

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/1732	Case Officer:	Andrew Horrell
Application Type:	Prior Not. Comm. to Dwell house Class MA		
Proposal:	Proposed change of use of first floor commercial units (Use Class E) to 2no. self-contained flats (Use Class C3).		
Site:	Unit 1 And 2, 6 Crescent Way, Burgess Hill, West Sussex, RH15 8RH, , ,		
Validation Date	17 Jul 2026	Overall Expiry Date:	11 Aug 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Prior Approval is Granted	Recommendation Date:	7 Sep 2026
Target Date:	11 Sep 2026	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
--	--	-------------------------------	---

Signed and Agreed By:	Stephen Ashdown	Date:	7 Sep 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/1732

**Unit 1 And 2, 6 Crescent Way, Burgess Hill, West Sussex, RH15 8RH, ,
Proposed change of use of first floor commercial units (Use Class E) to 2no. self-contained flats
(Use Class C3).
Martin Homes Burgess Hill Ltd**

SUMMARY OF REPRESENTATIONS

None received

SUMMARY OF CONSULTEES

MSDC Contaminated Land: No adverse comments or objections from a contaminated land perspective

MSDC Flood Risk and Drainage: Following a review of the submitted information we note that post development there will be no change to flood risk and surface water drainage. Therefore, due to the site, size, location, and type of development we have no objection on surface water and drainage grounds.

WSCC Highways: In summary, the movements associated with the E class use 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. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms.

MSDC Environmental Health: No objection, please include standard hours for demolition, construction, deliveries etc. to protect amenity for those residents above while the works are being undertaken.

TOWN COUNCIL OBSERVATIONS

Would recommend approval

INTRODUCTION

The application seeks a determination under Part 3, Class MA of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) whether prior approval is required for the change of use of first floor commercial units (Use Class E) to 2no. self-contained flats (Use Class C3).

RELEVANT PLANNING HISTORY

DM/17/4575 - Demolition of existing restaurant and ancillary staff accommodation. Creation of 10 new flats with a new restaurant and retail space on the ground floor. (Amended plans 05/04/2018 reducing number of units at third floor) (approved).

DM/20/2740 - Proposed amendment to application DM/17/4575 to redistribute proportion of commercial space whilst retaining 10 flats. (approved).

SITE AND SURROUNDINGS

The site is a large pitched roofed 3 storey building with dormers in the roof. The walls are a mix of face brickwork, zinc roof with grey aluminium doors and windows. The ground floor serves two commercial units, first floor serves a commercial space, and flats 1 and 2, the second floor serves flats 3-6 and the third floor serves flats 7-10.

The site is located within the Cyprus Road Car Park, which surrounds the building on three sides with the Orion cinema to the south eastern (rear) elevation. The building shares the Cyprus Road car park access off Crescent Way.

The application site is situated within the built-up area of Burgess Hill.

APPLICATION DETAILS

It is proposed to convert the existing first floor commercial units (Class E) to 2 no. flats (Class C3).

The submitted plans show that the existing first floor commercial space will be internally divided to have 2 no. flats. The proposed dwellings will have 2 (4 person) bedrooms each. Flat 3 will have a total gross internal floor area of 75m² and have an open lounge/diner as well as 1 bathroom, 1 toilet/shower room and a hall. Flat 4 will have a total gross internal floor area of 77m² and also have bathroom, toilet/shower room, a hall and open kitchen living room.

LEGAL FRAMEWORK AND LIST OF POLICIES

As this is not a planning application, the Mid Sussex District Plan and the Burgess Hill 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:

Class MA - Commercial, Business and Service Uses to Dwellinghouses

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 subparagraph (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.*

When determining the application, the Local Planning Authority should also have regard to the National Planning Policy Framework as far as relevant to the subject matter of the prior approval, as if the application were a planning application.

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 an 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). In addition, the site is not occupied under an agricultural tenancy.

It is also a requirement that 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. After the 1st September 2020 this relates to Class E (commercial, business and service). 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, 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 accompanying planning statement sets out that the first-floor unit has been used in as a commercial use since April 2023 so greater than 2 years.

In light 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 Local Highways Authority (WSCC) have been consulted on the proposal. They in part stated that the site is sustainable in nature because of the site location. The property is situated within walking distance of local shops and amenities which may reduce the reliance on the use of a car for some domestic journeys. Bus services are in operation within a short walk of the site and Parking restrictions prevent parking in unsafe locations on the nearby highway network.

Cycling is a viable alternative for travel in this location. The original permission for this property was approved with a nil parking arrangement, and with 24 cycle parking spaces assigned to serve. The cycle parking allocation is anticipated to satisfy the likely demand generated by two additional flats of this size. As noted above the LHA deemed the proposal acceptable in highway terms.

Contamination Risks

The Council's Contaminated Land Officer has considered the application and had no objections.

Flood Risk

The Council's drainage team were consulted on the proposal and raised no objection on surface water and drainage grounds.

Noise from Commercial Premises

The Council's Environmental Protection Officer has considered the application. Concerns were raised that noise during construction could impact existing neighbouring residents. Conditions have been recommended for construction and delivery hours.

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 the front and/or side elevations of the building with balconies serving one of the bedrooms in each. They mirror the existing flats 1 and 2 on the first floor.

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 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.

(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 constitute a 2 no. 2 bedroom, 4 person dwelling. The plans show the dwellings to measure 73sqm² and 75sqm² respectively.

The technical housing standards require any one storey 2 bed 4 person dwelling to be 70sqm².

Therefore, the submitted floor plans shows that the dwellings would comply with the minimum requirements set out in the national guidance.

National Planning Policy Framework

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

Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

The proposed development is outside the 7km zone of influence and as such, **mitigation is not required.**

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development was modelled in the Mid Sussex Transport Study as a windfall development such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

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 nearby commercial premises are acceptable. In addition, it is considered that the proposal 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