

Officer Report

Application No.	25/1146/FH/PA
Site Address	Ground Floor Business Premises, 11 Earls Avenue, Folkestone, CT20 2HW
Officer Name	Helena Payne
Proposal	Determination as to whether the prior approval of the Local Planning Authority is required under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a change of use from commercial, business and service (Use Class E) to dwellinghouses (Use Class C3).

Recommendation

Report Number	RD-438566
Recommended Decision	Recommended to be Prior approval not required
Recommendation Date	15 October 2025

Report

SITE

11 Earls Avenue is a detached three-storey Victorian/Regency property situated on the corner of Earls Avenue and Sandgate Road. It sits back from the roadside, with vehicle access from Earls Avenue and a parking area to the front.

The wider site is currently occupied by Chiropody and Podiatry clinic and private medical hub. A dental practice formally operated from the ground floor for a number of years prior to these uses taking occupancy. The upper floors are in residential use.

RELEVANT HISTORY

21/0534/FH – Lawful development certificate (existing) for the continued use of the ground floor premises as 4 surgery rooms, 4 classrooms, two storage rooms/prep rooms, and a toilet. Lawful

PROPOSAL

This application seeks to determine whether the prior approval of the Local Planning Authority is required under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a change of use from commercial, business and service (Use Class E) to dwellinghouses (Use Class C3). This relates to the ground floor only.

CONSULTATION RESPONSES

Folkestone Town Council: No objection
Environmental Health: No objection.
KCC Highways: Outside of consultation protocol.

REPRESENTATIONS

None.

PUBLICITY

The application was publicised in accordance with the regulations.

RELEVANT POLICIES

The relevant considerations are set out within Class MA of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended):

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.

Para. MA.1. sets out that development is not permitted unless the property falls within certain specified use classes, or if the site is within certain designated locations (SSSI, scheduled monument, listed building, national landscape, etc.)

Para. MA.2. sets out that development is permitted subject to certain conditions: listed at MA.2.(2):

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;
- (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; and
- (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 200657, 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.

Para. MA.2. also sets out that the provisions of para. W apply.

APPRAISAL

Whether permitted development

The application states that the ground floor has been vacant since May 2025. However, based on the previous Lawful Development Certificate and press coverage, operations as a dental surgery ceased in 2017.

It is noted that No. 11a Earls Avenue and the lower ground floor of No. 11 Earls Avenue are currently occupied by a private medical clinic and podiatry practice.

Planning history for the ground floor includes a Lawful Development Certificate (ref: 21/0534/FH), which confirmed continuous use of the premises as a dental practice for at least 10 years up to 2017. The officer's assessment at the time (2021) referenced temporary use by an independent school, which occurred during renovations at the main school site. This was a short-term arrangement, did not benefit from planning permission and is not considered the lawful use of the premises. Evidence from the current officer site visit confirms that no educational activities are presently taking place.

The lawful use of the ground floor is therefore as a dental practice which is a class E use.

The proposal seeks to convert the ground floor of No. 11 Earls Avenue, which was in use as a medical premises within Class E. In respect of MA.2(2)(e), the building is located within a Conservation Area, but is not subject to any other listed designations.

As such, the conversion proposed is considered permitted development under Class MA.

The need for prior approval

As above, para. MA.2 sets out the matters for the Council to consider in terms of whether prior approval is required:

(a) *transport*: the site is within a sustainable urban location with good access to a variety of transport modes. Ample off-road parking is currently available to the front of the site. Prior approval is not required in this regard.

(b) *contamination*: the Council's contamination consultant was not consulted, however given the nature of the outgoing use, which is not one associated with potential contamination issues, no concerns are raised.

(c) *flooding*: the site is not within any designated flood risk zones and therefore not considered at risk of flooding.

(d) *noise from commercial uses*: the site is within a predominantly residential setting and there are existing residential uses above the existing commercial use. There is no expected loss of amenities to nearby residential premises. The lower ground floor medical use and foot clinic use at no 11a would not present amenity concerns.

(e) *impact on conservation areas*: the site is within the conservation area but will not affect the external appearance of the building, or the character of the conservation area. The property does not have a bin store, currently (bins serving upper floor flats located to the front of the premises), and the proposal would not result in the introduction of additional bins onto the street where there were none before. This form of collection is common in this part of the town, with refuse sacks placed out for collection on a specific day.

(f) *natural light*: all rooms would be adequately served with natural light.

(g) *amenity impacts arising from nearby industrial uses*: the site is not within an industrial area.

(h) *impacts from loss of nursery or health services*: The former dental practice closed some years ago (2017) and the impact of its loss no longer relevant. The ground floor of no 11 Earls Avenue is vacant. The current use of no 11a Earls Avenue by Folkestone Foot clinic would not be impacted by the development. The private medical centre occupies the lower ground floor and would not be affected.

(i) *fire safety*: the building does not exceed the thresholds.

Conclusions

The nationally described space standards (2015) (as amended) apply to Class MA applications. The proposed one-bedroom apartment would meet the internal floor space requirements for the size of unit proposal as set out in the proposal section of this report. The application is therefore considered acceptable in this regard.

The requirements of MA.2. (2) – applying to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the transport impacts, contamination risks, flooding risks, noise impacts, impact on conservation areas, natural light provision and fire safety of the development (the relevant issues) – have been met by making this application.

HUMAN RIGHTS

I have also considered the human rights issues relevant to this application. In my view, the Appraisal section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

PUBLIC SECTOR EQUALITY DUTY

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

DUTY TO COOPERATE

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service and, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance the application was acceptable as submitted.

RECOMMENDATION

Having assessed the application it is considered that, based on the information submitted, the requirements of Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) have been met.

Suggested Informatives (1)

1

The proposed conversion of the ground floor into one 2-bedroomed flat, as identified on the following plans and particulars, constitutes permitted development under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended):

- Location Plan, received 03 August 2025
- Location and Existing Block Plan – Drawing No. 25046DP-PP-S-(13) 01 Rev, received 26 August 2025.
- Existing & Proposed Ground Floor Plan – Drawing No. 25046DP-PP-E-(01) 01

Rev, received 26 August 2025

- Existing & Proposed Elevations – Drawing No. 2504DP-PP-E-(02) 01 Rev, RECEIVED 26 August 2025.
- Prior Approval Statement, received 26 August 2025.