receive an adequate amount of natural light. Therefore, prior approval should be required with regard to the provision of adequate natural light and granted subject to condition.**

(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

**Response: The area is not in use for general or heavy industry, waste management, storage distribution, or a mix of such uses, and does not appear to be considered important for such uses. Therefore, this condition is not applicable.**

The proposal meets the above criteria to be classed as permitted development.

Although HBC Environmental Protection raise concerns regarding odour, this is not a prior approval matter so cannot be considered nor conditioned.

In conclusion, the proposal accords with the relevant limitations. While prior approval should be required with regard to noise and the provision of natural light, it should be granted subject to conditions.

## **Recommendation:**

Prior Approval Required and Granted.

## **Conditions**

1. Prior to first occupation of the flats, the windows approved under planning application ref 11/25/0136 shall be installed. They shall be retained as such thereafter.

Reason: To ensure provision of adequate natural light in the interests of the living conditions of future occupants.

2. Prior to first occupation of the flats, a noise impact assessment shall be submitted to and approved in writing by the Local Planning Authority. It shall demonstrate that the following standards would be met:

- LAeq 50-55 dB 16 hours – gardens and outside living areas;
- LAeq 35 dB 16 hours – indoors daytime;
- LAeq 30 dB 8 hours – indoors night-time (23.00-07.00);
- LAFmax 45 dB 8 hours – indoors night-time (23.00-07.00); and
- LAFmax 45 dB 4 hours – indoors evening (19.00-23.00).

The evening standard LADmax will only apply where the existing evening LAFmax significantly exceeds the LAeq and the maximum levels reached are regular in occurrence, for example several times per hour.

Any mitigation measures necessary to achieve the required standards shall be carried out prior to first occupation of the flats and retained as such thereafter.

Reason: To ensure acceptable living conditions with regard to noise.

## **Informative Notes**

1. It is a requirement of condition M.A.2 (5) that development must be completed within 3 years starting with the prior approval date
2. It is a requirement of condition M.A.2 (6) 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 or no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse

## **List of Background Papers**

<https://planning.hyndburnbc.gov.uk/Northgate/ES/Presentation/Planning/OnlinePlanning/OnlinePlanningOverview?applicationNumber=11%2F25%2F0303>