

**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.	2026/CL/90155/W
Site Address	I M And A N Sandy Chiropodists, 84, Birkby Lodge Road, Birkby, Huddersfield, HD2 2BL
Description	Prior notification for change of use from commercial/business/service to one dwelling (within a Conservation Area)
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:09-Mar-2026

Officer Report

Reference No. 2026/90155

Site Address: I M And A N Sandy Chiropractors, 84, Birkby Lodge Road, Birkby, Huddersfield, HD2 2BL

Proposal: Prior notification for change of use from commercial/business/service to one dwelling (within a Conservation Area).

Site Description

The application site relates to a detached single storey building and is an existing Class E use, located off of Birkby Lodge Road. The building benefits from a single storey rear garage. An outbuilding is also located to the north of the building.

The site is located within a predominantly residential area, however Huddersfield Private Hospital is located west of the application site.

Description of Proposal

The proposal seeks to confirm that the change of use from commercial/business/service to one dwelling (within a Conservation Area) is permitted development under Class MA of the General Permitted Development Order (2015) (as amended). The proposal would convert the existing building into a 2 bedroom dwelling. No external alterations are proposed.

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

93/04773

Erection of detached garage

Approved 1993

Representations

The application was publicised on the council website and by site notice on the 23rd January 2026.

No representations have been submitted.

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: -

(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

Pass: The business has been in use as a chiropodist (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 2009 due to advertisement boards outside the building.

Pass: The land covered by, or within the curtilage of, the building does not fall within any of the categories labelled from i to v.

Pass: The building is not in any category in Paragraph (e).

41(3) of the Wildlife and Countryside Act 1981(3);
(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;
(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.

Pass: The site is not occupied under any agricultural tenancy.

Pass: The building is not within any land affected by an Article 4 Direction.

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 is considered to be located within a relatively sustainable location with good access to public transport.

The proposal benefits from on-site parking provision, including space within the existing rear garage.

For a two-bedroom dwelling, two on-site parking spaces are required. The site already benefits from an established access, and at least two spaces can be accommodated to the rear—one within the detached garage and another to the side of the building. Accordingly, the development will provide sufficient on-site parking.

It is also noted that the proposed change of use is likely to reduce the level of activity and vehicle movements compared with the existing Class E use. While detailed waste storage arrangements have not been submitted, the site offers ample space to accommodate bin storage, with collection easily facilitated from the site frontage.

On this basis, the proposal is considered acceptable in highway terms.

(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 building is detached and sits within a predominantly residential context. The proposed residential use is therefore considered appropriate for the area, and no adverse noise impacts are anticipated.

Given this context, the proposed residential use is regarded as compatible with neighbouring uses, and any potential noise effects are considered acceptable.

(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 application site is situated within the Birkby Conservation Area and lies in proximity to several Grade II listed buildings. As no external alterations are proposed, the change of use to residential accommodation is considered acceptable. It will not give rise to any visual harm or adversely affect the character, appearance, or significance of the Birkby Conservation Area or nearby listed buildings.

(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 proposed living, kitchen and bedrooms benefit from windows that provide a satisfactory outlook and good levels of daylight. It is considered that the proposal 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) is not considered applicable as the proposal does not involve a registered nursery or a health care centre.

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 1 dwelling 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.

- 2 bedroom 3-4 person dwelling – Total GIA = 52.4 sq metres

The proposed dwelling would not meet the required nationally described space standards (NDSS), falling significantly short of the required 61 – 70 sqm. As such the proposed development is considered to be contrary to Article 3(9A) (B) of the Town and Country Planning (General Permitted Development) (England) Order (as amended)

Representations

No representations have been submitted.

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: 2026/90155

Officer Recommendation: Refuse

Reasons for Refusal:

1. The proposed development would not meet the required nationally described space standards (NDSS), contrary to Article 3(9A) (B) of the Town and Country Planning (General Permitted Development) (England) Order (as amended).

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	-	-	19/01/2026
Proposed Floor Plans	-	-	19/01/2026
Application Form	-	-	20/01/2026

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.