Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/0819
St Marks Court, Chart Way, Horsham, West Sussex, RH12 1XL

DESCRIPTION:

Change of use to convert the building into 195 residential dwellings comprising 58 x 1 bedroom 1 person, 115 x 1 bedroom 2 person, 12 x 2 bedroom 3 person and 10 x 2 bedroom 4 person units.

RELEVANT PLANNING HISTORY:

DC/21/1343	Prior notification for the change of use from offices (Class B1a) to residential to form 148 dwellings (Class C3).	Prior Approval Required and PERMITTED on 26.07.2021
DC/23/1851	Variation of Condition O.2 (2) (a) of previously approved application DC/21/1343 (Prior notification for the change of use from offices (Class B1a) to residential to form 148 dwellings (Class C3)) Variation sought to allow for an extension to the completion.	Application Refused on 30.11.2023
DC/23/1852	Variation of Condition O.2 (2) (a) of previously approved application DC/21/1381 (Prior notification for the change of use from offices (Class B1a) to residential to form 68 dwellings (Class C3)) Variation sought to allow for an extension to the completion.	Application Refused on 30.11.2023

RELEVANT PLANNING POLICIES

National Planning Policy Framework

The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
Schedule 2, Part 3, 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.

REPRESENTATIONS AND CONSULTATIONS RESPONSES

Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations:

HDC Environmental Health: No Objection (suggested conditions)

WSCC Highways: No Objection (suggested conditions)

WSCC Fire and Rescue: Comments

Parish Comments:

Horsham Denne NC shares the views of the residents whose representations are on the planning portal, and assume that the Neighbourhood Council will be consulted when the full application is submitted.

Representations:

9 letters of representation received from 7 separate addresses *objecting* to the proposal on the following grounds:

- Increased traffic
- Insufficient parking to accommodate the proposal
- Impact on neighbouring property values
- Overdevelopment
- Refuse/recycle collection not detailed
- No water neutrality information
- Loss of privacy
- Insufficient local infrastructure to support the proposal (doctors, schools etc.)
- Long term local disruption from the works being undertaken
- Increased noise
- Reduced accessibility to local residents
- Concerns regarding foul water disposal

EQUALITY AND HUMAN RIGHTS:

Under the Equality Act 2010, the Council has a legal duty to pay 'due regard' to the need to eliminate discrimination and promote equality, fostering good relations in respect of Race, Disability, Gender including gender reassignment, Age, Sexual Orientation, Pregnancy and maternity, Religion or belief. The Equality Act 2010 will form part of the planning assessment below.

Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application.

Consideration of Human Rights and Equalities forms part of the planning assessment below.

PLANNING ASSESSMENT

The main issue is whether prior approval is required for the proposed change of use under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Schedule 2, Part 3, Class MA of the above Order states that the following constitutes permitted development:

'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.

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;***~~

(section deleted following the 2024 update to the order on 05.03.2024)

(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;

The existing building was granted under HU/358/88 (Demolition and erection of offices and renovation of office buildings plus basement car parking and associated road works) and has been in Class E use since its completion.

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

(section deleted following the 2024 update to the order on 05.03.2024)

(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;***

The land covered by the building is not / within the curtilage of any of the above listed designations.

(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 198155;***
- ***(iii) the Broads;***
- ***(iv) a National Park; or***
- ***(v) a World Heritage Site;***

The site is not located within any of the above designations,

(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

N/A

(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.***

N/A

(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 was granted under HU/358/88 (Demolition and erection of offices and renovation of office buildings plus basement car parking and associated road works) and has been in Class E use since its completion.

Consideration

Paragraph MA.2 states that the development must apply to the Local Planning Authority for determination as to whether the prior approval of the authority will be required as to: the transport impacts of the development, particularly to ensure safe site access; contamination risks in relation to the building; flooding risks in relation to the building; impacts of noise from commercial premises on the intended occupants of the development; where the building is located within a conservation area and where the development involves a change of use for the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area; the provisions of natural light in all habitable rooms of the dwellinghouses; the impacts 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 impact on the local provision of the loss of a registered day nursery of health centre, and; Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building:-

(a) Transport Impacts

The proposal does not include any alteration to the existing highway network or access to / from the site and proposes to utilise existing parking provision. WSCC Highways have advised that the proposed conversion of the unit to residential may result in fewer trips being generated compared to an office use. They go on to state that there is limited considerations regarding parking standards for prior approval proposals, as the order only permits consideration of the transport impacts, not provision of parking. Regardless, whether or not the proposed provision would fully meet the needs of the conversion, the site is located centrally within Horsham Town, thus it is anticipated that occupants would be reliant on the use of sustainable and public methods of transport.

With the above in mind, the proposal is not anticipated to result in any adverse harm to the use and safe operation of the highway. As such, no objection is raised to this regard.

(b) Contamination Risks

The application was accompanied with detailed contamination survey. The survey concluded that the building is unlikely to contain asbestos or other materials that would be harmful to human habitation. Given its previous use, and that no ground based operations are proposed, it is likely that the site is not subject to any ground-based contamination arising from a previous use. A condition is however recommended in the case that contaminants are found that they are disposed of correctly and the Local Planning Authority notified in any such instance. As such, no objections are raised on these grounds.

(c) Flood Risks

The Environmental Agency mapping systems confirms that the site is located within flood zone 1, thus there is no appreciable flood risk that requires mitigation or to warrant the refusal of prior approval. As no alterations are proposed to the exterior of the building, the proposed use would not result in an increased risk of flooding on the site or the surrounding area. As such, no objection is raised to this regard.

(d) Noise Impacts

The site is located within a town centre location, above a main road into / out of the town centre, and is adjacent to a main pedestrian thoroughfare. Nearby amenities include restaurants, shops, and offices. Existing uses immediately surrounding the site have been identified to cease after trading hours. The Council's Environmental Health Officers have raised no such concerns subject to a condition (below) relating to noise mitigations to habitable rooms given the site's location above a main road and pedestrian thoroughfare. A condition is also attached to ensure that no further plant / machinery is installed without prior permission from the Local Planning Authority. As such, no objection is raised on these grounds.

(e) Impact on the Conservation Area

The site is located some 30m east of the Horsham Conservation Area, though not within it. Given the presence of existing residential units within and surrounding the Conservation area, and that no external alterations to the existing building are proposed, the use of the building changing form general office to residential is not considered to adversely impact on the character of setting of the Conservation Area. Accordingly, no objection is raised to this regard.

(f) Provision of Adequate Natural Light

Each habitable room serving each of the flats would benefit from windows (following the receipt of revised plan 5).

However, it is noted that a number of the windows serving the habitable rooms to the lower ground floor units (flats 22-26) facing north onto Chart Way on the eastern wing of the building currently open on to an overgrown planting area. Therefore, as currently planted, these rooms may well experience a diminished intake of light. Furthermore, these rooms are also located below the public footpath level which would further exacerbate this issue.

However, the Local Planning Authority considers that with correct treatment of this area and managed planting, any potential diminished intake of light could be mitigated. Whilst the provisions of the order provide no mechanism for the Local Planning Authority to consider matters relating to landscaping or planting, an informative is recommended to advise the Applicant to consider maintenance of this planting for the benefit of future occupants. As such, no objection is raised on these grounds.

(g) Introduction of a Residential Use

As above, the site is located within an area formed of a mix of commercial and residential uses. No heavy industry, waste management or storage / distribution uses occur nearby. The proposed arrangement is not unusual for a town centre location, and subject to the above noise mitigations being adhered to, the occupation of the unit for residential purposes is not considered to adversely impact the future occupants of the dwelling. As such, no objection is raised on these grounds.

(h) Loss of a Registered Nursery or Health Centre Use

The proposal would not result in the loss of a registered nursery of health centre.

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

The submitted elevation plans indicate that the building is some 28.8m in maximum height (taken from the street level on Albion Way to the highest ridge of the roof). The provisions of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 therefore apply. WSCC Fire and Rescue have commented on the application, noting '*evidence is required to show that all parts inside all Flats are within 45metres of the location of a fire appliance in accordance with Approved Document B (AD-B) Volume 1 B5 section 13. This is to be measured along the hose lay route, and Not in a direct line or arc measurement. Any areas not within the 45-metre distance will need to be mitigated by the installation of sprinkler or water mist system complying with BS9251 or BS8458 standards*'.

Given the size and use of the existing building, there likely is such precautions built in. However, the submission is not clear on whether or not this system accords with the requirements as detailed by WSCC. Notwithstanding, the Local Planning Authority does not doubt that the building is capable of accommodating such a system. As such, a condition is attached (below) requesting that such a system is detailed and installed prior to the occupation of any unit on the site. With the above in mind, no objection is raised on the matter.

Other Matters

Water Neutrality

Article 3(1) of the Order grants planning permission for the classes of development specified in Schedule 2 subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017. Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017 that development which (a) is likely to have a significant effect on a European site or a European offshore marine site, alone or in combination with other plans or projects, and (b) is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77. This above process is administered under separate specific legislation, and is therefore distinct from the scope of this prior notification. It is not therefore necessary to consider the issue of water neutrality further as part of this application. An informative is instead recommended to advise that the presence of a prior approval does not confirm that a development is permitted under the GPDO, and that further written notification is required from the Local Planning Authority under Regulation 77 of the Regulations.

National Space Standards

In accordance with Section (9A) of Article 3 of the General Permitted Development Order (2021 Amendment), Schedule 2 of the Order only permits development for the creation of new dwellinghouses:

> *'(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.'*

The proposal incorporates the creation of 195 dwellings, comprising 58 x 1 bedroom 1 person, 115 x 1 bedroom 2 person, 12 x 2 bedroom 3 person and 10 x 2 bedroom 4 person units. The size of the units ranges from studio apartments with 37m2 to 99m2 (two bedrooms). Each unit would benefit from the required built-in storage as per the National Space Standards, and would have adequate space to incorporate freestanding storage for additional needs. The proposed conversion of the building is therefore considered to provide adequate living space in accordance with national space standards, in accordance with Section (9A) of Article 3 of the Order.

Conclusion

The proposal accords with the provisions of Paragraphs MA.1, MA.2 and MA.3 of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015. Conditions relevant to the considerations of this class of the Order are attached as detailed below. Prior approval is therefore required and permitted.

Recommendation: Prior Approval Required and PERMITTED

Conditions:

1 **Pre-Occupation Condition**: All confirmed or suspected asbestos containing materials shall be removed by an appropriately licensed and competent contractor prior to first occupation of the development and a written report detailing these works shall have been submitted to and

approved in writing by the Local Planning Authority. The report shall include details of validation measures undertaken to ensure the all areas where works have been undertaken are free from asbestos. All Site clearance debris and construction waste shall be removed from site by an appropriately licensed waste removal contractor, including all asbestos waste.

Reason: To ensure that any asbestos present on site is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

2 **Pre-Occupation Condition**: No part of the development shall be first occupied until the car parking spaces have been constructed and made available for use in accordance with the approved detail. These spaces shall thereafter be retained at all times for their designated use.

Reason: To ensure that suitable parking provision is made available for the proposed use, in accordance with Policy 41 of the Horsham District Planning Framework (2015).

3 **Pre-Occupation Condition**: No part of the development shall be first occupied until the secure cycle parking facilities have been provided and made available for use in accordance with the approved detail. These spaces shall thereafter be retained at all times for their designated use.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

4 **Pre-Occupation Condition**: No additional internally and/or externally located plant, machinery equipment or building services plant shall be operated until an assessment of the acoustic impact arising from the operation of all such equipment has been undertaken and has been submitted to and approved in writing by the Local Planning Authority. The assessment shall be undertaken in accordance with BS 4142:2014 and shall include a scheme of attenuation measures to mitigate any adverse impacts identified in the acoustic assessment and ensure the rating level of noise emitted from the proposed building services plant is no greater than background levels. The scheme as approved by the Local Planning Authority shall be fully installed prior to first operation of the plant and shall be retained as such thereafter.

Reason: To safeguard the amenities of the future residents and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

5 **Pre-Occupation Condition**: No part of the development hereby permitted shall be first occupied until full details of a fire hydrant and / or sprinkler system has been submitted to and approved in writing by the Local Planning Authority in consultation with WSCC Fire and Rescue. The submitted detailed shall demonstrate that all parts inside all flats are within 45metres of the location of a fire appliance in accordance with Approved Document B (AD-B) Volume 1 B5 section 13. This should be measured along the hose lay route, and not in a direct line or arc measurement. Any areas not within the 45metre distance will need to be mitigated by the installation of sprinkler or water mist system complying with BS9251 or BS8458 standards. The system shall thereafter be carried out in accordance with the approved details and fully installed prior to the occupation of the first dwelling.

Reason: In accordance with fire and safety regulations in accordance with Policy 32 of the Horsham District Planning Framework (2015).

NOTE TO APPLICANT

The applicant is advised that this decision relates solely to whether the Prior Approval of the Local Planning Authority is required, it does not confirm that the proposal represents Permitted Development. The site lies within the Sussex North Water Supply Zone where Natural England has advised that water extraction cannot be concluded as having no adverse effect on the integrity of the Arun Valley Special Area Conservation (SAC), the Arun Valley Special protection Area (SPA) and the Arun Valley Ramsar Site.

It is a condition of Permitted Development (Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended) that development likely to have a significant effect on a European Site "must not be begun" until an application has been made to Natural England for its opinion as to whether the development is likely to have a relevant effect. Following this an application must be made to the Local Planning Authority for its approval. No development must be begun until the developer has received written notification of the approval of the local planning authority. For further information on this process see Regulations 75 to 77 of the Conservation of Habitats and Species Regulations 2017 (general development orders).

The applicant is advised that any development commenced without compliance with Regulation 75 of the Conservation of Habitats and Species Regulations 2017 would be in breach of the GPDO and would be subject to potential future enforcement action.

NOTE TO APPLICANT
The Applicant is advised to consider appropriate maintenance and management of the landscaped areas around the building to ensure an appropriate level of natural light is maintained for future occupiers.

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/24/0819
Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		0	04.06.2024
Floor plan	Lower Ground Floor	1	04.06.2024
Floor plan	Upper Ground Floor	2	04.06.2024
Floor plan	First Floor	3	04.06.2024
Floor plan	Second Floor	4	04.06.2024
Floor plan	Third Floor	5	17.06.2024
Elevation plan	Elevations (1)	7	28.05.2024
Elevation plan	Elevations (2)	8	28.05.2024

DELEGATED

Case Officer sign/initial RHERMITAGE Date: 26.07.2024

Authorising Officer sign/initial TDALE Date: 29.07.2024