Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1584
50 Springfield Road, Horsham, West Sussex, RH12 2PD

DESCRIPTION:
Prior Notification for the Change of Use from Office (Use Class E) to 1x 1 bedroom and 1x 2 bedroom flats (Use Class C3).

RELEVANT PLANNING HISTORY:

DC/24/1595	Prior Notification for Change of Use from Office (Use Class E) to a 3-bedroom dwellinghouse (Use Class C3)	Permitted on 04.12.2024.
DC/16/2893	Change of use from offices to accommodate a single one bedroom residential dwelling	Permitted on 03/02/2017
DC/16/2885	Change of use from office to a dwellinghouse.	Permitted on 08/02/2017

DESCRIPTION, SITE AND SURROUNDINGS
The application site is a two storey office space with an access at ground floor to allow access to the rear parking area of the site and is within the built up area boundary of Horsham. The site lies to the eastern side of Springfield road. The immediate locality has a mixture of uses comprising retail, office and residential flats and dwellings. No external alterations are proposed. The flats would be a one bedroom and two bedroom with the first floor flat accessed via the rear.

Recent changes under class MA has removed the requirement for the building to have been vacant for 3 months and removed previous restrictions on floor space, with omissions being relating to part 3 (a) and (c), effective from 5th March 2024.

RELEVANT PLANNING POLICIES
National Planning Policy Framework

The Town and Country Planning (General Permitted Development) (England) Order 2021, 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 of Schedule 2 to a use falling within Class C3.

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 subject to conditions in respect of potential for contaminated land and noise.

WSCC Highways: No objection to the proposal. Three parking spaces allocated to the development which would require at least two car parking spaces. Turning appears achievable, applicant is requested to provide secure cycle parking provision. Overall, there is no material increase or change in the character of traffic.

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
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.

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;

From research on the planning history the last use of the application site was for a learning assessment centre (previously use Class D1), with DC/16/2893 and DC/16/2885 establishing that the buildings lawful use is an office. It was noted during the site visit that, whilst currently vacant, the building appeared to have been most recently used as an office. There is no evidence to suggest that the building prior to the date of the application had been in a use other than in an office use. As such, the development is in accordance to this criteria.

~~***(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 site is located adjacent to the Horsham (London Road) Conservation Area. However, the site is not within the designated area or any of the listed areas above.

(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.**

MA.2 Development under Class MA is permitted subject to the following conditions.

Whilst Class O consents were previously granted on the site, none were implemented.

(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.'

As above, the application site was most recently in use as an Office (Class E).

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;

No transport statement has been submitted as part of the application, however it is considered that three parking spaces would be proposed and there would be adequate turning space for the development. The development is in accordance with the above criteria.

(b) contamination risks in relation to the building;

The application has submitted a Ground contamination report and it is not considered that further information would be required given the historic uses of the application site and the information submitted. The development is in accordance with the above criteria.

(c) flooding risks in relation to the building;

The application would be limited to internal alterations only and would the application site is not considered to be at risk of flooding.

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

The application site is located within an area with a variety of uses including commercial premises, however given that there are both flats and dwellinghouses within the immediate locality, it is not considered that the proposal would result in unacceptable noise impacts for the future occupiers.

(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;

A conservation area is located to the rear of the site, however the site itself does not fall within this designation.

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

All habitable rooms would benefit from fenestration such that it is considered that all rooms would have adequate natural light.

(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;

There does not appear to be general or heavy industry, waste management, storage and distribution or a mix of such 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

The use of the site appears to have most recently been an office such that the development is in accordance with the above criteria.

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

A fire statement is not required given that the height is not more than 18 metres and would contain less than 7 storeys in height.

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 one 1x 1 bedroom and 1x 2 bedroom flats (Use Class C3). The size of the units exceed the minimum space standards for units of this size and would benefit from the required built-in storage as per the National Space Standards. Each habitable room would have adequate access to light. The development is 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:** No part of the development hereby permitted shall be first occupied until a scheme of noise mitigation and mechanical ventilation, sufficient to prevent overheating and maintain thermal comfort, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall achieve the habitable room standards as detailed in BS8233:2014 with no relaxation for exceptional circumstances and appropriate consideration of LAmax. The Assessment shall demonstrate that CIBSE TM59 compliance would be achieved with the proposed design, and that CIBSE TM49 has been considered as part of the modelling. Any mechanical ventilation shall then be designed in accordance with the ANC Acoustics Ventilation and Overheating: Residential Design Guide 2020 with suitable measures to ensure the thermal comfort of occupiers and prevent overheating.

The development shall be carried out in accordance with the agreed details prior to the first occupation of any part of the permitted development and shall be retained as such thereafter.

Reason: To ensure that no unacceptable risks are caused to future occupiers amenity and to prevent harmful impacts on public health in accordance with the National Planning Policy Framework.

2 **Regulatory Condition:** If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved by the local planning authority detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with the National Planning Policy Framework.

NOTE TO APPLICANT
The Applicant is advised that Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended states that:

"*Subject to the provisions of this Order and regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.*"

Section 75 of the Conservation of Habitats and Species Regulations 2017 states that "it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which -

(a) Is likely to have a significant effect on a European site or a European offshore marine site (either 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 (approval of local planning authority)."

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

In order to demonstrate water neutrality, an application under Section 77 of the Conservation of Habitats and Species Regulations 2017 would be required to be submitted, and development subject of this Prior Approval application could not be carried out until a decision on such application has been made.

Plans list for: DC/24/1584
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Floor plan	Existing	NONE	11.10.2024
Floor plan	Proposed	NONE	11.10.2024
Elevation plan	Existing and Proposed	NONE	11.10.2024
Plans	Bin Stores and Parking Arrangement	NONE	11.10.2024
Location plan		NONE	11.10.2024
Block plan		NONE	11.10.2024
Supporting Docs	Phase 1 Geo-Environmental Report	SFR-DEL-XX-XX-RP-GE-0001 REV P01	11.10.2024
Supporting Docs	Noise Impact Assessment	NONE	11.10.2024

DELEGATED

Case Officer sign/initial Hannah Darley Date: 28/11/2024

Authorising Officer sign/initial Guy Everest Date: 05.12.2024