

**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/91970/E

Site Address	10, Commercial Road, Skelmanthorpe, Huddersfield, HD8 9DA
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Description	Prior notification for change of use from commercial/business/service to one dwelling
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Recommending Officer	Elenya Jackson
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DECISION – PRIOR APPROVAL 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:08-Sep-2026

T Officer Report

Reference No. 2026/91970

Site Address: 10, Commercial Road, Skelmanthorpe, Huddersfield, HD8 9DA

Proposal: Prior notification for change of use from commercial/business/service to one dwelling

Site Description

The application relates to 10, Commercial Road, Skelmanthorpe, Huddersfield, HD8 9DA, a 2.5 storey mid-terrace commercial property located in the centre of Skelmanthorpe.

The wider area comprises a combination of residential and commercial properties constructed out of stone. The site is not located near any Public Rights of Way (PROW). However, the site is located 14m East of the Skelmanthorpe conservation area.

Description of Proposal

The proposal seeks to confirm that the change of use of the first floor of a commercial building (Class E) to one dwelling (Class C3) is permitted development under Class MA of the General Permitted Development Order (2015) (as amended). The proposal would convert the top floor of the existing building into a one bedroomed dwelling across one storey.

There are no external alterations proposed to the proposal which would not be required to facilitate the development.

History of Negotiations

N/A

Relevant Planning History

89/07139: Erection of extension to form garage and store and dormer to front. Granted conditionally.

93/02003: CHANGE OF USE OF DINING ROOM OF DWELLING TO SHOP. Conditional full permission.

2018/93666: Discharge condition 5 (CCTV) on previous permission 2017/94368 for change of use from retail to drinking establishment (A4). DCA - DISCHARGE OF CONDITION(S) APPROVED

2018/93169: installation of cellar cooling system and air conditioning. Conditional full permission.

2017/94368: Change of use from retail to drinking establishment (A4).
Conditional full permission.

Representations

The application was publicised by site notice, which expired on 20th August 2026. As a result of the above publicity, one representations have been received.

- Abandonment of Use.
- National Described Space Standards.
- natural daylight.
- It fails to provide any details on the Impact of noise from the existing commercial premises below.
- Highways safety

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.

Officers consider that the current use of the site is a drinking establishment established via planning permission 2017/94368 and therefore the site has an established use falling within the Sui Generis use class. As the site is not within a class E use, the site is unable to accord with Schedule 2 Part 3 Class MA (As inserted 2021) of the General Permitted Development Order 2015.

However, for completeness, officers will assess the proposal against the remaining criteria.

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;	Pass: There is no formal evidence that the second floor of the site has not been in associated use had the use of the building been within a use specified by MA.1(2).
(c) The cumulative floor space of the existing building changing use under Class MA exceeds 1500 square metres;	Sub-paragraph (c) has been omitted
(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;	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.
(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(3); (iii) the Broads; (iv) a National Park; or (v) a World Heritage Site;	Pass: The building is not in any category in Paragraph (e).
(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;	Pass: The site is not occupied under any agricultural tenancy
(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	Pass: The building is not within any land affected by an Article 4 Direction.

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.	
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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.

Transport and Highway Impacts

The proposal seeks prior notification for the change of use of an existing commercial building to one dwelling, which would intensify the use of the site to include a domestic use on site. The site is considered to be located within a relatively sustainable location with good access to public transport.

It is considered that conditions would be required relating to the storage and collection of waste on the site to ensure waste storage is appropriate.

Contamination Risks

The site is located within 250m of a former landfill site and is requesting confirmation for the site to become a residential property which is a more vulnerable use. However, as no groundworks are proposed, it would be recommended that an unexpected contaminated land condition is imposed should the site receive prior approval.

Flooding Risks

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

Noise Impacts

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 enclosed by commercial properties. Given this context, officers would require the submission of a noise impact assessment and additional insulation methods secured on site should the site receive prior approval.

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 not located in a conservation area.

Provision of Natural Light

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 Government's Space Standards for dwellings which suggest that a single-storey, one bedroom dwelling for two persons should have an internal floor area of 50m² and for one person should have 37m². The proposed floor plans confirm that dwelling would have an internal floor space of 40m², which would be acceptable for a one person dwelling but unacceptable for two persons.

The proposed plans also show a study which officers consider has the potential to be used as an additional bedroom; however, as the proposal is unacceptable in principle due to failing to meet Schedule 2 Part 3 Class MA (As inserted 2021) of The General Permitted Development Order 2015 officers are not seeking clarification of this matter.

Representations

One representation was received which raises the following concerns:

- Abandonment of Use

Officer comments: Officers consider that there is no evidence to demonstrate that the existing use has been abandoned. However the proposal does not accord with Schedule 2 Part 3 Class MA (As inserted 2021) of The General

Permitted Development Order 2015 so officers are not seeking clarification of this matter.

- National Described Space Standards.

Officer comments: Officers consider that the proposal would accord with minimum space standards.

- natural daylight

Officer comments: Officers consider that all habitable rooms have a window which is sufficient for the requirements of this procedure.

- It fails to provide any details on the Impact of noise from the existing commercial premises below.

Officer comments: Officers consider that the proposal can be considered to protect the future users of the site.

- Highways safety

Officer comments: Officers have consulted with KC Highways who have not raised any objections subject to conditions.

Conclusion

The application has been submitted with sufficient information to allow the Local Authority to assess the above relevant impacts which are discussed within the above report. However the proposal as submitted is not acceptable by reason that the submitted details fail to accord with the provisions of Schedule 2, Part 3, Class MA of the General Permitted Development Order 2015 as the unit is a drinking establishment which does not fall within a class E use as it is a sui generis use.

Recommendation: Prior approval refused.

Decision Authorisation – Delegated Powers

Application Number: 2026/90875

Officer Recommendation: Approve Details

The proposal as submitted is not acceptable by reason that the submitted details fail to accord with the provisions of Schedule 2, Part 3, Class MA of the General Permitted Development Order 2015 as the unit is a drinking establishment which does not fall within a class E use as it is a sui generis use.

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	03	-	15/07/2026
Proposed plans	02	-	15/07/2026
Existing plans	01	-	15/07/2026

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. Officers did not request alterations to the proposal due to a full planning application being required.

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.

