

**KIRKLEES METROPOLITAN COUNCIL
DEVELOPMENT & MASTER PLANNING SERVICE**

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015(as amended) - Schedule 2, Part 3, Class MA**

**DELEGATED DECISION FOR PRIOR APPROVAL FOR CHANGE OF USE
FROM COMMERCIAL, BUSINESS AND SERVICE USES TO
DWELLINGHOUSES**

Reference no. 2025/CL/93043/W

**Site Address 14B, Holly Bank Road, Lindley,
Huddersfield, HD3 3JE**

**Description Prior notification for change of use
from commercial/business/service
to 4 dwellings**

Recommending Officer Danielle Cooper

DECISION - REFUSED

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Kevin Walton

AUTHORISED OFFICER

Date:08-Jan-2026

Officer Report

Reference No. 2025/93043

Site Address: 14B, Holly Bank Road, Lindley, Huddersfield, HD3 3JE

Proposal: Prior notification for change of use from commercial/business/service to 4 dwellings.

Site Description

The site is an existing class E (Infant and child services) and class F1 (Tuition services) use, located off Holly Bank Road in the Lindley area of Huddersfield. The building is an imposing three storey stone built property, with space located at lower ground floor, upper ground floor and first floor levels. Access to the building is via a central raised entrance, with separate access to the lower ground floor. The building has an entrance porch canopy and turned gables at the frontage and has a number of interesting architectural details. A large two storey extension with mono pitched roof is located to the rear of the building with single storey side extensions which provides rehearsal space for the Lindley Brass Band although this does not form part of the site and whilst attached is essentially a physically separate building and use.

To the east and north of the building are residential properties located along Holly Bank Road. To the rear, south, of the site is Lindley Recreation Ground with residential properties off Church Tower View beyond. To the south west, towards Lidget Street are further commercial and residential properties. Lindley Infants School and Lindley Junior School are located to the north east of the site and are accessed from George Street via its junction with Holly Bank Road.

Description of Proposal

The proposal seeks to confirm that the change of use from a commercial building (Class E) to 4 dwellings (Class C3) is permitted development under Class MA of the General Permitted Development Order (2015) (as amended). The proposal would convert the ground and first floors of the existing building into a total of 4 dwellings (flats). The existing lower ground floor is currently occupied by the educational use and whilst within the application building does not form part of the proposed change of use and will remain as a use falling into Class F.1 as defined within the Use Classes Order 1987 (as amended).

History of Negotiations

No negotiations were undertaken during the assessment of this application. As the proposal has been submitted under Schedule 2, Part 3, Class MA of the General Permitted Development Order (GDPO) 2015 (as amended), it is the responsibility of the applicant to ensure that sufficient information is provided as the time of submission to enable the Local Planning Authority to assess whether the proposed development qualifies for permitted development rights and complies with the relevant conditions and limitations of Class MA.

There is no statutory requirement for the Local Planning Authority to request additional information or engage in post-submission dialogue. In this case the application has been assessed on the basis of the information submitted.

Relevant Planning History

14 B&C, Holly Bank Road

2025/20116 – Proposal to provide 6 residential apartments – Pre application provided. Further information would be required to satisfy policy LP48, residential amenity and highway safety requirements.

14B Holly Bank Road

2016/90038 - Change of use from office to D1 breakfast and after school club, crèche and community use – Consent granted

14A Holly Bank Road

2001/92150 – Erection of extension to form rehearsal room/library/committee room and toilets – Consent granted

Representations

The application was publicised on the council website and by site notice on 7th November 2025.

67 representations have been submitted. 66 letters of objection have been received and 1 support comment has been received. The comments have been summarised below:

Support comment:

- The proposal is considered supportive of the continued operation of a long-established local musical society.

- The aim of generating additional income to support and fund young musicians is viewed positively
- Refurbishment of the building is seen as a benefit, helping to secure the long-term maintenance of an older property.
- The creation of four flats is not considered likely to increase congestion or environmental impacts compared to current nursery pick-up and drop-off activity.

Refusal comments:

- The site is identified as a valued early-years and community childcare facility serving local families.
- Concern is raised about harm to community wellbeing, parental employment, employment of workers for the childcare, access to early-years and wrap-around childcare if the childcare use is lost.
- The loss of the childcare facility will disrupt children's wellbeing
- There is a need for childcare facilities in Lindley
- It is argued that the loss would set an undesirable precedent for the erosion of community facilities across Kirklees.
- There is no current suitable alternative in the vicinity for the provision to move to.
- Ward Profile – Lindley Childcare Sufficiency (October 2025), identifies a shortfall of 47 early years places, indicating an ongoing need for the nursery and that its loss would exacerbate local childcare capacity pressures for under-5s.
- Reference is made to previous appeal decisions supporting the protection of community facilities.
- The retention of the childcare facility is more important than funding a bandroom.
- The existing nursery use is considered compatible with the surrounding educational environment, whereas introducing additional residential units is likely to cause unnecessary disruption and offer limited community benefit.
- Parents having to find new childcare facilities will increase vehicle journeys, resulting in increased congestion and emissions.
- The use of the building as a HMO is not wanted.
- The loss of the nursery is contrary to Kirklees Local Plan Policy LP48 & 49 and NPPF guidance and insufficient information has been provided.
- The submitted planning statement is inaccurate and information contained within it is outdated.
- No impact assessment has been undertaken.
- The proposal does not meet Condition MA.2 h(i) of Class MA.

- Have the Local Planning Authority conducted their own local research/ feasibility studies to prove what community benefit residential flats would bring over the current provision of a childcare facility in place.
- Off-street parking layout is unacceptable and could lead to increased on-street parking.
- The change of use from a nursery to residential flats may significantly increase vehicle movements leading to traffic congestion.
- Construction works if planning approval is granted would make the area unsafe.
- Noise from construction works will have an adverse impact on the local area.
- The proposed flats will provide inadequate daylight and not meet the 45 degree code guidance
- Residential flats would overlook the adjacent bungalows.
- The Brass band on the lower floor would be extremely loud for future residents.
- Concern of noise disturbance for future occupiers. The agent has submitted a failed sound insulation test and the assessment relies heavily on mitigation measures and assumes windows will remain closed, which is unrealistic, particularly during warmer weather. The absence of outdoor noise measurements is highlighted, meaning potential impacts on external amenity spaces and internal noise levels with windows open have not been properly assessed.
- As the band room lies outside of the red line boundary, it is questionable as to whether or not the mentioned mitigation measures can be achieved / conditioned?
- The proposal will have a negative impact of the character of the area.

Procedural Matters

The above-described proposal constitutes development as defined within Section 55 of the Town and Country Planning Act 1990. The General Permitted Development Order 2015 Schedule 2 Part 3 Class MA (As inserted 2021) permits the following 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.’

The proposal (other than the alterations) is considered to be covered within this Class, and is thus authorised subject to the restrictions, conditions and prior notification procedure outlined in Paragraphs MA.1, MA.2 and MA.3.

Limitations for Part 3, Class MA.1 Development

Development is not permitted: -

<p>(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;</p>	<p>Pass: The business has been in use as a nursery (class E) use for a continuous period of at least 2 years prior to the date of this application. Google Street View show the premise has been open since at least 2020. It is also noted that the building was granted permission to be used as a creche (class E) in 2016 under planning reference: 2016/90038</p>
<p>(d) if land covered by, or within the curtilage of, the building—</p> <ul style="list-style-type: none">(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;	<p>Pass: The land covered by, or within the curtilage of, the building does not all within any of the categories labelled from i to v.</p>
<p>(e) if the building is within—</p> <ul style="list-style-type: none">(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(3);(iii) the Broads;(iv) a National Park; or(v) a World Heritage Site;	<p>Pass: The building is not in any category in Paragraph (e).</p>
<p>(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;</p>	<p>Pass: The site is not occupied under any agricultural tenancy.</p>
<p>(g) before 1 August 2022, if—</p> <ul style="list-style-type: none">(i) the proposed development is of a description falling within Class O of this Part as that Class had effect	<p>Pass: The building is not within any land affected by an Article 4 Direction.</p>

<p>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.</p>	
--	--

Paragraph MA.2 outlines a set of three conditions that the developer must adhere to. MA.2(2) states:

‘(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’

Paragraph MA.3 stipulates the need for the developer to comply with Paragraph MA.2(2)(i) which ensures developments meet the fire risk condition, the fire safety impacts on the intended occupants of the building.

Assessment

As per Part 3, Class MA, Paragraph MA.2(2), the local planning authority must assess the impact on several matters.

(a) Transport and Highway Impacts

The site lies within a town centre location with good access to public transport.

KC Highway Development Management have reviewed the proposal and have provided the following comments:

No trip generation details were provided, however we agree with the applicant's statement that the proposals would generate fewer trips than the extant use as a nursery.

There is a small parking area adjacent to the building and drawing No 1B indicates that 4 resident parking spaces plus 1 visitor parking space can be achieved and this would be suitable for this size and type of development. The spaces on the drawing scale to just below the required minimum parking space dimensions of 2.4m x 4.8m, however there is suitable space to fit the correctly dimensioned spaces as located on the drawing. It is noted that two of the spaces appear to be in a tandem layout, however we consider that both spaces should be able to be accessed independently with careful manoeuvring. There is very limited turning space within the car park (no swept path analysis was submitted with the application indicating that cars can turn) and so reversing to access the spaces will be required. This is far from ideal, however it is acceptable on balance.

There is no indication that the car park is accessed by other users, such as the Lindley Band, however with the residential parking spaces marked as shown in drawing No 1B there would be no space for any additional parking. KC Highway Development Management would like to see the space marked as for "residential parking only" and this should be conditioned.

A bin storage point is located to the front of the building. KC Waste Strategy Team have requested details on any temporary waste storage and collection arrangements, details for bin storage, screening, BCPs, and RCV access,

details of the management and maintenance of communal refuse storage areas by a designated private management company.

The above matters could be dealt with by the imposition of appropriate planning conditions.

(b) Contamination Risks

All construction works are to be internal. The site does not fall within potentially contaminated land designation and is located within a low risk coal area. Given this, the Local Planning Authority has no concern in regard to contamination risks to the building.

(c) Flooding Risks

The site does not fall within a flood risk zone and there is no known flood risks associated with the site.

(d) Noise Impacts

In accordance with MA.2 (2) (d), the Local Planning Authority must assess the potential noise impact from surrounding commercial uses on future occupiers of the development. The site adjoins a band room which will remain in operation and as such this has potential to result in unacceptable noise levels to the future occupiers of the residential flats.

A Sound Insulation Test has been submitted authored by Noise Survey Ltd dated 23 October 2025. It describes the proposal stating Lindley Band meet in the band room to practice and play musical instruments at 14B Holly Bank Road. The band room is at the rear of 14 Holly Bank Road. The two parts of the building share the same partition wall on the ground and first floor. The Band play on the ground floor of 14B Holly Bank Road. The first floor of the Lindley band building at 14B Holly Bank road is used as a library and storage space. No music is played on the first floor of the band building.

KC Environmental Health have reviewed the proposal and have provided the following comments:

Approved Document Part E - Building Regulations states for dwellings and rooms for residential purposes formed by a material change of use, the airborne sound insulation of both separating walls and floors should achieve a value of 43dB DnT,w+Ctr or higher. However, it states a higher standard of sound insulation may be required between spaces used for normal domestic purposes and

communal or non-domestic purposes. In these situations, the appropriate level of sound insulation will depend on the noise generated in the communal or non-domestic space. The Local Planning Authority (LPA) therefore look to the airborne sound insulation achieving a value 10dB above Building Regulations i.e. 53 dB DnT,w+Ctr. The West Yorkshire Noise & Vibration Guidance states where a proposed noise sensitive development is to be located adjacent to an entertainment premises, the sound insulation performance of the party wall and/or ceiling should be at or above 55dB DnT,w+Ctr. Whilst not technically an entertainment venue, the LPA believe the nature of the proposal would warrant this higher level and so the LPA have used this to consider the application.

The results of the testing as indicated in the table in Section 2 show a requirement of ≥ 60 dB DnT,w+Ctr and this is achieved in all rooms with the exception of the proposed bedroom of Ground Floor Flat left of 14 Holly Bank Rd. A specification is given for sound insulation works to the additional three side cavity walls and suspended ceiling to the band room at 14B Holly Bank Road which is predicted to reduce the noise in the proposed flats to 28-33dB LAeq(15min) for the day time which meet with the internal requirements of BS8233.

A recommendation is given for band practice to be limited to 0800hrs to 2200hrs with comment made that band music during the night time is likely to have a higher adverse impact when people are resting and when there is typically a lower back ground noise environment. As the adjoining rooms are bedrooms, this is welcomed. As the building, including the band room, are in a single ownership is it considered the owner is likely to have some control over how the band room is used and consequently it would not be unreasonable to impose a condition requiring details on how the band practices can be regulated.

KC Environmental Health therefore consider the findings of the report acceptable, if planning permission was to be approved a condition would be imposed to ensure the measures specified within the sound insulation test are carried out to ensure the proposal is protected from harmful noise pollution.

(e) Conservation Area

MA.2(2)(e) requires the LPA to consider the heritage impacts of the development '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.' The site is not located within a conservation area.

(f) Provision of Natural Light

MA.2(2)(f) requires the provision of adequate natural light in all habitable rooms of the dwellinghouse.

As illustrated on the submitted elevation drawings, the principal living and kitchen areas of all four apartments benefit from large windows that provide a satisfactory outlook and good levels of daylight. The proposed bedroom windows are located on the south-facing rear elevation. Although these windows are of an adequate size, they will experience some overshadowing for part of the day from the existing adjoining bedroom and do not fully comply with the 45-degree guideline. Notwithstanding this, their south-facing orientation ensures that each window will receive direct sunlight for several hours daily. On balance, it is considered that the proposed units will receive adequate levels of natural light and the arrangement is therefore acceptable.

(g) & (h) Commercial Impacts

MA.2(2)(g) is not considered applicable as the site does not lie within an area designated by the Local Plan as being of importance for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

MA.2(2)(h) states that where the development involves the loss of services provided by a registered nursery, the impact on the local provision of the type of services lost will need to be assessed. It is noted that the proposal does not involve a health care centre.

The agent has stated that *the Kirklees Childcare Sufficiency Assessment 2022, identifies an average occupancy rate of 80% across the borough and concludes that there is generally sufficient childcare capacity, with some spare provision, albeit varying at ward level. Lindley is reported to fall within the mid-range of wards, with spare capacity available.* On this basis, the agent has concluded that the potential temporary loss of the nursery could be accommodated. The agent further highlights the importance of Lindley Band as a valued community asset, with the proposal intended to support its long-term sustainability. It is also claimed that alternative nursery premises with available capacity and suitable outdoor space exist elsewhere within Kirklees, and that the current tenants have the ability to relocate if necessary.

KC Early Years have been consulted with and have provided the following response:

The Childcare Act 2006 places a statutory duty on local authorities in England to secure sufficient childcare for working parents and to provide free early years education.

This states Local Authorities have a:

- **Duty to secure childcare for working parents:** Local authorities must ensure, as far as is reasonably practicable, that there is enough childcare available in their area to meet the needs of parents who work or are training for work.
- **Duty to provide free early years provision:** Local authorities must secure that early years provision is available free of charge to certain children who have attained a prescribed age but are below compulsory school age.

Childcare Expansion Programmes

In March 2023, the Government announced reforms to childcare which increased the duty to provide funded childcare places for working families meaning that from September 2025, eligible working parents of children aged from 9 months to 4 years are entitled to 30 hours of funded childcare. The summer term 2026, will be the height of demand following the expansion in September 2025, therefore the Council has recently revised its Childcare Sufficiency Assessment (CSA) comparing current supply of childcare places, including any unused Ofsted registered places that some settings have, with the estimated demand for the early years entitlements in the summer term 2026. Details regarding the assessment for Lindley are below.

Also in March 2023, the Government outlined the expectation that local authorities should ensure parents of primary school age children can access childcare in their local area from 8am to 6pm. This could include breakfast clubs and after school clubs, on school site or off school site provision or a childminding community. It is expected that by September 2026, every parent who needs it can access term-time wraparound childcare before and after school. Details regarding the delivery plan for Lindley are below.

Childcare Provider: Early Years @ Shape at Lindley

Early Years Provision

Early Years @ Shape has been registered with Ofsted since 2018 and provides full daycare for children aged 0-5. On their last inspection 18th June 2021, they were rated Good. They offer funded childcare places to under 5s. 6 places for Under2s, 10 places for 2 year olds and 16 places for 3&4 year olds. 32 early years places in total.

The childcare figures quoted in the planning application are from the 2022 Childcare Sufficiency Assessment, which has been superseded by more recent publication which are the Kirklees Childcare Sufficiency Assessment 2024 and the Kirklees Ward Profile – Lindley Childcare Sufficiency October 2025.

In the 2024 Childcare Sufficiency Assessment the Lindley Ward had been identified as an area with potential pressure on places for the early years entitlements and this remains the case in December 2025.

In the 2025 Lindley Ward Profile, revised estimates for the summer term 2026 indicate that there will be a potential shortfall of 47 early years places, this relates mostly to places for 2-year-olds and under 2 year olds, although the population projections for 2, 3 and 4 year olds are declining, for under 2 year olds the population projections are increasing. See summary of table below which will be published in the Childcare Sufficiency Assessment 2025 shortly.

Lindley Ward	Under 2s	2-year-olds	3 & 4-year-olds	Total
Indicator of estimated surplus places or gap	-77	-21	1	-97
Unused provider space	12	12	26	50
Overall estimated net surplus/gap				-47
Population forecast				

It is worth noting that nearly half of children from the Lindley Ward access their early learning and childcare entitlement in a different ward. Wards with insufficient childcare places can be a factor in families seeking childcare provision further away from home in neighbouring ward areas although other factors can contribute such as location of workplace.

Wraparound provision

Shape Lindley also provide a Holiday Club and a Wraparound service, for Breakfast and After School Care for children aged 5-11. Shape Lindley Out of School Club has been registered since 2016 and provides before and after school care and a holiday club for children aged 5-11.

The Lindley Ward has been identified as a high priority area for the expansion of wraparound places for primary school children as evidence suggests that there are insufficient places to meet demand in the area and settings serving Lindley Schools already have waiting lists. Losing the childcare places

provided by Shape Lindley, would impact on place delivery in the Lindley ward, children would be displaced affecting parents' ability to work.

Shape Lindley also provide HAF places (Holidays, Activities and Food), which is a government funded scheme. They work with looked after children and provide SEND only sessions for families over the holidays for respite.

The evidence provided therefore suggests that the loss of any childcare provision in Lindley including Shape Lindley would have a significant negative impact for local families.

Based off of the information provided by KC Early Years, the Local Planning Authority consider the loss of the registered nursery to have a significant negative impact on local families within the area, contrary to the information provided by the agent which includes an assessment which was carried out in 2022 which predates the evidence provided by KC Early Years.

As such the proposal would result in the loss of a registered nursery and will have a significant negative impact on the local provision, contrary to MA.2.2.h(i).

Fire Risk

MA.2(2)(i) states that where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building. The development is for 4 units which would not exceed the height of the building as outlined within article 9A of the General Management Procedure Order 2015. Therefore, the proposal would meet the fire risk condition.

Space Standards

Article 3(9A) of the Town and Country Planning (General Permitted Development) (England) Order (as amended) precludes any grant of planning permission where the gross floor area of any new dwelling does not exceed 37 sq. metres or does not meet nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

Unit 1 (1 bedroom 1 person) – Total GIA 39sqm, Bedroom circa 11.8sqm, built-in storage circa 1.8sqm

Unit 2 (1 bedroom 1 person) – Total GIA 43sqm, Bedroom circa 11.7sqm, built-in storage circa 1.8sqm

Unit 3 (1 bedroom 1 person) – Total GIA – 46sqm, Bedroom circa 11.8sqm, built-in storage circa 1.8sqm

Unit 4 (1 bedroom 1 person) – Total GIA – 45sqm, Bedroom circa 11.7sqm, built-in storage circa 1.8sqm

Each proposed unit would have one bedroom, with a bedroom floor area of between 11.7/8m which suggests the bedroom could be big enough for 2 persons. However the required total GIA for 1 bedroom, 2 person unit as out by the nationally described space standards (NDSS) is 50sqm which all units fall short of. However all units exceed the minimum gross internal area of 39sqm. As such, proposed units would exceed the minimum gross internal area requirements for a 1 bed, 1 person unit, bedroom size requirements and provide adequate built-in storage. As such, it is considered that the proposal would be acceptable in this regard.

Representations

67 representations have been submitted. 66 letters of objection have been received and 1 support comment has been received. The comments have been summarised and addressed below:

1 support comment:

- The proposal is considered supportive of the continued operation of a long-established local musical society.
- The aim of generating additional income to support and fund young musicians is viewed positively
- Refurbishment of the building is seen as a benefit, helping to secure the long-term maintenance of an older property.
- The creation of four flats is not considered likely to increase congestion or environmental impacts compared to current nursery pick-up and drop-off activity.

Officer comment: The above comments are noted.

Refusal comments:

- The site is identified as a valued early-years and community childcare facility serving local families.
- Concern is raised about harm to community wellbeing, parental employment, employment of workers for the childcare, access to early-years and wrap-around childcare if the childcare use is lost.
- The loss of the childcare facility will disrupt children's wellbeing
- There is a need for childcare facilities in Lindley
- It is argued that the loss would set an undesirable precedent for the erosion of community facilities across Kirklees.
- There is no current suitable alternative in the vicinity for the provision to move to.
- The existing nursery use is considered compatible with the surrounding educational environment, whereas introducing additional residential

units is likely to cause unnecessary disruption and offer limited community benefit.

- The retention of the childcare facility is more important than funding a bandroom.
- Ward Profile – Lindley Childcare Sufficiency (October 2025), identifies a shortfall of 47 early years places, indicating an ongoing need for the nursery and that its loss would exacerbate local childcare capacity pressures for under-5s.

Officer comment: The above comments are noted. An assessment on the loss of the nursery has been undertaken within the assessment of this officer report.

- Reference is made to previous appeal decisions supporting the protection of community facilities.

Officer comment: This comment is noted.

- Parents having to find new childcare facilities will increase vehicle journeys, resulting in increased congestion and emissions.

Officer comment:

- The use of the building as a HMO is not wanted.

Officer comment: The applicant is not proposing that the building would be used as a HMO. A full planning application would be required if the building was intended to be used as a HMO.

- The loss of the nursery is contrary to Kirklees Local Plan Policy LP48 & 49 and NPPF guidance and insufficient information has been provided.
- The submitted planning statement is inaccurate and information contained within it is outdated.
- No impact assessment has been undertaken.
- The proposal does not meet Condition MA.2 h(i) of Class MA.
- Have the Local Planning Authority conducted their own local research/ feasibility studies to prove what community benefit residential flats would bring over the current provision of a childcare facility in place.

Officer comment: The proposal can only be assessed against the limitations for Part 3, Class MA.1 Development. Kirklees Local Plan policies and guidance within the National Planning Policy Framework cannot be taken into consideration for a prior notification application. KC Early Years have provided information to demonstrate that the loss of the nursery facility would be detrimental to the local area. No further information was considered necessary to be attained from the agent.

- Off-street parking layout is unacceptable and could lead to increased on-street parking.
- The change of use from a nursery to residential flats may significantly increase vehicle movements leading to traffic congestion.
- Construction works if planning approval is granted would make the area unsafe.

- Noise from construction works will have an adverse impact on the local area.

Officer comment: The impact on highway safety has been assessed within the officer report and KC Highway Development Management do not consider the proposed development to have any adverse highway safety impacts.

Construction works are not a material planning consideration and therefore cannot be assessed.

- The proposed flats will provide inadequate daylight and not meet the 45 degree code guidance

Officer comment: This comment is noted. Assessment on whether the proposed flats will receive adequate daylight has been assessed within this report.

- Residential flats would overlook the adjacent bungalows.

Officer comment: The front windows would retain a distance of approx. 20m to the front elevation of the adjacent bungalows. Given the considerable separation distance, there are no concerns to loss of privacy.

- The Brass band on the lower floor would be extremely loud for future residents.
- Concern of noise disturbance for future occupiers. The agent has submitted a failed sound insulation test and the assessment relies heavily on mitigation measures and assumes windows will remain closed, which is unrealistic, particularly during warmer weather. The absence of outdoor noise measurements is highlighted, meaning potential impacts on external amenity spaces and internal noise levels with windows open have not been properly assessed.
- As the band room lies outside of the red line boundary, it is questionable as to whether or not the mentioned mitigation measures can be achieved / conditioned?

Officer comment: The submitted sound insulation report has been reviewed by KC Environmental Health who consider the document reasonable and acceptable. The mitigation measures set out to ensure future occupants will be protected from noise are reasonable and would have to be implemented which can be controlled via a condition. As such there are no concerns harmful noise pollution.

- The proposal will have a negative impact of the character of the area.

Officer comment: No external changes are proposed to the building.

Conclusion

The proposed development is therefore considered to not benefit from a general planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in accordance with Part 3, Class MA of Schedule 2 of the Order.

Recommendation: Prior Approval Refused

Decision Authorisation – Delegated Powers

Application Number: 2025/93043

Officer Recommendation: Refuse

Reasons for Refusal:

1. The proposed development would result in the loss of a registered nursery and will have a significant negative impact on the local provision, contrary to MA.2.2.h(i) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	-	-	30/10/2025
Proposed Site Plan	1B	-	21/11/2025
Existing and Proposed North Front Elevation	2B	-	21/11/2025
Existing and Proposed South, East and West Elevations	3A	-	30/10/2025
Existing and Proposed First and Ground Floor Plans	4B	-	21/11/2025
Planning Statement	-	-	30/10/2025
Contamination Risks and How Mitigated	-	-	04/11/2025
Noise Survey LTD	-	-	30/10/2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority has, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application.

No post-submission negotiations or requests for further information were undertaken in the assessment of this prior approval application. The responsibility lies with the applicant to submit all information necessary to

demonstrate that the proposed development meets the qualifying criteria and the prior approval matters can be properly assessed.