

**Prior Approval for the change of use of ground floor level from offices (Class E) to 2no. flats (Class C3)**

**26a St Martins Place, Brighton BN2 3LE**



**Supporting Statement prepared by Wilbury Planning Ltd**

**Applicant: J Cooper, C M Ralphs & K Cooper**

**06 November 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 ground floor level from offices (Class E) to 2no. 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 26a St Martins Place, Brighton BN2 3LE. The Prior Approval is made on behalf of the applicants, J Cooper, C M Ralphs, & K Cooper.

1.4 The Prior Approval is accompanied by the following documents:

<b>Document</b>	<b>Reference</b>
Prior Approval Application Form	06 November 2023
CIL Form 1: Additional CIL Questions	06 November 2023
Supporting Statement	06 November 2022
Design & Access Statement	October 2023
Location & Site Plan	(08)02 P1
Ground Floor Plans Existing & Proposed	(08)20 P1
Elevations Existing & Proposed	(08)21 P1

## **2.0 Site Description**

- 2.1 26a St Martins Place comprises a four-storey building.
- 2.2 The lawful use of the ground floor falls under (Class E) of the Town and Country Planning (Use Classes) Order (1987) (as amended), and the upper floors fall under a lawful residential use (Class C3) as per the schedule below:

<b>Floor Level</b>	<b>Existing Lawful Use</b>
Ground Floor	Office use (Class E)
First Floor	Residential use (Class C3)
Second Floor	Residential use (Class C3)
Third Floor	Residential use (Class C3)

- 2.3 The office use at ground floor level was occupied for a continuous period between February 2016 and June 2020. Since June 2020, the office use has been vacant.
- 2.4 26a St Martins Place 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 decided to modify the Article 4 Direction area that was original proposed by the Council.
- 2.7 26a St Martins Place 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.

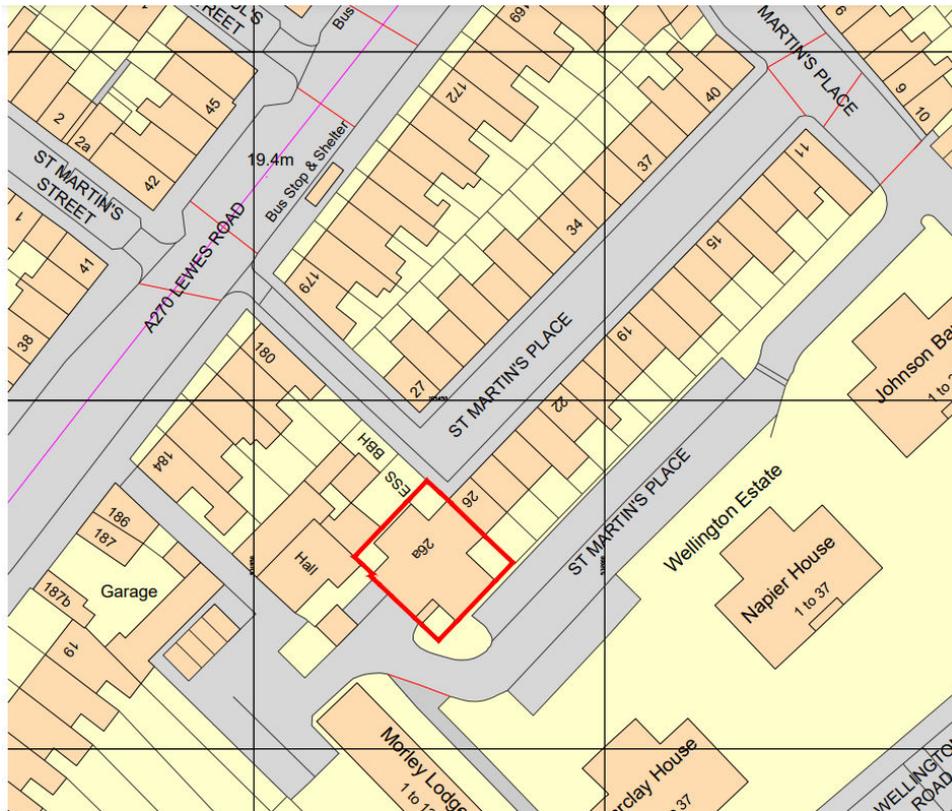


Figure 1: Location & Site Plan ((08)02 P1).

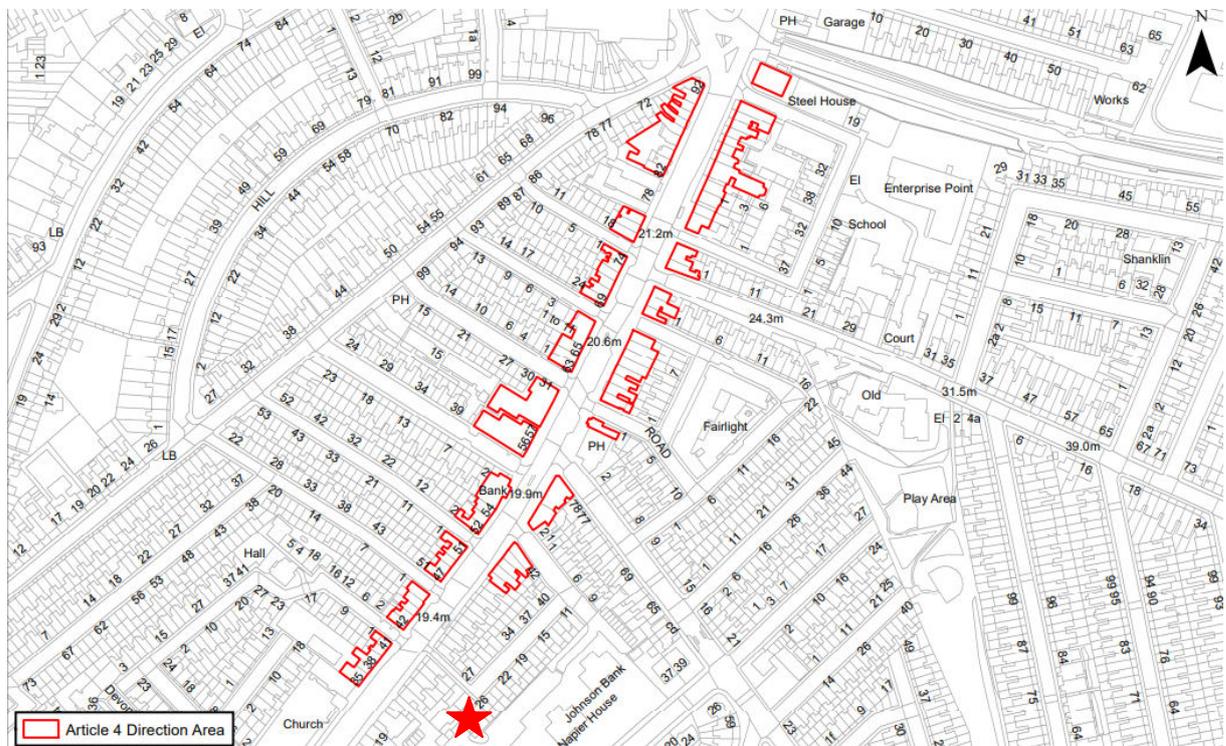


Figure 2: Part of the modified Article 4 direction Area.  
26a St Martins Place is denoted by the red star.

### 3.0 Planning History

3.1 The planning history associated with 26a St Martins Place is contained within the table below:

Reference	Description	Decision
BH2011/01776	Erection of four storey building to replace existing garage comprising of office accommodation on ground floor, 2no one bedroom flats and 3no two bedroom flats on upper floors incorporating terraces, bicycle parking and associated works.	Refused 23.08.2011
BH2012/02631	Erection of four storey building to replace existing garage comprising of office accommodation on ground floor, 2no one bedroom flats and 3no two bedroom flats on upper floors incorporating terraces, bicycle parking and associated works.	Refused 05.02.2013 Appeal Allowed
BH2015/01143	Application for Approval of Details Reserved by Conditions 4, 8, 9, 11 and 13 of application BH2012/0263.	Split Decision 23.09.2015
BH2015/02734	Application for approval of details reserved by conditions 5 and 7 of application BH2012/02631.	Granted 29.09.2015
BH2015/02988	Application for variation of condition 6 of application BH2012/02631 allowed on appeal (Erection of four storey building to replace existing garage comprising of office accommodation on ground floor, 2no one bedroom flats and 3no two bedroom flats on upper floors incorporating terraces, bicycle parking and associated works) to state that prior to first occupation of the development, details of sustainability measures to reduce the	Granted 26.10.2015

	energy and water consumption of the development shall have been submitted to and approved in writing by the Local Planning Authority. Removal of condition 11 that states that none of the non-residential development shall be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall "Very Good" has been submitted to and approved in writing by the Local Planning Authority.	
BH2015/04412	Application for Approval of Details Reserved by Condition 6 of application BH2015/02988.	Granted 24.12.2015
BH2016/00840	Application for Approval of Details Reserved by Condition 10 of application BH2012/02631.	Granted 11.04.2016

3.2 A review of the planning history confirms that the permitted development rights associated with 26a St Martins Place remain intact.

#### 4.0 **Description of Development**

4.1 The Prior Approval seeks the change of use of the ground floor level from offices (Class E) to 2no. flats (Class C3).

4.2 The 2no. flats (Class C3) will be provided at ground floor level of the building. The change of use to provide 2no. flats (Class C3) will not result in any external changes or alterations to the external fabric of the building as shown on the submitted drawings.

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

<b>Unit</b>	<b>Unit Form</b>	<b>Gross Internal Area (GIA) (sqm)</b>
1	1B 2P	57.7
2	2B 4P	75

4.4 The GIA of both flats meet the technical housing standards- nationally described space standard (March 2015).



**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 ground floor level have been vacant since June 2020 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 previous occupancy of the office use commenced in February 2016, and this continued on a continuous basis until June 2020.
- Therefore, it is confirmed that the use at ground floor level of the building that is 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 132.7sqm. This is well 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

- 26a St Martins Place is located within a highly sustainable location and within easy walking distance from a wide range of local amenities and services found within the locality.
- There are also several bus stops within proximity to the site which offer public transport routes to the wider locality and beyond.
- The highly sustainable location of the site, coupled with the public transport links to the wider locality means that the future occupants of the 2no. 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 ground floor level is as office use (Class E), and the site is located within a predominantly 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 a office use (Class E) to 2no. dwellinghouses (Class C3) would not result in any increased built form and the proposal will 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.
- The Brighton Bike Hub is located directly to the north-east of the site. However, the nature of this premises is not considered to be significantly detrimental in terms of noise. This is given that the locality is already predominantly a residential area.
- 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. A planning application has recently been submitted to the Council for the proposed insertion of 1no. high-level window within the southwest elevation, and insertion of 1no. fixed glazed window within the existing flat roof within eastern part of the building.
  - These additional window openings would improve the natural light to the habitable rooms associated with this Prior Approval.
- 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 predominantly residential area. There are no areas of general or heavy industry, waste management, storage and distribution or a mix of such uses near to the site.
- h) Where the development involves the loss of a registered nursery, the impact on the local provision of the type of services lost.

- The existing lawful use of the ground floor level is as offices (Class E) and not a registered nursery. This condition of Schedule 2, Part 3, class MA of the GPDO is non-applicable.

## **6.0 Conclusion**

- 6.1 It has been demonstrated 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).
- 6.2 It is therefore considered that the proposed change of use of the ground floor level from offices (Class E) to 2no. flats (Class C3) constitutes permitted development, and the Prior Approval can be issued by Brighton & Hove City Council without delay.