

Wilbury Planning

**Prior Approval for the change of use of first, second, and third floor levels
from offices (Class E) to 6no. flats (Class C3)**

Norwood House, 9 Dyke Road, Brighton BN1 3FE



Supporting Statement prepared by Wilbury Planning Ltd

Applicant: DTA Property Holdings Ltd

20 December 2023

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1.0 Introduction

1.1 This Supporting Statement accompanies a Prior Approval which seeks consent for the following:

- *“Change of use of first, second and third floor levels from offices (Class E) to 6no. flats (Class C3).”*

1.2 The Prior Approval seeks consent from Brighton & Hove City Council that the works described are lawful and constitute permitted development complying with the requirements of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended).

1.3 The site is Norwood House, 9 Dyke Road, Brighton BN1 3FE. The Prior Approval is made on behalf of the applicant, DTA Property Holdings Ltd.

1.4 The Prior Approval is accompanied by the following documents:

Document	Reference
Prior Approval Application Form	20 December 2023
CIL Form 1: Additional CIL Questions	20 December 2023
Supporting Statement	20 December 2023
Noise Assessment	12354A V1 Final
Site Location & Block Plan	3006-00
Existing Basement Plan & Existing Ground Floor Plan	3006-01
Existing First Floor Plan & Existing Second Floor Plan	3006-02
Existing Third Floor Plan & Existing Roof Plan	3006-03
Existing Front Elevation & Existing Side Elevation	3006-04
Existing Rear Elevation & Existing Side Elevation	3006-05
Proposed Basement Plan & Proposed Ground Floor Plan	3006-06
Proposed First Floor Plan & Proposed Second Floor Plan	3006-07

Proposed Third Floor Plan & Proposed Roof Plan	3006-08
Proposed Front Elevation & Proposed Side Elevation	3006-09
Proposed Rear Elevation & Proposed Side Elevation	3006-10
Section A-A	3006-11
Acoustic Mitigation Details	3006-T1
Acoustic Mitigation Details	3006-T2

2.0 Site Description

2.1 Norwood House, 9 Dyke Road comprises a four-storey building with basement level.

2.2 Under the Town and Country Planning (Use Classes) Order (1987) (as amended), the existing lawful use of each floor of the building comprises the following:

Floor Level	Existing Lawful Use
Basement	Ancillary Commercial use (Class E)
Ground Floor	Commercial use (Class E)
First Floor	Office use (Class E)
Second Floor	Office use (Class E)
Third Floor	Office use (Class E)

2.3 The first, second, and third floor levels of the building had been occupied as offices for a continuous period between March 2010 and March 2020, a period of 10-years.

2.4 Norwood House, 9 Dyke Road is not located within a Conservation Area and does not comprise a Listed Building.

Non-Immediate Article 4 Direction

2.5 On 19 January 2022 Brighton & Hove City Council made a “*non-immediate*” Article 4 Direction which seeks to withdraw the permitted development rights under Class MA of the GPDO. The Article 4 Direction was subject to public consultation between 31 January 2022 and 14 March 2022.

2.6 Following the public consultation, it was decided that the Article 4 Direction would be enacted from 10 February 2023. However, the Secretary of State since modified the Article 4 Direction area that was original proposed by the Council.

2.7 Norwood House, 9 Dyke Road is located outside the modified Article 4 Direction area and as such permitted developments can still be used for the change of use of the existing office space at ground floor level to residential use (Class C3) under Class MA of the GPDO.

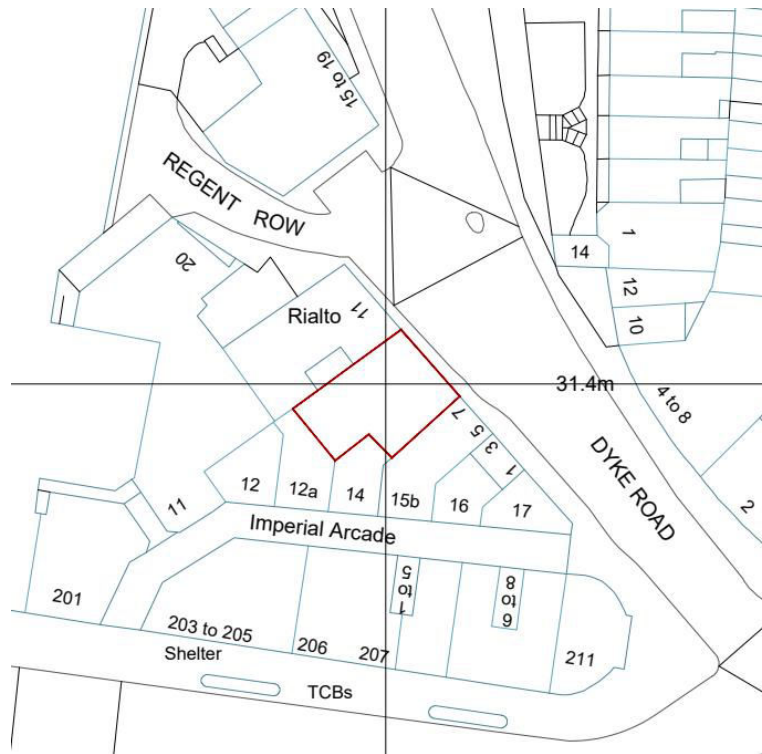


Figure 1: Site Location Plan (3006-00).



Figure 2: The location of Norwood House, 9 Dyke Road in relation to the modified Article 4 Direction Area. The site is denoted by the red star.

3.0 Planning History

3.1 The planning history associated with the site is contained within the table below:

Reference	Description	Decision
BH2010/03280	Change of use on ground floor from retail (A1) to office (B1).	Granted 02.02.2011

3.2 It is confirmed that the permitted development rights associated with Norwood House, 9 Dyke Road remain intact.

3.3 The planning history associated with the adjoining building, 11 Dyke Road, is contained within the table below:

Reference	Description	Decision
BH2014/03473	Change of use from nightclub (Sui Generis) to theatre (Sui Generis) for temporary period of 3 years.	Granted 07.12.2015

3.4 The planning application (BH2014/03473 refers) was granted planning permission on a temporary basis and until 30 November 2018. Therefore, since the determination of this planning application, the lawful use of 11 Dyke Road has reverted back to a music venue.

4.0 **Description of Development**

4.1 This Prior Approval seeks the change of use of the first, second and third floor levels from retail use (Class E) to 6no. dwellinghouses (Class C3).

4.2 The 6no. dwellinghouses (Class C3) would be provided on the first, second and third floor levels of the building. The existing pedestrian access into the building from Dyke Road would be retained.

4.3 The change of use to provide 6no. flats (Class C3) would not result in any external changes or alterations to the fabric of the building as shown on the submitted drawings.

4.4 The unit mix including the gross internal area (GIA) of each flat is contained within the table below:

Unit	Unit Form	Gross Internal Area (GIA) (sqm)
1	1B 1P	45.35
2	2B 3P	62.25
3	1B 1P	45.35
4	2B 3P	62.25
5	1B 1P	47.29
6	1B 1P	49.45

4.5 The GIA of each flat meets the technical housing standards- nationally described space standard (March 2015).

4.6 The basement and ground floor would be retained as existing.

5.0 Assessment against Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended)

5.1 Schedule 2, Part 3, Class MA of the GPDO permits the following:

- *“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 (dwellinghouse) of Schedule 1 to that Order.”*

5.2 In order to assess the Prior Approval against the requirements found within Schedule 2, Part 3, Class MA of the GPDO, each requirement is listed below, with compliance provided in **green** text.

5.3 Under Schedule 2, Part 3, Class MA of the GPDO, 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.

- The offices (Class E) at first, second and third floor levels of the building have been vacant since 01 March 2020 and thus for a continuous period of more than 3 months immediately prior to the submission of this Prior Approval.

b) Unless the use of the building fell within Class E of the Use Classes Order for a continuous period of at least 2 years prior to the date of the application for Prior Approval.

- The first, second and third floor levels of the building were used as office space for under (Class E) of the Town and Country Planning (Use Classes) Order 1987 (as amended). This office use of the building commenced in March 2010, and this continued continuously until 01 March 2020.
- Therefore, it is confirmed that the use of first floor to third floor levels of the building that are subject to this Prior Approval fell within (Class E) for a continuous period of at least 2 years prior to the date of the application for Prior Approval.

c) If the cumulative floorspace of the existing building change use under Class MA exceeds 1,500sqm.

- The cumulative floorspace of the building to change use under Class MA would be below the 1,500sqm threshold.

d) If land covered by, or within the curtilage of, the building is or forms part of a site of special scientific interest (SSSI), a Listed Building or land within its curtilage, a scheduled monument or land within its curtilage, a safety hazard area, or a military explosives storage area.

- The building is not located within an SSSI, does not comprise a Listed Building, a scheduled monument, a safety hazard area, or military explosives storage area. This requirement of Schedule 2, Part 3, Class MA of the GPDO is non-applicable.

e) If the building is within an Area of Outstanding Natural Beauty (AONB), an area specific for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, the broads, a National Park, or a World Heritage Site.

- The building is not located within the AONB, an area specific for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, the broads, a National Park or a World Heritage Site. This requirement of Schedule 2, Part 3, Class MA of the GPDO is non-applicable.

f) If the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained.

- The site is not occupied under an agricultural tenancy. This requirement of Schedule 2, Part 3, Class MA of the GPDO is non-applicable.

g) Before 01 August 2022, if the proposed development is of a description within Class O of this Part as that Class had effect immediately before 1st August 2021, and 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.

- This Prior Approval is being submitted after 01 August 2022, and therefore this requirement of Schedule 2, Part 3, Class MA of the GPDO is non-applicable.

Conditions of Schedule 2, Part 3, Class MA of the GPDO

5.4 Before beginning of 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 would be required as to:

a) Transport impacts of the development, particularly to ensure safe site access

- The building is located within a highly sustainable location and within easy walking distance from a wide range of local amenities and services found within the Central Brighton Area.
- Churchill Square is located in close proximity to the site which comprises several bus stops with excellent connections to the wider locality and beyond. Brighton Train Station is also located within walking distance to the north-east.
- The highly sustainable location of the site, coupled with the public transport links to the wider locality means that the future occupants of the 6no. flats would not be solely dependent on the use of the private car.
- In view of the above, it is demonstrated that there would be no undue impact on the local road network as a result of the change of use.

b) Contamination risks in relation to the building.

- The lawful use of the first, second and third floor levels is as office use (Class E), and the site is located within a well-established mixed commercial and residential area.
- It is therefore highly unlikely that there are any contamination risks associated with the building and its curtilage.

c) Flooding risks in relation to the building.

- The site is located within Flood Zone 1 as designated by the Environment Agency. Flood Zone 1 comprises the lowest flood risk zone.

- The change of use from an office use (Class E) to 6no. dwellinghouses (Class C3) would not result in any increased built form and the proposal would not therefore increase the risk of flooding elsewhere within the immediate or wider locality.
- d) Impacts of noise from commercial premises on the intended occupiers of the development.
- Norwood House, 9 Dyke Road is located in proximity to other commercial premises, including 11 Dyke Road that adjoins the site to the north-west.
 - A Noise Assessment (12354A V1 Final), prepared by Phlorum Limited, accompanies this Prior Approval.
 - Noise data was collected from within Norwood House, 9 Dyke Road over a 48-hour period. Based on this data, the Noise Assessment confirms that to successfully mitigate against noise from 11 Dyke Road and other external noise, the following glazing specification would be necessary:
 - Front Elevation- Sound reduction performance of R_{TRA} 32 dB.
 - Rear Elevation- Sound reduction performance of R_{TRA} 20 dB (this is already provided by the existing glazing).
 - Side Elevations- Sound reduction performance of R_{TRA} 27 dB.
 - Appropriate noise mitigation to the existing windows would be achieved based on the retention of the existing window glazing, and adding a secondary internal glazing layer. As such no external alterations would be required to provide the necessary noise mitigation.
 - With specific reference to the music venue at 11 Dyke Road, the Noise Assessment confirmed that there was a prominent bass beat transmitted into 9 Dyke Road via the party wall and this corresponds with the measured 20 dB increase in the 63Hz third octave band at ground floor level within 9 Dyke Road when the band was playing.
 - To reduce the structureborne noise & vibration via the party wall to within acceptable levels for residential dwellings all habitable rooms would be isolated from the existing structure. This requires a design such that each individual room would require the following:

- Isolated floating floor.
 - Walls built off the floating floor and isolated from the surrounding structure.
 - Isolated ceilings.
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- The proposed room isolation details have been provided within this Prior Approval and incorporated within the submitted drawings.
 - The Noise Assessment concludes that with the appropriate detailed acoustic design measures (i.e. the secondary internal glazing to the existing windows plus the room isolation details) ensures that noise would not pose a constraint to the proposed residential use.
 - The necessary noise mitigation has been incorporated within this Prior Approval and which would not result in any external changes to the fabric or appearance of the building.
- e) Where the building is located in a Conservation Area and 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. Therefore, this condition of Schedule 2, Part 3, Class MA of the GPDO is non-applicable
- f) The provision of adequate natural light in all habitable rooms of the dwellinghouse.
- The submitted drawings show that all existing window openings would be retained throughout the first, second and third floor levels of the building. These existing windows would provide adequate natural light to all habitable rooms for all 6no. flats.
- 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.

- The site is located within a well-established mixed commercial and residential area of Central Brighton. The immediate and wider locality does not comprise an important area of general or heavy industry, waste management, or storage and distribution.

- h) Where the development involves the loss of a registered nursery or health centre, the impact on the local provision of the type of services lost.

- The existing lawful use of the first floor to third floor levels is as offices (Class E) and not a registered nursery or health centre. This condition of Schedule 2, Part 3, class MA of the GPDO is non-applicable.

6.0 Conclusion

- 6.1 This Prior Approval seeks consent from Brighton & Hove City Council that the proposed change of use at first, second, and third floor levels from offices (Class E) to 6no. flats (Class C3) is lawful and constitutes permitted development complying with the requirements of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended).
- 6.2 This Supporting Statement demonstrates that the proposed development satisfies the criteria as set out in Schedule 2, Part 3, Class MA of the General Permitted Development (England) Order (GPDO) 2015 (as amended).
- 6.3 It is therefore considered that the proposed change of use of the first floor, second and third floor levels from offices (Class E) to 6no. dwellinghouses (Class C3) constitutes permitted development, and this Prior Approval can be issued by Brighton & Hove City Council without delay.
- 6.4 The site is Norwood House, 9 Dyke Road, Brighton BN1 3FE. The Prior Approval is made on behalf of the applicant, DTA Property Holdings Ltd.