

Delegated Report

Planning Ref: 26/00383/P3CMA

Applicant: Tony Deakin

Ward: Newbold Verdon with Desford and Peckleton

Site: 69 Mill Lane, Newbold Verdon



Proposal: Notification to determine if prior approval is required for the change of use from a health (physiotherapy) clinic (Use Class E) to a 2-bedroom, single-floor dwelling house (Use Class C3).

1. Recommendations

1.1. Refuse prior approval subject to:

- Reasons outlined at the end of this report

2. Planning application description

- 2.1. This is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of a health clinic (Class E) to the provision of a 2-bedroom single floor dwellinghouse (Class C3).
- 2.2. The development does not involve any extensions or the addition of a first floor. Internal works will comprise minor re-configuration to provide two bedrooms (including one en-suite), an enlarged kitchen and improved utility space. The main entrance will be repositioned from the front to the north side elevation.
- 2.3. Externally, alterations will include the installation of a new kitchen window on the principal elevation and patio doors serving each bedroom on the rear elevation. As a result of these changes, the existing fire exit door will be sealed/brick infilled. There are no proposed changes to site boundaries.

3. Description of the site and surrounding area

- 3.1. The application site is situated within the settlement boundary of Newbold Verdon and comprises an existing physiotherapy business.
- 3.2. The business is located at the northwest section of Mill Lane, Newbold Verdon. The property in question is a small, single-storey detached structure which is sited forward of both adjacent properties. It features a simple dual-pitched roof finished in brown tiles and a mix of materials, including light-coloured render to its side elevations and brown brickwork and stone detailing to its principal elevation. The property is bounded by a low brick wall in front of soft vegetation and its rear space is severed by a timber fence and metal gate. The wider area is typified by two-storey dwellings which differ in scale and design.

4. Relevant planning history

23/01112/FUL

- Change of use from a place of worship (Class F1) to a private medical (physiotherapy) practice (Class E(e))
- Permitted
- 24.07.2024

91/00871/4

- Extension and alterations to kingdom hall
- Permitted
- 19.11.1991

79/01141/4M

- Alterations and extensions to dwelling
- Permitted
- 07.08.1979

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. Following the publication, no representations have been received.

6. Consultation

6.1. HBBC Drainage:

'Advice to Applicant:

According to the Environment Agency (EA) website, the application site is located within Flood Zone 1, designated as low probability of flooding from rivers and sea, and the principle of development in low flood risk areas is acceptable. The EA Surface Water mapping also indicates that the application site is located in an area at very low risk of flooding from surface water.

There are no objection to the proposals on sustainable drainage Grounds.'

6.2. LCC Highways:

'Substantive Response provided in accordance with article 22(5) of The Town and Country Planning (Development Management Procedure) (England) Order 2015:

The Local Highway Authority refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011.

It is noted that no parking is provided and typically two parking spaces should be provided for a two bed dwelling. However, the proposals are likely to result in a reduction in demand for on-street parking in comparison to the existing situation, therefore the LHA raise no objection in these site specific circumstances.

Given the parking shortfall the LHA welcome the provision of cycle parking facilities which should be secure, enjoy good natural observation, be well lit and weather protected.'

6.3. HBBC Environmental Services:

'No objection'

7. Policy

- 7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class MA
- 7.2. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2024)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The main considerations in respect of this application are whether the proposed change of use meets the criteria for permitted development of Class MA of the Town

and Country Planning (General Permitted Development) Order 2015, which relates to 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) Schedule 2 to that Order.

MA.1. – (1) Development is not permitted by Class MA –

- (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;*

The use of the building has fallen under sub-paragraph (2) (b) Class E (commercial, business and service) for a continuous period not exceeding 2 years prior to the date of application. The Class E use was established on 24th July 2024 under permission 23/01112/FUL. Development is therefore not permitted under Class MA.

- (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;*

The land covered by, or within the curtilage of the building does not form a part of any of the specified areas.

- (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;*
- (iii) *the Broads;*
- (iv) *a National Park; or*
- (v) *a World Heritage Site;*

The site is not within any of these specified areas.

- (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*

The site is not occupied under an 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 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 site has never been permitted by Class O.

- (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);
 - (vi) Class D1(a) (non-residential institutions – medical or health services);
 - (vii) 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.

See consideration of condition (b) above.

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

There are no proposed changes to the existing access arrangements at the site.

In accordance with Table 28 of the LHDG, a dwelling serving up to three bedrooms should have a minimum of two parking spaces, however no on-street parking is proposed with the application. Given the likely reduction in on-street parking demand the LHA raises no objections.

- (b) contamination risks in relation to the building;

The site is not on contaminated land, nor does the site have any historical uses which would have resulted to any type of contamination as described in 2A of the Environmental Protection Act 1990.

- (c) flooding risks in relation to the building;

According to the Environment Agency (EA) website, part of the application site is located within Flood Zone 1. Notwithstanding the above, there are no additional groundworks or extensions proposed that may increase this risk.

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

The LPA have reviewed the scheme and do not consider the noise impacts to be detrimental. The use is not considered to generate excessive levels of noise.

Prior to its occupation as a worship hall, the building was originally a residential dwelling.

- (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;

The building is not located within a Conservation Area.

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

There is existing natural light serving all habitable rooms via a series of windows located along both side elevations of the property. As part of the proposed development, two new patio door units will be installed to serve the proposed bedrooms, providing additional sources of natural light. Whilst the kitchen is already served by existing windows, a further window is proposed at the principal elevation to allow further natural light to enter this space. It is therefore considered the scheme provides adequate windows and natural light into each habitable room within the dwelling.

- (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;*

These uses are not prevalent in this location and as such would not impact upon prospective occupiers.

- (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*

The development does not involve the loss of services provided by a registered nursery or a health centre maintained under Section 2 or 3 of the National Health Service Act 2006, given that it is operated as a private Physiotherapy practice.

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

The development meets the fire risk condition of article 9A because the building is not 18m or higher and does not contain 7 storeys or more as required by The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021.

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

The application was submitted in 2026.

- (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)”;*

No comment from planning officer necessary.

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

No comment from planning officer necessary.

(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*

The building is to remain in use as a dwellinghouses within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose.

Interpretation of Class MA

MA.3. – (1) 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

The development meets the fire risk condition referred to in paragraph MA.2(2)(i)

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The application does not meet the conditions of Class MA of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the building did not fall 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. It is considered that the application is therefore not acceptable and is contrary to the conditions and the provision of Paragraph W of the General Permitted Development Order (2015) (as amended).

11. Recommendation

- 11.1 **Refuse prior approval** subject to:

- Reasons outlined at the end of this report

11.2 Reason/s

1. The proposed development fails to comply with the requirements of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as the Local Planning Authority is not satisfied that the building has been in a qualifying use for a continuous period of at least two years prior to the application date. Evidence shows the lawful use only fell within Class E (commercial, business and service) from 24th July 2024, following permission 23/01112/FUL, and therefore the required two-year period of continuous use has not been met. As such, the proposal does not benefit from permitted development rights under Class MA and prior approval is refused.

11.3 Notes to applicant

1. This application has been assessed and determined with reference to the submitted documentation below:
 - Proposed Floor Plan – received by the Local Planning Authority on 5.5.26
 - Site Location Plan – received by the Local Planning Authority on 5.5.26
 - Proposed Elevations – received by the Local Planning Authority on 24.4.26
 - Application Form – received by the Local Planning Authority on 24.4.26