

## Delegated Officer Report

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| <b>App.No:</b><br>240543 (P01)   | <b>Decision Due Date:</b><br>4 December 2024 | <b>Ward:</b><br>Meads                   |
| <b>Officer:</b><br>Chloe Timm  | <b>Site visit date:</b>                      | <b>Type:</b> Prior Approval<br>Class MA |
| <b>Site Notice(s) Expiry date:</b> 7 November 2024<br><b>Neighbour Con Expiry:</b> 7 November 2024<br><b>Press Notice(s):</b>  |  |   |
| <b>Over 8/13 week reason:</b>  |  |   |
| <b>Location:</b> 82-86 Terminus Road, Eastbourne   |  |   |
| <b>Proposal:</b> Application to determine if prior approval is required for a proposed Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) to create 10no. self contained flats. Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA |  |   |
| <b>Applicant:</b> Mr Sam Baum  |  |   |
| <b>Recommendation:</b> Prior Approval Required and Given   |  |   |

### **Site Description:**

The application site forms the first is a three-storey mid-terrace commercial property located on Terminus Road. The site is in a prominent location opposite the Beacon shopping centre and is within the primary shopping area of the town centre.

The application site is not a listed building nor is it located within a conservation area.

### **Relevant Planning History:**

Various historic planning history, the most recent applications listed below:

960489

Replace existing black lettering with gold lettering. Four floodlights at first floor level and three floodlights at second floor level.

Advertisement

Standard Advert Approval

20/03/1996

980150

One non-illuminated fascia sign and two non-illuminated projecting signs.

Advertisement

Standard Advert Approval

13/07/1998

080033

Internally illuminated logo sign and moulded (non-illuminated) lettering together with internally illuminated projecting sign, all to shopfront elevation.

Advertisement

Standard Advert Approval

04/03/2008

190612

Change of use of all floors from Use Class A1 (retail) and Use Class A3 (restaurant and café) to flexible Use Classes A1 (retail), A3 (restaurant and café) or A4 (drinking establishment).

Planning Permission

Approved Conditionally

07/11/2019

240060

Subdivision into 3no. shops, installation of new shopfronts, windows on rear elevation at first second and third floor level.

Planning Permission

Approved Conditionally

21/08/2024

**Proposed development:**

The application seeks prior approval for the change of use of the first and second floors of the property from a use falling within Class E (retail) to C3 Residential Dwelling to provide 10no flats comprised of 2no studio and 8no one-bedroom units.

**Consultations:**

**East Sussex Highways**

Thank you for consulting the Highway Authority on application no 240543. On this occasion I do not consider it necessary to provide formal Highway Authority comments and advise you to consult the minor planning application guidance (2017).

**Neighbour Representations:**

Public notification regarding the application has been undertaken in the following ways:

- Letters have been sent to all registered properties adjoining the application site;
- A site notice has been displayed in the vicinity of the application site;
- An advert has been published in the local newspaper.

No representations have been received.

**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—

~~(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;~~

(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; **Complies**

~~(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;~~

(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; **Complies**

(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; **Complies**

(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 **Complies**

(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.

**Complies**

(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; **Complies**

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2. **Complies**

## 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; and

(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<sup>58</sup> to be consulted, a site-specific flood risk assessment;

(ii) sub-paragraph (6A) requires the Health and Safety Executive<sup>59</sup> 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.

**For any application submitted on or after 5th March 2024, there is now no limit to the floor space that can be converted under Class MA and there is no requirement for the building to be vacant for 3 months.**

## **Appraisal**

### **Transport**

There is no parking spaces proposed to be provided for future occupants of the dwellings.

East Sussex Highways have been consulted as part of the process and raised no objection to the application, subject to a planning condition for the provision of cycle parking. The plans provided confirm that space for 16no cycles will be provided to the rear of the building.

The application site is located in the Town Centre and is considered to be a highly sustainable location, the provision of no parking spaces is acceptable in this instance.

### **Contamination**

The application site does not fall within an area of contaminated land.

### **Flood Risk**

The application site is not located within flood risk zone 2 or 3

### **Noise**

The application site is in an area predominantly residential use, change of use of the building will not be out of character for the area.

### **Conservation Area and change of use of ground floor.**

The application site does not fall within a conservation area.

### **Access to natural light**

All habitable rooms will have access to natural light.

### **Introduction of residential use**

The application site is located within the Town Centre which has a mix of commercial uses with residential properties above, change of use of the building will not be out of character for the area.

### **Loss of services**

The change of use to residential use will not see a loss of services from either a registered nursery or a health centre.

### **Internal floor area**

Schedule 2 does also 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 2015.*

The proposed residential units would comply with the minimum space standards for their property size as set out in the Nationally Described Space Standards (NDSS). The internal layout and dimensions of rooms within the flats also comply with the other criteria in the NDSS.

### **Other matters:**

No details relating to refuse/recycling or cycle storage have been provided within this application, these will be requested via planning condition to ensure they are provided within the site and will not impact upon the highway or the visual amenity of the area.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

The proposal is considered to comply with the limitations set out in Class MA.

**Recommendation:**

Prior approval required and approved subject to conditions.

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.  
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