

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/3076	Case Officer:	Andrew Horrell
Application Type:	Prior Not. Comm. to Dwell house Class MA		
Proposal:	Change of use of the upper floors (largely vacant office space) above a Use Class E retail unit, to five residential flats.		
Site:	87 - 89 London Road, East Grinstead, West Sussex, RH19 1EQ, , , ,		
Validation Date	27 Feb 2025	Overall Expiry Date:	13 May 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Prior Approval is Granted	Recommendation Date:	18 Jun 2025
Target Date:	24 Apr 2025	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	1
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Signed and Agreed By:	Stephen Ashdown	Date:	19 Jun 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/3076

**87 - 89 London Road, East Grinstead, West Sussex, RH19 1EQ, , ,
Change of use of the upper floors (largely vacant office space) above a Use Class E retail unit, to
five residential flats.
Betsa Capital Partners Ltd**

SUMMARY OF REPRESENTATIONS

Disability Access East Grinstead: We would repeat the general observation that, because of the town centre scenario, a relatively high proportion of new apartments are on the first floor and above where there may be no lifts available and narrow staircases up to the apartment entrance doors. The inevitable result of this is that an increasing number and proportion of apartments in these town centre locations are not accessible to the disabled and people with reduced mobility.

A letter of objection from 6 Edinburgh Way: lack of transport and facilities infrastructure

SUMMARY OF CONSULTATIONS

WSSC Highways

Spaces for secure and covered cycle parking has been provided. No highway objection.

Southern Water

Unable to comment

MSDC Environmental Health Housing Standards

Comments sent to the Agent in respect of compliance with Housing Standards legislation concerning room sizes, means of escape, heating, ventilation and lighting.

MSDC Contaminated Land

The site has been assessed in relation to the proposed change of use to residential flats. Historical mapping indicates the site was once adjacent to a garage that ceased operations in 1964, which could have introduced contaminants such as hydrocarbons.

Given the time elapsed since the garage's closure, the absence of reported contamination issues on site, the presence of concrete surfaces that significantly limit the migration of contaminants, and the fact that the proposed change of use does not involve groundworks or direct contact with the ground (such as gardens), the risk to future residents from the adjacent historical use is considered minimal.

The only potential pathway for residual contamination would be into potable water supplies, but the likelihood of this is very low. While a discovery strategy would be relevant if groundwork were proposed, it is unnecessary in this case due to the lack of groundwork.

As such, there is no objection to the proposed development on contaminated land grounds.

MSDC Environmental Health

This application is for a town centre location with licensed premises and retail premises nearby.

Future residential amenity could be affected by early morning deliveries and late noise activity (people noise) from the night-time economy. Mixed use of the building could mean internal noise from any lifts, deliveries or commercial activity.

In order to mitigate against this, I recommend a soundproofing condition, as well as a construction hours condition to protect all neighbouring residents:

Construction hours: Works of construction or demolition, including the use of plant and machinery, as well as any delivery or collection of plant, equipment or materials for use during the demolition/construction phase necessary for implementation of this consent shall be limited to the following times:

Monday - Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays no work permitted

Soundproofing (Environmental Noise): No development shall commence until a scheme that addresses the issues of acoustics, ventilation and overheating (AVO) has been submitted to and agreed in writing by the Local Planning Authority. Good acoustic design shall be fully integrated into the scheme. The hierarchy of good acoustic design (GAD) outlined below shall be applied in descending order and the methods utilised shall be clearly outlined in an Acoustic Design Statement (ADS):

- i. Maximising the spatial separation of noise source(s) and receptor(s).
- ii. Investigating the necessity and feasibility of reducing existing noise levels and relocating existing noise sources
- iii. Using existing topography and existing structures (that are likely to last the expected life of the noise-sensitive scheme) to screen the proposed development site from significant sources of noise
- iv. Incorporating noise barriers as part of the scheme to screen the proposed development site from significant sources of noise
- v. Using the layout of the scheme to reduce noise propagation across the site
- vi. Using the orientation of buildings to reduce the noise exposure of noise sensitive rooms
- vii. Using façade design eg façade barriers, balconies and winter gardens to minimise exposure to noise
- viii. Using the building envelope to mitigate noise to acceptable levels

The scheme shall a) outline the level of noise exposure for each property and how the noise level within any domestic living room or bedroom, with windows open for normal ventilation, shall comply with the desirable internal noise levels as outlined in Table 2.1 of BS8233:2014 and b) outline how the noise level within any domestic bedroom, with windows open, shall not normally exceed 42 dB(A) LAFmax between 23:00 and 07:00, in line with WHO NNGL 2007.

Where the standards in (a) or (b) above cannot be achieved following GAD and with windows open, only then shall the scheme show how those standards will be met with windows closed and how adequate ventilation and cooling will be provided.

And, unless otherwise agreed in writing by the Local Planning Authority, where windows must remain closed to achieve acceptable internal noise levels, an overheating assessment must be undertaken with accordance with CIBSE.

The methods integrated into the design to prevent overheating shall be fully outlined in the AVO scheme and no dwelling hereby permitted shall be occupied until the approved scheme has been implemented in full for that dwelling.

If as a last resort mechanical ventilation is to be used, it must be demonstrated that it still complies with internal noise levels while providing sufficient ventilation.

Any amendments to the scheme or alterations to it must be agreed in writing with the Local Planning Authority in advance.

All acoustic reports submitted in relation to the scheme shall include characterisation of uncertainty and shall demonstrate the adoption of good practice to minimise uncertainty.

Reasons - To accord with MSDC Policy DP29: Noise, Air and Light Pollution

MSDC Street Naming and Numbering Officer

Please can you ensure that the street naming and numbering informative is added to any decision notice granting approval in respect of the planning applications

INTRODUCTION

This application seeks a determination under Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) whether prior approval is required for the conversion of the first and second floors of 87-89 London Road, East Grinstead to create 5 flats.

RELEVANT PLANNING HISTORY

None relevant

SITE AND SURROUNDINGS

87-89 London Road is a two-storey mid terraced pitched roofed building with a vacant Collingwood Bachelor on ground floor with vacant offices above with pitched roofed dormers in roof. The building is characterised by face brickwork and upvc doors and windows.

To the south of the site is the highway, to the west of the site is the adjoining No.93 (Cancer Research charity shop), to the east of the site is the adjoining No.83-85 (Bathstore) and to the north of the site is the King Street Car Park.

The site is located within the built-up area of East Grinstead and is within the town centre as defined by the Mid Sussex District Plan and the East Grinstead Neighbourhood Plan. It is also situated on a Primary Shopping Frontage.

APPLICATION DETAILS

The submitted floorplans show that the first floor and second floors currently contain offices and storage. It is proposed to convert these spaces to three one-bedroom flats on the first floor with bathroom and open kitchen/living room each, and the two one bedroom flats on the second floor with the same facilities.

No car parking is proposed as part of this development, however a cycle storage is proposed on the ground floor.

The application relates solely to the change of use of the building and includes minor internal alterations. No external changes to the appearance of the building are proposed.

LEGAL FRAMEWORK AND LIST OF POLICIES

As this is not a planning application, the Mid Sussex District Plan and the Hassocks Neighbourhood Plan are not relevant to the determination of this application.

The application falls to be assessed against Part 3, Class MA of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such any matter raised that falls outside of these considerations cannot be taken into account. Class MA relates to commercial, business and service uses to dwellinghouses and states:

'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—

(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval; (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;
- (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;
- (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
- (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.

(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.

Conditions

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;
- (b) contamination risks in relation to the building;
- (c) flooding risks in relation to the building;
- (d) impacts of noise from commercial premises on the intended occupiers of the development;
- (e) where—
 - (i) the building is located in a conservation area, and
 - (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;
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

- (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;
 - (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
 - (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.
- (3) An application for prior approval for development under Class MA may not be made before 1 August 2021.
- (4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if—
- (a) for paragraph (e) of sub-paragraph (2) there were substituted—
- "(e) where—
- (i) sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;
 - (ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,";
 - (b) in the introductory words in sub-paragraph (5), for "and highways impacts of the development" there were substituted "impacts of the development, particularly to ensure safe site access";
 - (c) after sub-paragraph (6) there were inserted—
- "(6A)Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.";
- (d) in sub-paragraph (7) for "(5) and (6)" there were substituted "(5), (6) and (6A)";
- (5) Development must be completed within a period of 3 years starting with the prior approval date.
- (6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.

Interpretation of Class MA

MA.3.Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

- (a) contain two or more dwellinghouses; and
- (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

ASSESSMENT

Having regard to the permitted development criteria as set out under Class MA.1., the land covered by or within the curtilage of the building does not fall within a SSSI, nor does it form part of a listed building or land within its curtilage, nor form part of a scheduled monument or land within its curtilage, nor form part of a safety hazard area, nor form part of a military explosives storage area. The building is not located within an AONB, National Park or any of the other designated sites set out under criteria MA.1. (e). The site is not occupied under an agricultural tenancy and the floor space would not exceed 1,500 square metres.

It is also a requirement that the building is vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. Whilst the application relates to the first floor of the building only, the Order defines the term 'building' as follows:

"building"—

a) includes any structure or erection and, except in Class F of Part 2, Classes P and PA of Part 3, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16 and Class T of Part 19, Class T of Part 19 and Class ZA of Part 20, of Schedule 2, includes any part of a building; and

b) does not include plant or machinery and, in Schedule 2, except in Class F of Part 2 and Class C of Part 11, does not include any gate, fence, wall or other means of enclosure'.

The Planning Statement also sets out that the space was used continuously within two years of the application as Class E of the Use Class Order. It is therefore concluded that, whilst the proposal would not relate to the whole building, the development would satisfy the requirements of the Order in this regard.

In view of the above, it is considered that the proposed change of use under class MA would constitute permitted development and the proposal therefore falls to be considered against the following matters set out below:

Transport impacts of the development

The Highways Authority has been consulted on the proposal and has advised that they have no objection with spaces for secure cycle parking being provided. It is noted that the site is within the town centre of East Grinstead with various forms of transportation (buses and train) available.

Contamination Risks

Contaminated Land Officer gave no objection to the proposal. The proposal seeks to undertake few internal works to the building and, as such, any likely risk is not considered to be significant enough to warrant the refusal of this application. Should any contamination be discovered on site then there is other legislation in place that would relate to this.

Flooding Risks

The site is within flood zone 1 and at medium surface water flood risk. Furthermore, the dwelling is to be sited at the upper floor levels and will not require an increase in the built footprint. No comment has been raised by the Drainage Engineer.

On this basis, the proposal is deemed acceptable in terms of potential flooding risks.

Noise from Commercial premises

The Council's Environmental Protection Officer has considered the application and raised no objection subject to conditions. The need for a noise report outlining soundproofing details to be provided prior to the commencement of the works. This condition is considered to be reasonable to ensure that amenity of future residents are not adversely affected on this matter.

A further condition relating to construction and delivery hours have also been recommended. As these suggested conditions would not mitigate a harm to future occupiers, these will be dealt with via informative.

Provision of adequate natural light in all habitable rooms

Paragraph X of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that *"habitable rooms" means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms'.*

Floor plans have been provided showing the layout of the flats. This shows that all habitable rooms are to benefit from natural light through the windows on either the front and rear elevations of the building.

As such it is considered that there would be adequate light to the flats proposed

Impact on loss of services

The development does not involve the loss of a registered nursery or health centre.

Dwelling Space Standards

Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets out in relation to permitted development that:

'(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(a) where the gross internal floor area is less than 3 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.

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.'

This requirement came into effect for prior approval applications submitted from the 6th April 2021.

The proposal would comprise of five one-bedroom flats which would have to be a minimum of 39sqm. The floor plans outline that flats 1 and 2 measure 39sqm, flat 3 measures 40sqm, flat 4 measures 43sqm and flat 5 measures 41sqm.

The flats therefore meet the national dwelling space standards.

National Planning Policy Framework

The site lies within a sustainable location and would assist in meeting a housing need of smaller units within East Grinstead. It is not considered that the proposal would conflict with any of the policies within the NPPF.

Ashdown Forest

The application site is situated within 7 kilometres of the Ashdown Forest, which is a Special Protection Area and Special Area of Conservation. Residential development within 7km of Ashdown Forest is required to mitigate the potential impacts of the development to ensure the effects of any increase in visitors to Ashdown Forest are addressed. For this type of development contributions towards both the Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) would be required.

The SANG Capacity Prioritisation Document states:

'SANG capacity is assigned to development with a valid planning application or Regulation 77 application and pending determination; this helps with monitoring the pipeline of proposed development and the remaining capacity. SANG capacity will not be assigned at the pre-application advice stage or the prior approval application stage. SANG capacity is formally allocated to development that has been granted planning permission or approved under Regulation 77 in the case of prior approvals, and has a signed Section 106 planning obligation to secure and fund the SANG mitigation. The Council actively monitors both the pipeline of proposed development and the development that has formally been allocated SANG capacity'.

An informative will be placed on any permission to advise the developer of this requirement.

Other Matters

The comments from an interested parties are noted in terms of accessibility and the impact on the infrastructure of the town. However, the prior approval process only allows the above mentioned sections to be taken into account.

CONCLUSION

In conclusion, it is considered that there are no flooding or contamination risks in relation to this proposal and that the transport and highways impacts and potential noise from commercial premises are acceptable subject to condition. In addition, it is considered that the flats would result in adequate light to the habitable rooms proposed.

The proposal accords with the criteria set out under Class MA, Part 3, Schedule 2, of the GPDO (as amended), and it is considered to be acceptable with regards to the considerations under this prior approval. On this basis prior approval for the proposed change of use is required and can be granted in accordance with the details submitted.

Decision: Prior Approval is Granted

Case Officer: Andrew Horrell