DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1236
Milestone House, 86 Hurst Road, Horsham, West Sussex, RH12 2DT

DESCRIPTION:
Prior Notification for internal change of use from Class E (g) (i) Offices to C3 2nd floor apartment.

RELEVANT PLANNING HISTORY:

HU/48/94	Extensions & alterations to provide additional office accommodation Site: Norman House Hurst Rd Horsham	Application Permitted on 22.04.1994.
HU/157/93	Change of use from residential and offices to doctors surgery Site: Norman House 86 Hurst Rd Horsham	Application Permitted on 09.05.1995.
DC/23/1117	Change of use from Class E(g)(i) offices to Class E(e) medical or health services and internal alterations (Lawful Development Certificate - Proposed)	Application Permitted on 31.07.2023.

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, conditions recommended.

However, the application will create accommodation on the second floor at a height 11m so there may be implications for fire safety.

WSCC Highways: Comment. Generally, the change of use from office to residential would generate a reduction in material use at the site. The existing use would create a certain number of movements throughout the day, whereas the movements associated with residential use would be anticipated within network peaks. Therefore, although the nature of trips would change, the frequency would likely not exceed that of the potential of the current use.

From inspection of the submitted plans, there appears to be suitable off-street car parking provision available to serve the proposed residential use, with space for on-site turning.

The applicant has not provided details of cycle parking provision. Cycling is a viable option in the area, and the LHA request that secure and covered cycle parking provision be provided in accordance with WSCC Parking Standards, if there is space within the site to do so.

In summary, the movements associated with Use Class E have done so safely with no known safety highways concerns, and C3 residential uses are considered less intensive. West Sussex County Council in its role as LHA has therefore considered the proposal on that basis. The prior approval is therefore considered acceptable in highway terms.

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).

It can though be considered whether the change of use would constitute permitted development, having regard to the relevant provisions of the GPDO.

The premises has previously been in use as a doctor’s surgery and offices (Class E (g)(i)), with planning permissions granted under ref: HU/157/93 (Change of use from residential and offices to doctors surgery) and ref: HU/48/94 (Extension and alterations to provide additional office accommodation). The available Council records confirm that the building was last in use as office suites for a variety of businesses, and that this has taken place continuously for a period in excess of 10 years.

The planning permission which granted consent for the office use of the premises, ref: HU/48/94, was subject to the following condition (no. 2): -

> *The premises shall be used only for purposes within Use Class B1(a) as defined in the Town and Country Planning (Use Classes) Order 1987.*
>
> *Reason: To enable the Local Planning Authority to control the use of the site.*

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 condition of HU/48/94 would have the effect of restricting the use of the premises to Class B1(a), and office accommodation. It is considered the presence of this condition would prevent 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 the Order.

Development not permitted.

M.A.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 building has been in use as a doctor's surgery and offices (Class E (g)(i)), since 1994, under historical planning applications HU/157/93 (Change of use from residential and offices to doctors surgery) and HU/48/94 (Extension and alterations to provide additional office accommodation). The evidence available from planning history confirms that the building has most recently been occupied as office suits for a number of businesses, with this having taken place in excess of 10 years.

~~(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 – creche, day nursey 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 proposal is in accordance with the above.

Conclusion

The proposal does not benefit from permitted development rights, as a condition imposed on planning application HU/48/94, restricted the use of the building to Class B1(a) use only. Therefore, the proposal does not accord with the provisions of Paragraph MA.1 of Schedule 2, Part 3 Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016. As highlighted above, as the development benefits from deemed consent and the LPA cannot determine the prior approval matters of the application.

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 use of the premises was granted under planning permission HU/48/94. Condition 2 of this permission restricts the use of the premises to Class B1(a) (offices). 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. The development would therefore require planning permission.

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/24/1236
(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 basement	101	16.08.2024
Floor plan	Existing ground	102	16.08.2024
Tree plan		003	16.08.2024
Location & Block plan		002	16.08.2024
Tree plan		004	16.08.2024
Floor plan	Existing first	103	16.08.2024
Floor plan	Existing second	104	16.08.2024
Floor plan	Proposed basement	301	16.08.2024
Floor plan	Proposed ground	302	16.08.2024
Floor plan	Proposed first	303	16.08.2024
Elevation plan	Existing and proposed front	305	16.08.2024
Floor plan	Proposed second	304	16.08.2024
Elevation plan	Existing and proposed side	306	16.08.2024
Elevation plan	Existing and proposed rear	307	16.08.2024
Elevation plan	Existing and proposed side	308	16.08.2024

Supporting Statement	Cover letter	NONE	16.08.2024

DELEGATED

Authorising Officer sign/initial Guy Everest Date: 10.12.2024