

# Planning Statement

for:

Prior notification application (Part 3, Class MA) for change of use of first, second and third floors from Commercial, Business and Service (Class E) to create 3 x 1-bed, 4 x 2-bed and 2 x 3-bed self-contained flats (use class C3 - Residential)

at:

Chiltern House  
184 High Street  
Berkhamsted  
HP4 3AP

March 2024

**dmh**  
**planning**  
[info@dmhplanning.co.uk](mailto:info@dmhplanning.co.uk)  
[www.dmhplanning.co.uk](http://www.dmhplanning.co.uk)

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**Site:**

Chiltern House, 184 High Street, Berkhamsted, Hertfordshire, HP4 3AP

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**Applicant:**

Sorbon Estates Limited

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**Document revisions**

No:	Details:	Date:
DH/CH/2	Prior Notification Submission	March 2024



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[www.dmhplanning.co.uk](http://www.dmhplanning.co.uk)

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## 1.0 Introduction

- 1.1 This Statement accompanies a Prior Notification submission for change of use of the first, second and third floors of Chiltern House from Commercial, Business and Service (Class E) to create 3 x 1-bed, 4 x 2-bed and 2 x 3-bed self-contained flats (use class C3 - Residential).
- 1.2 The application property is a commercial building with an access located on the ground floor, which is completely separate to the retail uses located on the ground floor.
- 1.3 A stairwell and lift lead up to office units located at the first, second and third floors of the building.
- 1.4 The building is located on the northern side of Berkhamsted High Street. To the rear of the site is the Water Lane Car Park. An alleyway runs underneath the office units connecting the High Street to the car park.
- 1.5 The application site is located within the Berkhamsted Conservation Area, but is not a Listed Building.

## 2.0 Planning Analysis

*Class MA - commercial, business and service uses to dwellinghouses*

*Permitted 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.***

**Development not permitted**

**MA.1.–(1) 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;

**Following the most recent updates to the legislation on 5<sup>th</sup> March 2024, this point is no longer applicable and has been removed from the legislation.**

(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;

**This has been met.**

(c)if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

**Following the most recent updates to the legislation on 5<sup>th</sup> March 2024, this point is no longer applicable and has been removed from the legislation.**

- (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 41(3) of the Wildlife and Countryside Act 1981(1);
  - (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; or
- (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.

**The land covered by, or within the curtilage of, the building does not fall within or form part of any of the aforementioned points.**

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

- (a)the following classes of the Schedule as it had effect before 1st September 2020—
  - (i)Class A1 (shops);
  - (ii)Class A2 (financial and professional services);
  - (iii)Class A3 (food and drink);
  - (iv)Class B1 (business);
  - (v)Class D1(a) (non-residential institutions - medical or health services);
  - (vi)Class D1(b) (non-residential institutions - crèche, day nursery or day centre);
  - (vii)Class D2(e) (assembly and leisure - indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;
- (b)on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

**The use of the property falls within this list.**

## Conditions

**MA.2.**—(1) Development under Class MA is permitted subject to the following conditions.

(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;

**The conversion is proposed without any parking for the residential flats. The building is located within a sustainable location with access to modes of public transport include train services and bus routes within easy walking distance of the application site.**

**The sustainable location of the flats without any parking provision would not present any severe highway impacts in comparison to existing use on site.**

(b) contamination risks in relation to the building;

**The site is not at risk from contamination and the works are only proposed conversion works. There are no ground works proposed and therefore the conversion would be suitable for residential purposes.**

(c) flooding risks in relation to the building;

**The site not located in an area at risk from flooding and would still be suitable for residential purposes.**

(d) impacts of noise from commercial premises on the intended occupiers of the development;

**The application site is located in area where there is a precedent set for residential properties on the upper floors of commercial units or adjacent to them. The application site is located above some commercial units. There is no considered harm from noise on the proposed residential properties.**

(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;

**There is no proposed change of use of the ground floor. The entrance door to the stairs leading up to the upper floors would remain the same and would not impact on the character of the area, wider setting or sustainability of the Conservation Area as it would not result in the loss of any shop frontages facing out into the Conservation Area.**

(f)the provision of adequate natural light in all habitable rooms of the dwellinghouses;

**All flats, and in particular the habitable rooms, will have access to natural light due to the arrangement of the flats and the extensive amount of existing fenestration that benefits the building.**

(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;

**This is not applicable to this site.**

(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(2), the impact on the local provision of the type of services lost; and

**This is not applicable to this site.**

(i)where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

**This is observed.**

(3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

**This is not applicable.**

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if—

(a) for paragraph (e) of sub-paragraph (2) there were substituted—

“(e) where—

(i) sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;

(ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,”;

(b) in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”;

(c) after sub-paragraph (6) there were inserted—

“(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”;

(d) in sub-paragraph (7) for “(5) and (6)” there were substituted “(5), (6) and (6A)”;

**This is acknowledged.**

(5) Development must be completed within a period of 3 years starting with the prior approval date.

**This is acknowledged.**

(6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.”

**This is acknowledged.**



**MA.3.** Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

- (a) contain two or more dwellinghouses; and
- (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**This is acknowledged.**

dmh  
planning  
[info@dmhplanning.co.uk](mailto:info@dmhplanning.co.uk)  
[www.dmhplanning.co.uk](http://www.dmhplanning.co.uk)