

DELEGATED DECISION REPORT

DET/2026/0012
Valid 01/06/2026

**BUXTON STORE AND
OFFICE BUILDING
OTTERS OLE MARKET
STREET
BUXTON**

**APPLICATION TO DETERMINE
IF PRIOR APPROVAL IS
REQUIRED FOR A
PROPOSED: CHANGE OF USE
FROM COMMERCIAL,
BUSINESS AND SERVICE
(USE CLASS E) TO 14
DWELLINGHOUSES (USE
CLASS C3)**

**(NOTIFICATION - CHANGE OF
USE PRIOR APPROVAL)**

MAIN ISSUES

- Whether the development complies with Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

DESCRIPTION OF SITE

The application site relates to two separate, two-storey/part single storey buildings. The buildings are located within the built-up area of Buxton, within the 'Buxton Central' Conservation Area. The 'Buxton Hardwick/Central' Conservation Area extension also intersects the site.

It is understood that the two buildings were previously used as a retail store and offices. However, it is also understood that the site has also been used historically for the manufacturing of electronic components/thermostats.

The northern building is two storey, whilst the southern building is part two storey and part single storey.

The site falls within the Nutrient Neutrality SSSI Catchment.

PROPOSAL

This application seeks to convert two commercial/business premises into residential apartments under the Prior Approval Notification process under Schedule 2, Part 3, Class MA of the General Permitted Development Order (GPDO).

The application submission details that the northern building currently comprises an area for retail sales at ground floor, with ancillary storage at first floor level. It is proposed to convert part of the ground floor in to 3 self-contained apartments, and

convert all of the first floor in to 7 self-contained apartments. The remainder of the ground floor is proposed to be converted to parking under a separate Full planning application (Ref: HPK/2026/0200).

The southern building is detailed as currently comprising offices across both ground and first floors. The proposal under this application seeks to convert the whole of the ground floor into 3 self-contained apartments, and the first floor into 1 self-contained apartment.

The overall proposal under this Class MA application therefore seeks to create 14 self-contained apartments across the two buildings.

No external works are proposed as part of this application. However there is currently a pending application which seeks full planning permission to undertake external alterations to both buildings, and to deliver vehicle parking in part of the ground floor of the northern building (Ref: HPK/2026/0200). The works proposed under the full application are required to be implemented in order for the proposal under this Class MA to meet the relevant criterion, which will be assessed below.

The Council acknowledge the appeal decision submitted by the applicant, and how the Inspector in that particular case determined the Class O appeal by linking the application to an already approved full permission for external works.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

There is a significant amount of site history applicable to the two buildings and wider site, comprising of commercial and residential development, as follows:

HPK/0000/7042 - Change Of Use - Residential To Offices/workshops With Minor Alterations - Approved.

HPK/0000/8871 - Temporary Additional Canteen For Use Of Factory Staff - Approved.

HPK/0001/1106 - Proposed Rebuilding Existing Building To Same Dimensions To Provide Extension To Existing Adjacent Sales Office And Canteen - Approved.

HPK/0001/1709 - Proposed Temporary Additional Canteen - Approved.

HPK/0002/0614 - Engineering Block - Approved 16/04/1984.

HPK/0002/2239 - Proposed Yard Enclosure - Approved 12/11/1984.

HPK/0002/2523 - Factory Maintenance Department. (light Industrial Use) - Approved 18/02/1985.

HPK/0002/6799 - Demolition Of Existing Storage Building And Erection Of New Production Electronics Facility - Approved 19/09/1988.

HPK/0003/4000 - Overcladding Of Existing Defective Roof - Withdrawn 01/05/1995.

HPK/2006/0588 - Residential Development For More Than 30 Units - Approved 26/10/2006.

HPK/2007/0677 - Demolition Of Industrial Units And Ancillary Accommodation, Conversion Of Existing Offices And Redevelopment Of The Site To Provide 75 Dwellings, Communal Open Space, Car Parking And Means Of Access - Refused 26/11/2007.

HPK/2007/0679 - Variation Of Condition 11 On Outline Application Hpk/2006/0588 - Refused 18/12/2007.

HPK/2007/0744 - Conservation Area Consent : Demolition Of Industrial Units And Ancillary Accommodation, Conversion Of Existing Offices And Re-development Of The Site To Provide 75 Dwellings, Communal Open Space, Car Parking And Means Of Access - Refused 06/12/2007.

HPK/2008/0139 - Change Of Use From Stores To Two Apartments - Approved 08/05/2008.

HPK/2008/0466 - Conservation Area Consent For Demolition Of Buildings - Approved (Conservation Area Consent) - 29/08/2008.

HPK/2008/0467 - Redevelopment Comprising Residential Accommodation With Care And Associated Facilities And Highway Improvements To Market Street - Approved 08/10/2008.

HPK/2011/0388 - Application To Replace Extant Planning Permission Hpk/2008/0467 For C2 Residential Accommodation With Care & Associated Facilities & Highway Improvement - Approved 25/10/2011.

HPK/2011/0463 - Application To Replace Extant Planning Permission Hpk/2008/0466 For Conservation Area Consent To Demolish Existing Buildings - Approved (Conservation Area Consent) 25/10/2011.

HPK/2019/0314 - Application for external alterations to existing buildings (referred to as Block A and Townhouses), including retention of existing external alterations, partial demolition of rear part of 3-5 Concert Place, formation of parking and circulation areas, associated hard and soft landscaping and bin storage facilities - Approved 23/12/2019.

DOC/2020/0007 - Discharge of conditions 3, 4 and 6 relating to HPK/2019/0314 - Conditions Discharged.

HPK/2020/0015 - Proposed single storey extensions to existing dwellings (Units 2,3,4,5,6,7 and 8) - Approved 29/04/2020.

HPK/2020/0131 - Conversion of stores to 2 x 1 bed dwellings - Approved 02/06/2020.

HPK/2026/0200 - External alterations to existing commercial premises and change of use of part of ground floor of Bargain Store to form uncovered parking area - Pending.

CONSULTATIONS

Publicity

Site Notice expiry date: 30/06/2026.

Neighbour consultation expiry date: 24/06/2026.

Press Advert: N/A.

Public Comments

7 written representations have been received from residents, 4 neither objecting nor supporting the proposal, and 3 objecting to it. A summary of the points raised in the submitted comments is as follows:

Neither object nor support:

- Conversion to residential meets a local housing need and is harmonious with the restoration and repurposing that has already occurred on the former Otter Controls site.
- Who is the proposed parking for, under application 0200. A lack of parking and the suggested use of bicycles and buses by the residents of the new dwellings is unrealistic.
- There is no infrastructure on the Otter Court site for bicycles for those living in flats and there are few places provided with racks outside shops and public buildings around the town, to which bicycles can be secured.
- The bus services do not necessarily take people to where they need/want to go. It would be desirable to have parking for some of the flats and possibly to reduce the residential density for that purpose.
- Concerns over the southern building, and the windows which will cause overlooking to existing properties.
- Wheelie bins are stored next to the southern building in the alley between the building and the houses on South Avenue.
- Suitable bin storage is required.
- The planning application HPK/2019/0314 landscaping plan including parking and hardstanding needs to be completed before this development is allowed to commence.
- No site traffic should be allowed through the Otter Court development residential area.
- None of the occupied areas should be able to overlook the gardens of Otter Court to ensure the current privacy they have is maintained.

Objections

- There are legal and access issues on the land seemingly designated to provide access both during any development and afterwards.

- The application would remove a building that has the potential to accommodate a variety of community-focused uses, including charitable, educational, cultural, recreational or social enterprises. Therefore concerned that insufficient consideration has been given to alternative uses for the building. There should be clear evidence that opportunities for community, social enterprise or other beneficial town-centre uses have been properly explored before residential conversion is accepted.
- Additional noise and traffic.
- Insufficient parking is being provided. Parking issues already experienced on site.
- Considerations towards design and external appearance.
- Impact on bin storage and existing parking spaces.
- Existing complaints and breaches of planning should be resolved before any further permission be allowed.

A summary of the other consultation responses received is as follows:

High Peak Borough Council Environmental Health:

- The site previously manufactured electronic components/thermostats. There is a potential for the use of solvents/ de-greasing agent etc in the manufacturing process, that may give rise to land contamination. Would want to impose contaminated land conditions on any change of use.
- Concerned regarding potential noise from nearby premises, and acoustic insulation standards.

Derbyshire County Council Highways:

- Considering the scale of development, it is considered that prior approval of the proposed change of use is required to allow the LHA to fully understand the access arrangements, parking provision and overall potential impact of the proposed dwellings on the highway network.

Buxton Civic Association:

- No objections.
- If the Council considers that prior approval is not required in respect of the planning matters identified within part MA.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, request that the Council ensures that any external alterations are sympathetic to the setting of the site in the Conservation Area.

No other written representations received as part of the consultation process.

OFFICER COMMENTS

Provisions of Class MA:

The Council first needs to establish whether the proposed development complies with Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Class MA permits “*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.*”

A ‘building’ is defined in Article 2 of the Town and Country Planning (General Permitted Development) (England) Order, and includes any structure or erection and, except in Class F of Part 2, Classes P and PA of Part 3, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16, Class T of Part 19 and Class ZA of Part 20, of Schedule 2, including any part of a building.

COMPLIES – The site has been in a commercial use until its recent closure, and seeks to convert the buildings into a residential Class C3 use.

Development Not Permitted:

Section MA.1. of Class MA goes on to identify that 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;

COMPLIES – The site has been used for commercial retail sales and office accommodation.

(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;

COMPLIES – None of criterion (d) are applicable to the application.

(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;

COMPLIES – None of criterion (e) are applicable to the application.

(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

COMPLIES – None of criterion (f) is applicable to the application.

(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.

COMPLIES – None of criterion (g) is applicable to the application.

(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;

COMPLIES – The site has been used for commercial retail sales and office accommodation, as set out in sub-paragraph (1)(b).

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

COMPLIES – The site has been used for commercial retail sales and office accommodation, as set out in sub-paragraph (1)(b).

Conditions

Section MA.2.—(1) of Class MA identifies that 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;

COMPLIES – The existing buildings are located within the built-up area of Buxton, immediately adjacent to the designated town centre boundary. No off-street parking is currently available at the premises, however some parking provision (8 spaces) is proposed under a linked full planning application (HPK/2026/0200). Several public pay and display car parks are also available within the vicinity.

A bus terminus is located to the north-west of the application site on the A515 (High Street – Terrace Road). Various services and amenities are also considered to be available within a reasonable walking distance from the site. The site is therefore considered to be in a sustainable location.

Pedestrian and vehicles access is achievable from Market Street to the west, and from Hardwick Square South to the north east.

As a result, it is considered that the scheme will not result in any harmful transport impacts, and safe site access could be achieved.

(b) contamination risks in relation to the building;

DOES NOT COMPLY – Although the use of the buildings have been stated to most recently have been used for retail sales and offices, it is understood that the site was historically used for manufacturing purposes, namely in relation to the manufacturing of electronic components/thermostats. Therefore there is a potential for the use of

solvents/ de-greasing agents etc to have been used in the manufacturing process, that may give rise to land contamination.

On this basis the Council's Environmental Health Team identify in their consultation response that they would attach a condition to any change of use at the site.

No details have been submitted with the application in relation to contaminated land. The submitted Planning Statement acknowledges the sites former use for manufacturing, but dismisses any contamination risks in relation to the building, stating that the *"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"*.

However based on the sites former use, the consultation response from the Council's Environmental Health Team, and the lack of evidence to demonstrate otherwise, the Council considers that it has not been satisfactorily demonstrated that the proposal would not cause contamination risks at the site.

(c) flooding risks in relation to the building;

COMPLIES – The site is located within Flood Zone 1, and accordingly it is considered that the proposal would not give rise to any concerns in relation to flood risk.

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

COMPLIES – The existing premises is located within a mixed-use area, with other commercial businesses and residential properties immediately adjacent to the application site. To the north and west of the site are commercial properties comprising of uses such as the Buxton Conservative Club, restaurant, offices, and retail premises. To the east and south are residential properties.

The Council's Environmental Health Team raise concern in relation to noise from nearby properties, and the potential level of acoustic insulation standards to be installed within the converted buildings. Whilst these comments are noted, the site is located in an area where existing commercial and residential uses already coexist. As such, it is considered that future occupiers of the development would not be unduly impacted by noise from nearby commercial premises.

(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;

COMPLIES – The site is located within both the 'Buxton Central' and 'Buxton Hardwick/Central Extension' Conservation Areas. As such the Council has a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

The proposal involves either the full or partial change of use of the ground floor of both buildings. As set out, no external alterations are proposed to the property as part of this Class MA application, but external alterations are proposed under an associated full planning application.

The buildings are not readily visible within the surrounding street scene, with only glimpse views achievable when travelling along roadways/footways or from other areas of public realm. Accordingly it is considered that the proposal would not impact the character or sustainability of the Conservation Area.

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

DOES NOT COMPLY –

Natural Light:

No external alterations are proposed to either of the buildings as part of this Class MA application. An accompanying full planning application (Ref: HPK/2026/0200) has been submitted by the applicant to undertaken external alterations to the building, in addition to the provision of some vehicle parking in part of the ground floor of the north building. The external alterations proposed under the aforementioned full planning application consists of:

North Building

1. Change double door to single door, and creation of a new opening to vehicle access (east elevation, ground floor).
2. Change double doors to a window, insert new single door, and alter window fenestration including insertion of additional windows (south elevation, ground floor).

South Building

1. Installation of 9 roof lights (to serve apartment 3).
 - a. The whole of unit 3 would be served by roof lights.
2. Removal of section of roof at single storey level to create inner courtyard (to serve apartment 3).

The works proposed under the full application, as set out above, would be required to provide natural light to all habitable rooms.

The Council acknowledges the appeal decision submitted by the applicant, and how the Inspector in that particular case determined the Class O appeal by linking the application to an already approved full permission for external works. Therefore the available mechanism to attach condition(s) to this Class MA application which are reasonably related to the subject matter of the prior approval, as set out in Paragraph W(13) of Part 3 of the GPDO, is recognised. Paragraph W(13) identifies that *“The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.”*

Therefore in order for any condition(s) to be attached to this Class MA application in relation to the external works proposed under the associated Full planning application, that Full application would have already needed to have secured planning permission.

However the Full application has not yet been determined nor has any other external works been granted at the site, and therefore at this time the works under that full application cannot be conditioned as part of this Class MA application. The full application is subject to a separate assessment and determination process. Therefore without there being any full planning permission granted, permitting external works to the building, these works cannot be relied upon during the consideration and determination of this Class MA application. It is therefore considered that this Class MA application has been submitted prematurely.

Accordingly based on the assessment of the Class MA application which is currently before the Council, it is considered that the scheme as submitted fails to provide adequate natural light to all habitable rooms of the proposed apartments.

Amenity Standards:

Whilst the provision of adequate natural light is the only matter the Council is able to assess under the Class MA process, the Council considers that the development if implemented, would not provide a satisfactory form of accommodation for future occupiers due to:

1. The apartments being unable to achieve satisfactory separation distances between adjacent development. The proximity of the development to neighbouring properties (residential and commercial) is considered to cause harm to the amenity of existing and future occupiers by virtue of direct overlooking into buildings and private garden areas.
2. The poor or limited outlook achievable from habitable room windows is also considered to harm amenity.

However this cannot be taken into account in the determination of this Class MA application as these are not matters for consideration.

(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;

COMPLIES – The site is not located within an area used for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

(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

COMPLIES – None of criterion (h) are applicable to the application.

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

Section MA.3. of Class MA ('Interpretation') identifies that 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.

COMPLIES – None of criterion (i) are applicable to the application. Although the buildings will contain two or more dwellinghouses, Paragraph 3 of Article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 relates to a building which is 18 metres or more in height or contains 7 or more storeys. Paragraph 7 provides clarity on measuring the height of the building and determining the number of storeys.

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

COMPLIES – The application was submitted on 01st June 2026.

(4) The provisions of paragraph W (prior approval) of this Part.

- These have been assessed above.

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

FOR COMPLIANCE.

(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.

FOR COMPLIANCE.

Other Matters:

Nutrient Neutrality:

As the proposal relates to the change of use to include new dwelling(s), it would fall within the scope of Nutrient Neutrality. Permitted development rights and the prior approval process does not override the requirement to comply with other permissions, regulations or consent regimes.

Therefore, in accordance with Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, the permitted development cannot lawfully commence until an application under Regulation 77 of the Conservation of Habitats and Species Regulations has been submitted to and approved in writing by the Local Planning Authority. Failure to gain approval under Regulation 77 of the Habitats Regulations prior to the commencement of development will render the development unlawful.

Although this is an application submitted under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, the Local Planning Authority is required to determine the application in accordance with the requirements of the Order and the developer will not be required to address the issue of nutrient neutrality at this stage.

An informative will thus be added to the Decision Notice of any favourable permission advising that the approval under Regulation 77 of the Habitats Regulations must be obtained before the development can commence.

Response to Resident Comments:

Multiple written representations have been received in relation to this application. The Council has reviewed and considered all representations received as part of the consultation process ahead of reaching its decision.

The application has been submitted under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015. Under Class MA, the Council can only assess the proposal in relation to certain matters, which include transport impacts, contamination and flood risk, noise impacts from nearby premises, the impact the change of use may have on the character or sustainability of the conservation area, and whether adequate natural light is achievable to all habitable rooms. Therefore several of the points raised do not form material planning considerations.

Therefore whilst some of the points raised in public comments have been addressed in the above commentary, the following is intended to address those points which remain outstanding.

1. There is potentially scope for the Council to attach conditions to any favourable permission which requires details to be submitted and approved in relation to the delivery of cycle parking/storage, and bin storage area(s), on site.
2. The Council is aware of complaints which have been submitted in relation to previously approved development within the vicinity. This is being investigated and any necessary actions will be undertaken accordingly.
3. Any legal rights of access which may be applicable to the site is not a material planning consideration. This would be a matter for the relevant parties to address/pursue independently outside of the planning process.
4. There is no requirement under the planning process for a sequential approach to be taken towards the change of use of a premises. The proposal currently before the Council is to change the premises from commercial to residential, and the application must be determined as such on its merits.

CONCLUSION / PLANNING BALANCE

This application for Prior Approval does not comply with Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst the proposal would not result in any adverse impacts on transport & access, the character or sustainability of the Conservation Area, flood risk, or upon the amenity of future occupiers by virtue of noise, the proposal is considered not to provide adequate natural light to all habitable rooms, and has not evidenced that there will be no contamination risks in relation to the buildings. Consequently **Prior Approval is required and refused.**

OFFICER RECOMMENDATION : Prior Approval is required and refused

Case Officer: Alex Bonser

Recommendation Date: 29/07/2026

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council