

PLANNING STATEMENT

**OTTERS COURT
BUXTON**

JUNE 2026

Site Address:

Otters Court, Hardwick Square South, Buxton, SK17 6QA

Applicant:

Amos Group

Proposal:

Prior Approval for change of use from offices to 14no. apartments
(Class MA Permitted Development)

Planning Statement:

Date Issued: 1st June 2026

Job Reference: RDP/2026/047

Report Prepared By:

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1 Introduction

- 1.1 Rob Duncan Planning Consultancy Ltd. has been instructed by the Amos Group to seek prior approval for the change of use of an existing retail premises and an adjacent office premises at Otters Court, Hardwick Square South, Buxton, to form a total of 14no. residential apartments.
- 1.2 The application is submitted pursuant to the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended) which allows for the change of use of a building and any land within its curtilage from a use falling within Use Class E (Commercial, Business & Service) to a use falling within Use Class C3 (Dwellinghouses).
- 1.3 The northernmost of the two buildings comprises of a retail use, formerly known as the 'Bargain Store'. That retail use occupies the ground floor of the premises and has ancillary storage at first floor level. Prior to becoming a retail unit, the building was used for light industrial purposes with ancillary offices by the former owners of the site, Otters Controls. The application proposes the change of use of part of the ground floor of this retail premises to form 3no. residential apartments, with a further 7no. apartments to be formed at first floor level. All of the apartments are designed to meet the Nationally Described Spaced Standard (NDSS).
- 1.4 The southernmost of the two building comprises of offices, having previously been used for an extended period for such purposes by the previous owners of the site, Otters Controls. The application proposes the change of use of the ground and first floors of that building to form 4no. residential apartments. Each apartment will have its own open plan living / kitchen area, with Unit 1 having two bedrooms, Unit 2 having one bedroom, Unit 3 having two

bedrooms apartment and Unit 4 having three bedrooms. All of the apartments are designed to meet the Nationally Described Spaced Standard (NDSS).

- 1.5 This application should be read in conjunction with the full application that has been submitted concurrent to this prior approval submission, which proposes external alterations to the ground floor of the northernmost building, along with the formation of an undercover car park within part of the ground floor, as well as the insertion of rooflights into the roofslope of the southernmost building.

2 Site Description

- 2.1 The application site lies within Buxton Town Centre and comprises two buildings that lie opposite one another. The northernmost building comprises a two storey structure constructed from coursed stone to its lower elevations, with vertical timber cladding to its upper elevations. The building occupies a relatively discreet position to the east of Market Street, tucked in behind nos. 1, 1A and 3. The building also lies to the south / southeast of nos. 3 – 10 Concert Place. Glimpses of the building are afforded from Concert Place.
- 2.2 The southernmost building lies on the opposite side of the wide passageway that separates the two buildings and is constructed from coursed stone. The building occupies a discreet position to the east of Market Street, tucked in behind nos. 5 and 7. A passageway runs to the south of the building, beyond which lie the rear gardens of properties in South Avenue.
- 2.3 Neither building benefits from any designated off-street car parking, but pedestrian access is available onto Market Street to the west. The buildings are not statutorily listed, nor are there any listed buildings located in the immediate vicinity of the site, the closest being New Inn, 2 and 3 Market Place which is located some 30 metres to the north of the site on the opposite side of Concert Place.
- 2.4 The site is however located within the Buxton Central Conservation Area and the Buxton / Hardwick Central Extension Conservation Area - the boundary of abuts up to the eastern boundary of the northernmost building, and cuts through the middle of the southernmost building. The two buildings form part of a wider housing allocation as set out within the adopted Local Plan (Policy B6) which identifies the potential for 30no. dwellings to be delivered in this general area,

3 Permitted Development

3.1 Class MA of Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended) confirms that development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E1 (Commercial, Business and Service) to a use falling within Class C3 (dwellinghouses) is permitted development, subject to adherence to a number of specific criteria, which are considered in turn below.

3.2 Class MA.1 of the Order confirms that development is not permitted...

(a) This criterion was deleted by SI 2024 No.141

(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

(c) This criterion was deleted by SI 2024 No.141

(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*
- (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.*

3.3 The submitted proposal meets the above criteria in that:

- (a) Criterion no longer applicable
- (b) The northernmost building has been used for retail purposes (Use Class E) for approximately 3-4 years and prior to that was utilised for light industrial purposes (Use Class E). The southernmost building was used for an extensive period as offices associated with Otters Controls, well beyond the required period of 2 years (Use Class E).
- (c) Criterion no longer applicable.

- (d) The site does not form part of a SSSI (i), does not comprise a listed building (ii), is not a scheduled ancient monument (iii), does not lie within a safety hazard area (iv), nor does it form part of a military explosives area (v).
- (e) The building is not located within an AONB (i), nor within an area specified under the Wildlife and Countryside Act 1981 (ii). The site is furthermore not within The Broads (iii), a National Park (iv) or a World Heritage Site (v).
- (f) The site is not, and has not, been occupied under an agricultural tenancy
- (g) The proposed development has been submitted after 1st August 2022 so this criterion is not relevant and there is no Article 4 direction in place in any event.

3.4 The submitted proposal consequently qualifies for Class MA Permitted Development subject to the conditions discussed overleaf.

4 Conditions

4.1 Part MA.2 of the Order confirms that 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 2006

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.*

Transport Impacts

- 4.2 The existing buildings currently comprises of a retail unit (northernmost unit) and offices (southernmost unit). Neither building has any designated off-street car parking serving it. The site does nevertheless occupy a highly sustainable location within the town centre, and within easy walking and cycling distance of the full range of day-to-day services, facilities and public transport connections available therein. Such matters are considered in detail within the accompanying Transport Assessment.
- 4.3 The Transport Statement has assessed the transport impacts of the proposed development and concludes that the proposal would result in just two additional vehicle movements in the PM peak and thus will not have a material impact on the local highway network. The Transport Statement concludes overall that there are no inherent highway safety concerns arising from the proposals and that no severe residual impacts will arise.
- 4.4 Notwithstanding the conclusions set out within the Transport Statement, we also draw attention to the concurrent full application that has been submitted alongside this prior approval application. That application proposes the change of use of the remainder of the ground floor area of the northernmost building to provide undercover parking for 8no. vehicles. That parking area will be served via the existing site access serving the adjacent car park and dwellings off Hardwick Square South to the northeast of the dwelling. Whilst the level of car parking falls short of the adopted car parking standards it will still represent a betterment to highway safety by providing off-street parking in circumstances where none currently exist. The proposal therefore derives no conflict with criterion MA.2(2)(a) of the Order.

Contamination

- 4.5 The existing buildings are currently used for retail purposes and as offices. Prior to that the northernmost building was used for light manufacturing. None of those uses would normally be expected to give rise to concerns about contamination and the proposal entails no changes to the floor slab of the buildings in any event. As a consequence the proposal derives no conflict with criterion MA.2(2)(b) of the Order.

Flood Risk

- 4.6 A review of the Environment Agency Flood Risk Map for Planning confirms that the site lies wholly within the Flood Zone 1 (Low Probability of Flooding). The Environment Agency Surface Water Flood Map also shows that the site is not at risk of surface water flooding. The proposed development consequently derives no conflict with criterion MA.2(2)(c) of the Order.

Noise Impacts

- 4.7 The surrounding area to the west of the site on Market Street comprises of small retail units with residential accommodation above. The premises to the north/northwest of the northernmost building, off Concert Place, also comprise of small retail units a restaurant, and the Buxton Conservative Club. To the south of the site lies residential development. None of those uses are considered likely to generate any noise disturbance to future occupants of the apartments, and the proposed development therefore derives no issues In respect of criterion MA.2(2)(d)

Conservation Area Impact

- 4.8 The application site is located within the Buxton Central Conservation Area, and the Buxton Hardwick / Central Extension Conservation Area. The prior approval application will not derive any impact to the character of the Conservation Area, as the surrounding area is already characterised by a

mixture of residential and commercial uses. The cessation of the office use in favour of residential use will furthermore improve the sustainability of the Conservation Area by generating additional footfall within the area in the evenings and make beneficial reuse of otherwise vacant buildings. The proposed development consequently derives no conflict with criterion MA.2(2)(e) of the Order.

Natural Light

- 4.9 All of the apartments at first floor in the northernmost building will benefit from natural light from the existing first floor openings, with all principal rooms having their own window. The apartments at ground floor level will also be served by new openings which are the subject of a concurrent full planning application. Those works will ensure that the ground floor apartments will also benefit from adequate natural light.
- 4.10 Likewise, apartments 1, 2 and 4 in the southernmost building will benefit from natural light from the existing openings at ground floor and first floor, with all principal rooms having their own window. The bedrooms to apartment 4 will be served by rooflights that are to be provided within the roof of the building, flooding those rooms with natural light.
- 4.11 The imposition of a negatively worded planning condition can be imposed to require the works proposed in the full application to be undertaken before any works to implement the Class MA development are undertaken. We draw attention in this regard to the appeal decision enclosed as Appendix A which relates to this very issue. The Local Authority in that case had refused a Class O (offices to residential) prior approval application on the basis that the accommodation would not have been provided with adequate natural light.

- 4.12 The Planning Inspector concluded that the prior approval scheme in itself would not have provided adequate natural light, but acknowledged that the appellant had secured, via a separate full application, consent for the provision of new openings to serve the dwellinghouses. In allowing the appeal the Planning Inspector noted the provisions of paragraph W(13) of the Order, and concluded that:

*“... it would be permissible for a condition to be imposed in relation to the provision of natural light in all the habitable rooms of the dwellinghouses and for the **prior approval not to take effect until this provision had been fully met.** I also deem that such a condition would be reasonably related to the subject matter of the prior approval and would therefore satisfy the criteria in paragraph W(13). (our emphasis)*

- 4.13 The Planning Inspector went on to conclude that:

*“It is necessary to attach a condition requiring that the use granted under this prior approval **shall not commence until the operational development approved under planning permission 210885 is complete and thereafter retained.** This is to ensure that all habitable rooms are provided with adequate natural light to accord with the requirements of Part O. **I am satisfied that such a condition is relevant to the development to be permitted, suitably precise, and would meet all six tests of conditions that are outlined at Paragraph 56 of the Framework.**” (our emphasis)*

- 4.14 In light of the above we submit that the imposition of a suitably worded planning condition can be utilised to ensure that the Class MA approval is not commenced until the external works to the building as proposed within the

concurrent full application have been undertaken. In doing so the proposal will derive no conflict with the provisions of criterion MA.2(2)(f) of the Order.

Impact of Industrial Uses

- 4.15 There are no heavy industrial, waste management or storage and distribution uses located within close proximity of this site, and as such future occupiers of the proposed apartments will not be adversely affected. The proposal therefore derives no issues in respect of criterion MA.2(2)(g) of the Order.

Loss of Nursery / Health Centre

- 4.16 The proposal does not involve the loss of a children's nursery or health centre and thus derives no issues in respect of criterion MA.2(2)(h) of the Order.

Fire Risk

- 4.17 Part MA.3 confirms that development meets the fire risk condition if the development relates to a building which will contain two or more dwellinghouses, and which exceeds 18 metres in height (or 7 storeys). The two application buildings will provide a total of 14no. apartments, but both fall substantially below the height threshold for requiring a fire risk assessment (two storeys max). The proposal therefore derives no issues in respect of criterion MA.2(2)(i).

5 Conclusion

- 5.1 Having regard to the Planning Assessment above, the Local Authority is respectfully requested to confirm that their prior approval is not required in respect of the planning matters identified within part MA.2 of the Order and confirm that the submitted proposal amounts to Permitted Development under the provisions of Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).