Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/0518
Dems House, Old Mill Drive, Storrington, West Sussex,

DESCRIPTION:
Prior Notification for the Change Of Use from Units (Use Class E) to residential (Use Class C3) to form 4no. dwellinghouses.

RELEVANT PLANNING HISTORY:

SITE AND SURROUNDINGS:
The application site comprises a two-storey commercial building known as Dems House, located within the Old Mill Drive commercial area of Storrington. The building contains four separate commercial units previously in active use as: a computer repair shop, a florist, an office, and a beauty salon. The surrounding area is mixed in character, with retail, commercial, and residential properties in proximity. The site benefits from existing vehicular and pedestrian access and is flanked by a car park to the north and further commercial premises to the east and west.

DETAILED DESCRIPTION:
This application seeks prior approval under Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use from Class E to Class C3 to facilitate the creation of four self-contained residential flats.

Consultations:
Environmental Health: More information required: -

For buildings constructed, refurbished or renovated before 2000 there is a risk that asbestos containing materials may be present within the structures to be converted. There are also late-night takeaway outlets and other commercial uses in the vicinity. The site adjoins the Old Mill Square car park to the south.

In accordance with the recommendations of the Planning Practice Guidance, information is required on these matters and an asbestos survey undertaken in accordance with HSG264 should be submitted together with an environmental noise assessment. Information with respect to water neutrality should also be provided.

West Sussex Highway Authority: Comment. The LHA has reviewed the submitted planning documents. The application is a prior approval application for the change of use of the commercial units to residential units. Parking is provided on the site, as well as cycle storage. The site is located within suitable walking distance of sustainable transport options, services and facilities. There are no highway related reasons to resist this application.

Parish Comments:
None Received

Representations:
None Received

HUMAN RIGHTS AND EQUALITY:
The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT
Paragraph W of Part 3 within Schedule 2 of the GPDO sets out the procedure for applications for prior approval (under Part 3), stating: -

(11) The development must not being before the occurrence of one of the following –

a) The receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

b) The receipt by the applicant from the local planning authority of a written notice giving their prior approval; or

c) The expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

The Local Planning Authority did not notify the applicant as whether prior approval is given or refused in the required time period. The change of use therefore benefits from deemed consent. This deemed consent relates to the prior approval matters set out in MA.2 (1), it does not confirm that the development meets the limitations/ criteria set out in MA (a) to (g).

The following assessment looks at whether the change of use would constitute permitted development, having regard to the relevant provisions of the GPDO.

There is a varied planning history for the site, which includes changes of use to Units 3 and 4: -

- Unit 3 was granted a change of use to a beauty salon under ref: DC/17/0126, with use in such a manner sui generis. A subsequent application was submitted under ref: DC/23/1991 for a change of use from a beauty salon to offices, with this permission subject to the following condition: -

  Regulatory Condition: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises shall be used as an office within Class E (g) (i) and for no other purposes whatsoever without express planning consent from the Local Planning Authority first being obtained.

  Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District

Planning Framework (2015), and to prevent unacceptable impact(s) on neighbouring amenity which would arise from an alternative use within Class E) in accordance with Policy 33 of the Horsham District Planning Framework (2015).

There is no evidence to suggest DC/23/1991 was implemented and the lawful use of Unit 3 would be a sui generis beauty salon. It is though noted that had DC/23/1991 been implemented the above condition would restrict use of the unit to offices with Class E(g)(i).

- Unit 4 was granted planning permission under ref: DC/19/0388 for use as a dog grooming parlour, subject to the following condition: -

  Regulatory Condition: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises hereby permitted shall be used as a dog / pet grooming salon and for no other purposes whatsoever, without express planning consent from the Local Planning Authority first being obtained.

  Reason: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to (insert with reasons) under Policy 33 of the Horsham District Planning Framework (2015).

  A subsequent application was approved at Unit 4 to allow a flexible Class E use, ref: DC/24/0665, this permission was subject to the following condition: -

  Regulatory Condition: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or the Town and Country Planning (Use Classes) Order 1987 (as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) (or any order amending or revoking and/or reenacting these Orders), the premises hereby permitted shall only be used for uses falling within Classes E(a), E(b), E(C)(i), E(C)(ii), E(C)(iii), E(d), E(e), E(f), E(g)(i), E(g(ii) E(g)(iii), only and for no other purposes whatsoever, without express planning consent from the Local Planning Authority first being obtained.

  Reason: Such that the proposal is acceptable in light of policies 32, 33 of the Horsham District Planning Framework (2015) and to ensure the development is water neutral to avoid an adverse impact on the Arun Valley SAC/SPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 185 and 185 of the National Planning Policy Framework (2023), its duties under the Conservation of Habitats and Species Regulations.

  As with Unit 3, there is no evidence to suggest DC/24/0665 was implemented and the lawful use of Unit 4 would remain as a dog grooming parlour, subject of the condition restricting use as such.

Article 3(4) of the GPDO states:

"Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order".

The above conditions have the effect of restricting the use of Units 3 and 4, with the wording of the conditions preventing a change of use taking place within the premises through permitted development and the prior approval process. The change of use would therefore instead require planning permission.

Notwithstanding the above, the following assessment is based on the limitations / criteria set out in MA.1: -

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.

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;~~ (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;

Unit 3 was previously a Sui Generis beauty salon and only recently obtained permission (DC/23/1991) for change of use to Class E. This unit has not therefore been in continuous Class E use for two years as required by Paragraph MA.1(2)(a). As such, the proposal does not qualify as permitted development under Class MA of the GPDO.

(c) ~~if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;~~ (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 building is not listed, not within a conservation area, and not located on a site of special scientific interest or other excluded categories.

(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;**

N/A

(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained

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.

Not Applicable

MA.2(1) 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;

The development provides 4 on-site parking spaces and secure bicycle storage. The site is within walking distance of local bus services and amenities, including 8 nearby public transport stops between 143 and 482 metres away. The West Sussex Highway Authority raised no objection, citing sufficient parking and sustainable transport connectivity.

(b) contamination risks in relation to the building;

While the building has been used for commercial purposes, Environmental Health has highlighted the potential presence of asbestos due to pre-2000 construction. A pre-commencement condition requires a preliminary risk assessment and, where necessary, intrusive investigation and remediation. Acceptable, subject to condition

(c) flooding risks in relation to the building;

The site is in Flood Zone 1, indicating very low flood risk. No mitigation is required.

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

The site is within a mixed-use area that includes takeaways and other commercial activity. The Planning Statement and Environmental Health team both identify potential for noise disturbance. A condition has been applied requiring a noise report and implementation of sound attenuation measures prior to occupation. Acceptable, subject to condition

(e) where—

(i) the building is located in a conservation area

(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.

the impact of that change of use on the character or sustainability of the conservation area;

Although a conservation area is located to the front (south) of the site, Dems House itself is not within the designated area. Furthermore, there are no external alterations proposed. The internal-only nature of the conversion ensures there will be no harmful visual impact. Not applicable.

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

The submitted plans demonstrate that all habitable rooms will be served by existing windows, ensuring adequate natural light to meet the requirements of this condition.

(f) 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;

The site is located in a mixed commercial and residential area, but not in an area designated for heavy industry or similar uses.

(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

None of the units comprise or previously comprised a nursery or NHS-maintained health centre. Not applicable

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

The proposal comprises fewer than 7 storeys and is under 18 metres in height. A fire statement is therefore not required.

Conclusion

The proposal does not benefit from permitted development rights, as condition imposed on planning permissions at Units 3 and 4 restrict future changes of use taking place through permitted development rights. The development would not therefore be permitted by virtue of Article 3(4) of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended, and does not benefit from the right set out in Class MA of Part 3 within Schedule 2 of the above Order.

Recommendation: Deemed Consent in respect of MA.2(1). The applicant is though advised that prior approval would have been refused for the following reasons: -

Reason:

1. The proposal does not benefit from permitted development rights, as conditions imposed on planning permissions at Units 3 and 4 restrict future changes of use taking place through permitted development rights (see DC/17/0126, DC/23/1991, DC/19/0388 & DC/24/0665). The development would not therefore be permitted by virtue of Article 3(4) of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended, and the development does not benefit from the right set out in Class MA of Part 3 within Schedule 2 of the above Order.

NOTE TO APPLICANT
The applicant is advised that the development can only lawfully proceed if carried out in accordance with the conditions and limitations imposed by Class MA within Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The Local Planning Authority, for the reasons set out above, is of the view that the change of use does not represent permitted development. If this position is not accepted, it would be recommended that a lawful development certificate be sought prior to any development taking place on the site.

Plans list for: DC/25/0518
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Floor plan	Existing Plans	C3588-1	28.03.2025
Floor plan	Proposed Plans	C3588-8 Rev A	28.03.2025
Elevation plan	Existing & Proposed Elevations	C3588-7	28.03.2025
Block plan	Proposed Block Plan	C3588-6	28.03.2025
Location plan	Location Plan	C3588-3 Rev A	28.03.2025
Supporting Statement	Planning	NONE	28.03.2025

DELEGATED

Case Officer sign/initial Shazia Penne Date: 29.05.2025

Authorising Officer sign/initial Guy Everest Date: 30.05.2025