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# Combining PD (Class MA) With ‘Air Rights’ Development



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This month we are looking at a recent case study showcasing how we managed to optimise the development of a small ‘backland’ site in a constrained town centre location.

We all appreciate that it is always important for property developers and investors to have a vision for the ‘art of the possible’, as this can help to reveal opportunities that others might otherwise overlook or perceive as too improbable. However, this also needs to be balanced against robust due diligence in identifying potential limitations or constraints that will need to be overcome, either at the planning approval or implementation stage.

A good understanding of the constraints to development is an important ‘first step’ when devising a successful planning strategy.

## The opportunity

Our client bought a site that comprised of a former piano shop to the front, with a restaurant next door, also at ground floor, and with flats above. To the rear of the piano shop and the restaurant was a large single storey storage building that was used by the piano store, but which also came under Use Class E.

The key opportunity lay in the possible conversion of the piano shop, especially the store to the rear. However, the existing plans illustrate the close proximity of the store to the rear of the piano shop. This would create challenges in terms of sunlight and daylight to the rear, and access for bins and bicycles.



The plan illustrates that the first stage was to seek to change the use of the store to the rear to 4 x studio flats. This would first have required changes to the store elevations facing the rear of the block to create separate entrances and windows.

The second stage, beyond the conversion under Class MA, would be to add another floor to the existing building to provide additional flats. We proceeded with this by way of an application for full planning permission.

The above isometric views convey the overall design intent of an additional floor to provide two additional flats

that would sit respectfully and as a subordinate extension on the roof of the existing ground floor structure. The new structure would include green / sedum roofs, privacy screens, obscured glazing and oriel windows, with privacy fins to protect neighbours from overlooking, plus winter gardens and terraces for amenity.

## Planning and physical constraints

The table below summarises the key planning and physical constraints identified at the outset from this process, alongside how we proposed to overcome these challenges.

**Cohesive and connected development**

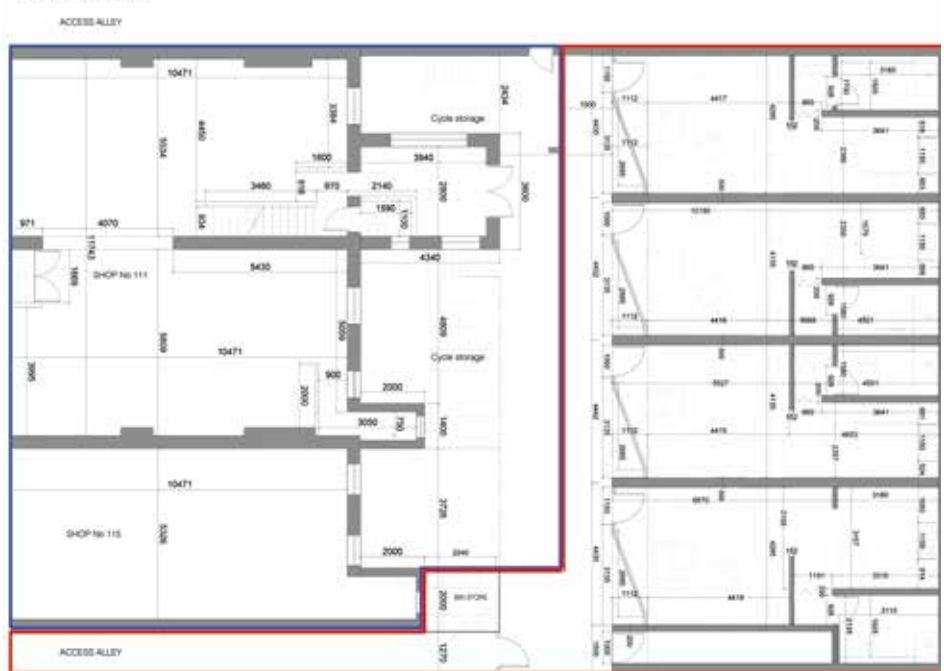
The resulting space created by developing the Class MA prior approval conversion and the new floor and two units above would lead to a cohesive development, with similar material and building line profiles, integrating access and lighting throughout.

The scheme and development strategy was initially designed with the end in mind. We sat down as a team, considered the vision for the possibility of what could be achieved on site and then worked ‘backwards’ from this, breaking down the process into stages that would equate to the separate application and planning approval stages.

The access to the first floor was initially shown as a separate door to ground floor storeroom shown adjacent to the new ground floor studios, in order to ‘reserve’ this space on the plans for where we might later propose the access up to the new flats. The application for planning permission for the new flats included an alteration to this part of the ground floor to create the new stairwell. As the space had already been reserved through the Class MA approval, this did not compromise the approval of the 4 x studio flats at ground floor level.

The roof lights shown to the rear were positioned deliberately at the back to serve the ground floor studios’ kitchen space, but the new floor was positioned forward of these roof lights so as not to

Ground floor



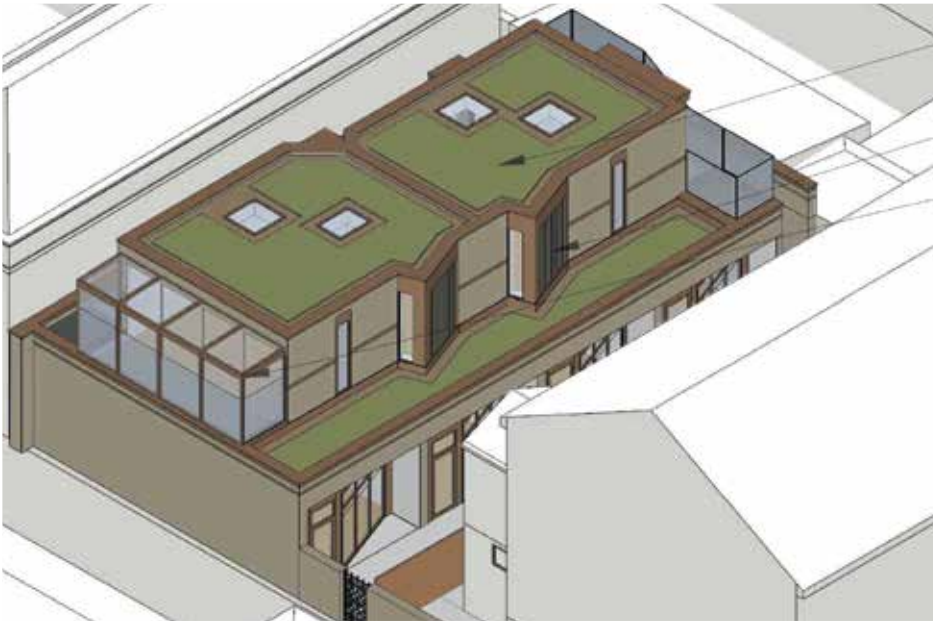
compromise the ground floor sunlight and daylight conditions. These were retested for natural light compliance as part of the application for approval of the first floor, once it’s height, position and scale was known.

A separate ‘service yard’ with its own access off the side alleyway was maintained, so that this was clearly segregated from the use of the new flats to the rear and their access route. This was done not only to manage the amenity impact of comings and goings from the rear of

the retained ground floor shop unit and restaurant, but also to manage the future asset management of the site through title splitting.

The new windows and entrances shown in the picture below were installed prior to the submission of the Class MA application. Unusually, the Royal Borough of Kingston upon Thames’ planning department took the view that the planning permission for the new windows to the rear storeroom had to be implemented before the windows could be considered relevant to the ▶

ISSUE / CONSTRAINT	CHALLENGE	SOLUTION
Daylight and sunlight to new units	Proximity to rear of existing block and neighbouring blank wall	Roof lights incorporated in Class MA and rear of additional floor set-back from roof lights to ground floor
Daylight and sunlight impact to existing occupiers from new extension	Additional bulk and mass heightens risk	Extension limited to single storey & low profile maintained, therefore sufficient ‘vertical sky’ to maintain good natural light
Impact on outlook from the flats to the rear of the main block	Additional bulk and mass heightens risk	Extension limited to single storey & low profile maintained, thus not considered overbearing
Access to the rear for bins and bicycles	No right of way via neighbouring road (Lysander Gardens)	Side access on other side of block maintained. Also, a possible means of access for taking materials to the rear if temporary access during construction cannot be negotiated
Noise impact on future occupants	Proposed terrace to rear and amenity space for new flats on first floor backs on to the Prince of Wales pub/ pub garden to the south	Full eight glazing and ‘noise deadening’ measures incorporated, supported by Noise Assessment
Overlooking to and privacy relating to facing windows from houses opposite in Lysander Gardens	Proposed terrace / winter garden to new first floor flat would look toward these flats	Initial assessment indicated that most flats opposite had living rooms on the other side, so the affected space was not as sensitive. Full height obscured glazing incorporated to new winter garden
Overlooking to and privacy of flats to the rear of main block	New flats would have habitable room facing windows looking toward habitable room windows to the rear	The proposal incorporates ‘oriel’ windows; these are angled such that one side is obscurely glazed and the other clear side incorporated angled fixed ‘privacy fins’ to steer internal views away from windows opposite
Need for at least 10 sqm amenity space for each flat on the roof	Very limited space due to need to comply with national minimum space standards (at least 37 sqm), limits of extent of envelope	Use of winter garden on one side and slight extension over on to area of ‘green roof’ as part of other roof garden complied
No room for off-street car parking	Town centre location and high demand for on-street bays	Off-street secure cycle parking provided for all new flats and ‘car-free’ obligations agreed through a Section 106 Agreement



daylight considerations for the Class MA application. Although this was at odds with our own Legal Advice (which advocated that merely obtaining consent is on its own enough), it was not worth a long-drawn out argument with the Council for the time it took to make a start on site.

**Design and Heritage**

The site itself was not in a conservation area. However, it could be seen in glimpsed views from within the Conservation Area, especially from Ewell Road, looking down Lysander Gardens in the break in the frontage.

The winter gardens and use of glazing to its more prominent left side helped to lighten the visual impact of the proposals, whilst the angled windows at ground floor granted initially, before the Class MA prior approval was granted, were complimented by the similar effect of the angled ‘oriel windows’.

The green / sedum roof will add colour and enhanced local biodiversity to the site, whilst the use of London ‘stock’ brick with a thin red band gave the building horizontal emphasis that matched its surroundings and helped to improve the aspect from the street scene, which otherwise was dominated by the large expanse of blank wall to the residential block directly behind.

**Conclusion**

Making the most out of the opportunity presented by such town centre sites requires a strategic and thoughtful approach from the outset. Putting together the strategy with the end in mind and a clear vision for the finished product will help to drive the project forward.

Delays along the way were inevitable, especially when dealing with Council planners through the pre-application and planning application process. However, the resulting uplift in value to the site from the Class MA prior approval alone, especially when ‘boosted’ by the value added through the approval for the two extra units on the roof in this case, will create a strong return and an attractive addition to this part of London, helping to provide much-needed and attractive extra housing in a sustainable town centre location.

PIN

With gratitude and thanks to Surbiton Developments Limited

PROPOSED GROUND FLOOR/SITE PLAN - 1:100

