

CASE OFFICER'S DELEGATED REPORT

APPLICATION REFERENCE:	PL/2026/01864
APPLICATION TYPE:	Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses
SITE ADDRESS:	34-36 Warminster Road, Westbury, Wiltshire, BA13 3PE
DEVELOPMENT DESCRIPTION:	Class MA: Change of use from Commercial, business and service uses to dwellinghouses (2 x 1 bed flats)
RECOMMENDATION:	That Planning Permission be GRANTED

PROPOSAL

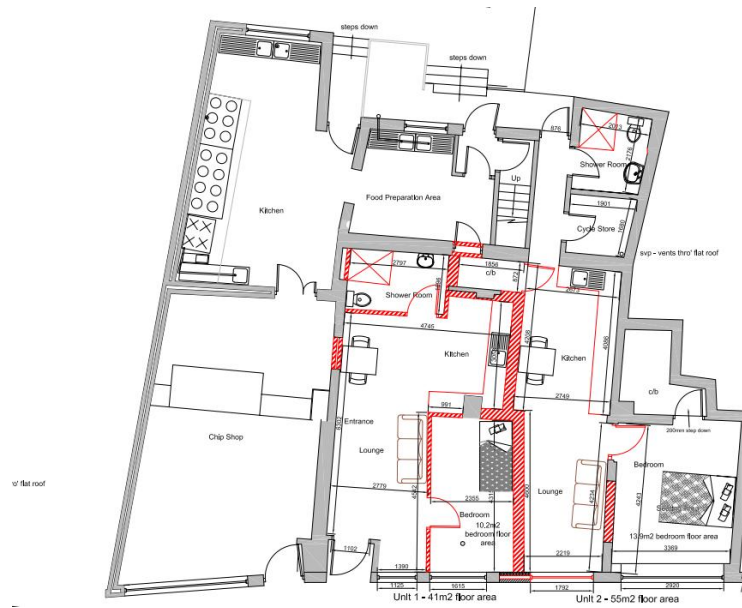
This prior notification application is submitted pursuant to Class MA of Schedule 2, Part 3, of The Town and Country Planning (General Permitted Development etc.) (England) Order 2015 (as amended) in respect of a part conversion of the ground floor, of a premises in use as Class E(b) Commercial use, to two residential flats.

The site comprises the ground floor of a two-storey building at 34-36 Warminster Road in Westbury. The site lies within the town centre fronting the public highway. The property lies just outside the Westbury Conservation Area which covers the historic core of the town. The application site falls within the recreational impact zone of the Salisbury Plain Special Protection Area for birds and is the Bath and Bradford on Avon Special Area of Conservation for bats as well as the grey, hatched zone of the Trowbridge and Westbury Bat Mitigation Strategy (TWBMS).

The submitted application form indicates that the ground floor of the building is currently in use as a fish and chip shop and a Chinese restaurant, falling within Class E (b) of the use class order. The remaining part of the ground floor that will not be converted will remain in use as a fish and chip shop.

The legislation states that no external changes to subject buildings are permitted under Class MA of Schedule 2, Part 3, of The Town and Country Planning (General Permitted Development etc.) (England) Order 2015 (as amended). The original plans proposed the reduction in size of one of the windows on the front elevation. Revised plans were received 12.06.2026 that confirmed that the only external changes proposed would be the removal of the business signage.

A statement was also submitted 12.06.2026 confirming the proposed gross internal floor space satisfies the legislation for residential conversion required by the Nationally Described Space Standard.



Proposed ground floor plan

The only external alteration proposed is the removal of the existing business signage to the front elevation of the host building, shown below.



Front (southeast) elevation



Rear (northwest) elevation

PLANNING HISTORY

W/75/00165/HIS Ground floor shop extension and first floor dwelling extension - Approved

W/84/00445/FUL Change of use to Chinese take-away and restaurant – Approved with conditions

W/84/01077/FUL Alterations and additions to shop and dwelling – Approved

W/86/00967/FUL Alteration of approved opening hours of fish and chip shop and restaurant to 9.00-24.00 Monday-Saturday and 9.00-23.00 Sunday - Refused

W/86/01418/FUL Alteration of approved opening hours for chinees restaurant from 9.00-23.00 hrs on Sunday – Approved with conditions

W/88/00616/FUL Extension to kitchen - Approved

W/90/00694/FUL New cold room – Approved

W/09/02199/FUL First floor extension over existing chip shop and changes to extract system - Approved with conditions

POLICIES AND LEGISLATION:

The primary consideration in the determination of this application is whether the proposed development conforms to the requirements and limitations of Schedule 2, Part 3, Class MA of the GPDO.

Subject to satisfying a number of conditions and restrictions, Class MA of the GPDO permits the change of use of buildings used for commercial, business and service uses to dwellinghouses where the proposed development consists 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"*.

Class MA of the GPDO continues, setting out a series of restrictions listed in MA.1 1(a)-(g) and 2(a)- (b) and conditions in MA.2 (1)-(6).

The 'Procedure for applications for prior approval under Part 3' section of the GPDO (Part 3 W) states in W.10b that when determining an application for prior approval, regard must be given to the National Planning Policy Framework (the NPPF) *"so far as relevant to the subject matter of the prior approval, as if the application were a planning application"*.

Regard should also be given to the relevant paragraphs of the Planning Practice Guidance (PPG).

CONSULTATION RESPONSES

Westbury Town Council: No objection

Wiltshire Council Highways: No objection

Wiltshire Council Public Protection: No objection following submission of a noise assessment report

REPRESENTATIONS

No comments were received.

ASSESSMENT PLANNING CONSIDERATIONS AND ASSESSMENT

The proposals set out in the submitted plans have been assessed against the requirements of Class MA of the GPDO below, including revisions to the GDPO dated 27/01/2026.

Assessment against the Requirements and Limitations of MA.1:

In considering Part 3, Class MA of the GPDO (as amended) the Local Planning Authority (LPA) must assess the proposal against the necessary criteria and limitations.

Development is not permitted by Class MA unless the following relevant criteria and limitations can be met:

(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

Subparagraph (2) referred to in MA.1b specifies the following classes:

(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

The completed application form, and site visit, confirms that the use of the building falls within one of the above uses for a number of years prior to the application. There is no evidence to suggest that this is not the case.

(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 subject site is not located within or covered by any land listed under MA.1(d) subparagraph i) to v) as listed above.

(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 subject building is not sited within any of the above listed designations.

(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.

(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 application was submitted after this date and no direction restricting permitted development rights have been issued in this particular area.

Assessment against the Conditions listed in MA.2:

The proposal has been assessed against the conditions listed in MA.2 of Class MA. MA.2. (1) permits development under Class MA subject to satisfying the conditions specified in (2)-(6), which have been assessed in turn below. MA.2. (2) is clear that before the development under Class MA can begin, a developer must apply to the local planning authority for it be determined whether prior approval would be required and this application therefore seeks determination as to whether the prior approval is required in respect of the following matters:

(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 2006,

the impact on the local provision of the type of services lost

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

MA.2. (2)(a) - The site is located in the centre of Westbury close to public transport links, amenities and employment opportunities that the occupiers may require. There is an existing large public car park to the southwest of the host building, and season tickets are available for local residents.

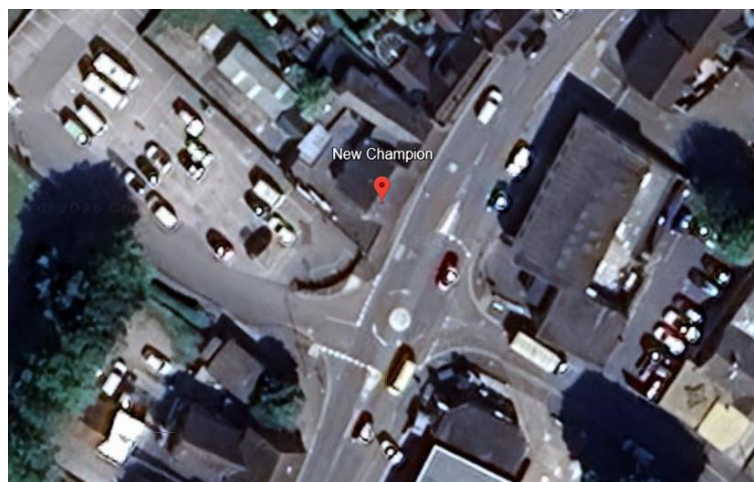
The Highways Officer was consulted on the scheme and commented as follows

'I note the proposed change of use of the existing restaurant area to form two, 1-bedroom dwellings. The residential units would not have any designated car parking provision, however, nor does the existing restaurant area, which would also generate parking demand. The local highway is subject to waiting restrictions and there is a public car park adjacent to the site. Therefore, I recommend that no Highway objection is raised'

MA.2. (2)(b) - The subject site is located within an established residential area, and the Public Protection Officer has raised no objection or concerns in relation to contamination. As such, there are not considered to be any contamination risks associated with the building and is satisfied.

MA.2. (2)(c) - The site is located in Flood Zone 1, and the site is not indicated to be at risk of surface water flooding.

MA.2. (2)(d) - This proposal is seeking to convert part of the commercial premises into residential use, with part of the ground floor remaining in commercial use. Existing businesses are present within the terraced row and also on the opposite side of the public highway. A petrol filling station is also present on the opposite side of the roundabout that is located to the immediate south of the premises.



Google Earth snip illustrating the building layouts within the vicinity

The Council's Public Protection officer was consulted on the proposal and raised no objection in regard to any contaminated land, however concerns were raised in relation to potential noise disturbance as set out below

'The proposed development involves the conversion of an existing restaurant seating area to two residential flats, located directly adjacent to an operational takeaway and fronting a road. This proposal has the potential to introduce noise sensitive receptors in close proximity to established noise sources, including customer activity, food preparation, kitchen extraction equipment, delivery and waste activities associated with the takeaway, as well as road traffic noise from a busy highway'

An acoustic assessment was subsequently submitted on 12.05.2026 on the request of the Public Protection officer, who following its submission confirmed the following:

'We have reviewed the submitted Noise Impact Assessment and are satisfied that, subject to the implementation of the recommended mitigation measures, an acceptable level of residential amenity can be achieved for the proposed dwellings. On this basis, we raise no objection to the proposed change of use. We recommend that a suitably worded condition is attached to any permission to secure the implementation of all noise mitigation measures as detailed within the submitted assessment'

The proposed new residential units would meet the required gross internal floor areas, of at least 37m², required by the Nationally Described Space Standard.

MA.2. (2)(e)(i)-(ii) - The subject building is located just outside the Westbury Conservation Area therefore this criterion is not applicable to this proposal.

The proposal seeks to convert part of the existing ground floor office into two residential flats, and the proposed conversion of the existing Chinese restaurant to residential use will ensure an active use of the ground floor. No major changes to the external appearance of the building are proposed, the works are limited to the removal of the existing restaurant signage from the front elevation of the building.

MA.2. (2)(f) - The submitted plans indicate the provision of adequate natural light into the main habitable rooms of the proposed flats within the retention of the existing openings on the southeast elevation.

MA.2. (2)(g) - The area is not considered to be important for general or heavy industry, waste management, storage and distribution or a mix of such uses, so is unlikely to impact the future occupiers of the dwelling.

MA.2. (2)(h)(i)-(ii) - The proposal would not result in the loss of a registered nursery or health centre, so would not result in an impact on the local provision of such serves.

MA.2.(2)(i) and the fire risk conditions specified in MA.3 - This proposal would result in the creation of two residential properties but would 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, as the proposal would not exceed 18m in height and would not contain more than 7 storeys. It would comply with the requirements of technical housing standards for 1 bed, 1 person accommodation.

MA.2(3) and MA.2(4) are not applicable to this proposal.

MA.2(5)-(6) must be complied with following the issuing of any decision.

CONCLUSION & RECOMMENDATION:

The Prior Notification process permits only specific elements to be considered. As detailed above it is considered that all relevant points have been appropriately addressed.

Based on the submitted information, it is considered that the proposal would comply with the permitted development rights for the change of use to residential specified in Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and that Prior Approval should be granted subject to the standard GPDO conditions.