

**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/91215/E**

**Site Address 85b, Marsh Lane, Shepley,  
Huddersfield, HD8 8AP**

**Description Prior notification for change of use  
from commercial/business/service  
to dwelling (within a Conservation  
Area)**

**Recommending Officer Jennifer Booth**

**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.**

John Holmes

***AUTHORISED OFFICER***

**Date:02-Jul-2026**

## **Officer Report**

**Reference No.** 2026/CLASS MA/91215/E

**Site Address:** 85b, Marsh Lane, Shepley, Huddersfield, HD8 8AP

**Proposal:** Prior notification for change of use from commercial/business/service to 1 dwelling (within a Conservation Area).

### **Site Description**

The application site includes a 2 storey detached stone property with open hardstanding to the front, adjacent to the highway, and open garden to the rear. The site is bound by Marsh Lane to the north, dwellings to the east and west. A small track separates the dwelling from properties to the south and west.

The site is within a residential area within Shepley. In general, the houses in the area vary in terms of age and style although are relatively traditional in character, with the main exception being the dwelling subject of this application. The properties located on this side of Marsh Lane are large detached. Number 91 Marsh Lane is a bungalow. The opposite side has more semi-detached and terraced properties located on it.

### **Description of Proposal**

The proposal seeks prior approval for the change of use from a commercial building (Class E) to one dwelling (Class C3) under Class MA of the General Permitted Development Order (2015) (as amended). The proposal would convert the existing building into a one bedroomed dwelling across two storeys. No external alterations are proposed as part of the application.

### **History of Negotiations**

No amendments or additional plans have been sought or received during the course of the application.

### **Relevant Planning History**

- 2015/93692 – demolition of existing building and erection of detached dwelling with associated parking - approved

Other planning history of the site relates to the use of the building, with the most recent being an application approved on 7<sup>th</sup> November 1990 for use as offices (application ref: 90/05440). It appears the site was used for such a purpose when reviewing historical images of the site and as such it is

considered the site benefits from being within a use which falls within Class E of Schedule 2 of the Town and Country Planning (Use Classes) Order 2015 (as amended).

## **Representations**

The application was publicised by site notice, which expired on 19/06/2026. As a result of the above publicity, no representations have been received.

## **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 amended) 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 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:-**

(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	Sub-paragraph (a) has been omitted.
(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;	<b>Pass:</b> The use of the building has been Class E at least over the last two year period.
(c) The cumulative floor space of the existing building changing use under Class MA exceeds 1500 square metres;	Sub-paragraph (c) has been omitted

<p>(d) if land covered by, or within the curtilage of, the building—</p> <p>(i) is or forms part of a site of special scientific interest;</p> <p>(ii) is or forms part of a listed building or land within its curtilage;</p> <p>(iii) is or forms part of a scheduled monument or land within its curtilage;</p> <p>(iv) is or forms part of a safety hazard area; or (v) is or forms part of a military explosives storage area;</p>	<p><b>Pass:</b> 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> <p>(i) an area of outstanding natural beauty;</p> <p>(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(3);</p> <p>(iii) the Broads;</p> <p>(iv) a National Park; or</p> <p>(v) a World Heritage Site;</p>	<p><b>Pass:</b> 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><b>Pass:</b> The site is not occupied under any agricultural tenancy</p>
<p>(g) before 1 August 2022, if—</p> <p>(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</p> <p>(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>	<p><b>Pass:</b> The building is not within any land affected by an Article 4 Direction.</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 application seeking prior approval in accordance with the provisions paragraph W of Part 3.

Amongst other things, Para W requires that the LPA, when determining the application, must have regard to the National Planning Policy Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

### Transport and Highway Impacts

Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application.

The proposal seeks prior notification for the change of use of an existing commercial building to a one bed dwelling. 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, with hardstanding to the front.. 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.

### Contamination Risks

With regard to land quality, paragraphs 187, 196 and 197 of the National Planning Policy Framework are relevant.

The site is not located within an area of potentially contaminated land and all construction works are to be internal. As such, officers have no concerns with regard to contamination risks.

### Flooding Risks

Chapter 14 ('Meeting the challenge of climate change, flooding and coastal change') is relevant.

The site does not fall within a flood risk zone and there are no known flood risks associated with the site. The proposal is therefore considered to be acceptable in this regard.

### Noise Impacts

policies within Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers. Paragraph 198 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

MA.2(2)(d) requires the LPA to assess impacts of noise from commercial premises on the intended occupiers of the development. The building would be altered to residential use and is surrounded by predominately residential

properties. Given this context, the proposed residential use is regarded as compatible with neighbouring uses, and any potential noise impact is concluded to be acceptable.

### Conservation Area

Paragraph 212 of the NPPF states: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation...”*.

This is further supported by paragraphs 213 – 215 of the NPPF, which outline that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this weight should be weighed against the public benefits of the proposal.

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 Shepley Conservation Area. As no external alterations are proposed, the change of use to residential accommodation is considered to have an impact such that no harm is considered to arise.

The proposal is not considered to result in any harm to visual harm or adversely affect the character, appearance, or significance of the Conservation Area or nearby listed buildings. This conclusion is drawn given that the proposal would utilise the existing building and openings and no alterations to the surfacing within the curtilage of the building would be necessary.

### Provision of Natural Light

Policies within Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers.

MA.2(2)(f) requires the provision of adequate natural light to all habitable rooms of the dwellinghouse. The submitted plans confirm that the dwelling would benefit from a number of windows to the north, east and west facing elevations which would serve all habitable rooms. Therefore, it is considered

that the property would receive adequate natural light and as such, would be acceptable with regard to MA.2(2)(f).

### Commercial Impacts

MA.2(2)(g) is not considered applicable as the authority do not consider the surrounding area to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses. Furthermore, the proposal does not result in the loss of a nursery or health care centre and would therefore accord with MA.2(2)(h).

### 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 one 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.

The proposal has been considered against the nationally described space standard which requires that a two-storey, one bedroom dwelling has an internal floor area of 58m<sup>2</sup>. The floor area of the property is approx. 47.84 m<sup>2</sup>. This has been calculated from measurements taken from records held by the Council, in this case the existing plans submitted under the previous application for a new dwelling (2015/93692) due to the fact the plans submitted as part of this application seeking prior approval are indicative and not to scale.

Paragraph W(3) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order sets out that *'the local planning authority may refuse an application where, in the opinion of the authority—*

- (a) the proposed development does not comply with, or*
- (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,*

*any conditions (except for conditions in paragraph MA.2(1)(f)) limitations or restrictions specified in this Part as being applicable to the development in question.'*

The proposal does not satisfactorily demonstrate compliance with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015. Therefore the proposed development could not meet the requirement of Article 3(9A) of the Town and Country Planning (General Permitted Development) (England) Order (as amended).

Refusal on the basis the development would fail to meet the requirements of Article 3(9)A of the Town and Country Planning (General Permitted Development) (England) Order (as amended) is therefore recommended.

### **Representations**

No representations were received following the statutory publicity.

### **Conclusion**

The application has been submitted with sufficient information to allow the Local Authority to assess the above relevant impacts. In this case the development fails to meet the requirements of Article 3(9)A of the Town and Country Planning (General Permitted Development).

### **Recommendation: Details refused**

**Decision Authorisation** – Delegated Powers

**Application Number:** 2026/91215

**Officer Recommendation:** Refuse Details

Article 3(9)A 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 37m<sup>2</sup> or does not meet nationally described space standards issued by the Department of Communities and Local Government on 27th March 2015.

The nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015 requires a two storey one bed dwelling to achieve a floorspace of 58m<sup>2</sup>. The building the subject of this application could only achieve a floorspace of approximately 48m<sup>2</sup> and is thus contrary to the requirement of Article 3(9)A.

**Plans and specifications schedule: -**

<b>Plan Type</b>	<b>Reference</b>	<b>Web ID</b>	<b>Date Received</b>
Location plan	-	1137583	08/05/2026
Proposed site plan	-	1137585	08/05/2026
Floor plans	-	1137587	08/05/2026
Elevations	-	1137588	08/05/2026

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 Planning Authority have, 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. The building cannot provide the requisite floor space to meet the requirements of the relevant permitted development legislation. As such, there are no changes which could be requested which would remain within the scope of the submission.

**Report Dated: 01/07/2026**

**Development within a Coal Mining Area**

**DEVELOPMENT LOW RISK AREA - STANDING ADVICE**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242.

Further information is also available on the Mining Remediation Authority website at: [Mining Remediation Authority - GOV.UK](https://www.mra.gov.uk)

**Digital Infrastructure: Fibre To The Property (FTTP)**

Access to affordable and reliable broadband is necessary for Kirklees' residents, businesses, and visitors to take advantage of the growing digital economy and 'digital by default' services. Fibre optic cables direct to a property (FTTP) is the most reliable way of delivering high speed broadband connectivity and allows for gigabit internet speeds. Access to high quality digital infrastructure provides the foundations for, amongst other things:

- Economic prosperity – workforces that are digitally-literate enables business to thrive.
- Digital literacy – digital literacy and skills increase employability and people can exploit the internet for transactional, social, entertainment and learning purposes.
- New services – digital delivery can lower costs and provide innovative public and health services more conveniently.

It is therefore advised that digital infrastructure, including FTTP, and its benefits for the development be considered from the earliest feasible stage. Methods include working with Internet Service Providers to install digital infrastructure alongside other utilities or providing pre-infrastructure allowing for speedier installation at a later date.

**Note:** The provision of fibre infrastructure is often available from certain telecommunications providers free of charge for development over a certain scale, provided that sufficient notice is given. Notice periods are typically at least 12 months prior to first occupation. In some cases, providers may request a contribution from the developer.

**Note:** Where no telecommunications provider has been secured to provide fibre infrastructure by the time of highway construction, it is advised that additional dedicated telecommunications ducting is incorporated alongside other utilities to enable the efficient and cost effective provision of fibre infrastructure in the future.

