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## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/23/2186/0F1
2.	<b>Proposed Development:</b>	PRIOR APPROVAL TO CHANGE FROM COMMERCIAL PREMISES INTO A DWELLING
3.	<b>Location:</b>	42 DUKE STREET, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC;Adverts - ASC;Adverts, Conservation Area - Conservation Area, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	<b>Publicity Representations &amp; Policy</b>	Neighbour Notification Letter: YES  Site Notice: YES  Press Notice: NO  Consultation Responses: See report  Relevant Planning Policies: See report
7.	<b>Report:</b>  <b>Site and Location:</b>	The application relates to 42 Duke Street, Whitehaven.  The application site is located within the town centre in an area containing a mix of uses including commercial and residential.  The site comprises of a three-storey building which was previously occupied by The Glass

House, a bar and restaurant.

The site is located within a Conservation Area but it's not listed.

**Proposal:**

This application comprises an application to determine if prior approval is required for the proposed change of use from a Class E commercial premises to C3 dwellinghouses under the provisions of Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposal seeks to change the property into one dwellinghouse and it involves the removal of the industrial kitchen and bar internally.

**Consultation Responses:**

Whitehaven Town Council

No comments received.

Highway Authority

No objections.

Lead Local Flood Authority

No objections.

Conservation Officer

No objections.

Environmental Health

No objections but suggested conditions relating to noise and dust during construction works.

Public Representation

The application has been advertised by way of site notice and neighbour notification letters issued to 2 no. properties.

No objections have been received as a result of this consultation.



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### Relevant Legislation:

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015).

National Planning Policy Framework (NPPF)

### Assessment:

The provision of Schedule 2, Part 3, Class MA of the GPDO 2015 are considered in turn below:

In respect of the provisions of MA. –

The development consists of a change of use of a building falling within Class E (Commercial, business and service) of Schedule 2 of the Use Class Order to a use falling within Class C3 (dwellinghouse) of Schedule 1 of that Order.

In respect of the provisions of MA.1. (1) –

- (a) The building has been vacant for a continuous period of at least 3 months prior to the application date;
- (b) The use fell within use class A3 (food and drink) of the use class Order for a continuous period of at least 2 years prior to the application date;
- (c) The cumulative floor space of the existing building changing use will not exceed 1,500 square metres;
- (d) The land and curtilage of the building does not relate to the following – SSSI, listed building, scheduled monument, safety hazard area or a military explosive storage area
- (e) The building is not within an area of noted (i) to (v);
- (f) The site is not occupied under an agricultural tenancy;
- (g) The application is not before August 2022.

In respect of the provisions of MA.1. (2) –

The use class falls within (a)(iii) Class A3 (food and drinks).

In respect of the conditions of MA.2. to determine if prior approval will be required –

#### (a) Transport impacts of the development

The application site lies within the town centre boundary and benefits from a wide range of public transport options within vicinity. It has a safe site access via Duke Street and the Highway Authority has raised no objections as it was not considered

that the change of use would have a material effect on the existing highway conditions.

Prior approval is therefore not required in relation to transport and highways.

(b) Contamination risk in relation to the building

The site is located within an existing building which is not considered to be contaminated. In addition, as the works involve the removal of an industrial kitchen and bar, it is not anticipated to cause concern or issues in relation to contamination.

On this basis, it is considered that prior approval is not required in relation to contamination risk.

(c) Flood risk in relation to the building

The application site is located within Flood Zone 1, which has a low probability of flooding. The Lead Local Flood Authority has confirmed that they have no objections to the proposal, as it will not increase the flood risk on the site or elsewhere.

On this basis, the proposal is acceptable in terms of flood risk and prior approval is not considered necessary.

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

No noise issues are expected as the property will have a solicitors office to one side and the other relates to residential flats.

On this basis, the noise impact from commercial premises on the residential occupiers is considered to be minimal. Prior approval is therefore not required in relation to noise.

(e) The impact on the conservation area

The proposal does fall within Whitehaven Conservation Area but given the existing design of the building, it is not expected that the change of use will harm the character or sustainability of conservation area.

The removal of the bar and built-in seating associated with the building's prior use as a public house will not entail any impact on the heritage value of the building, and there are no other physical changes proposed. The Conservation Officer therefore raised no objections.

On this basis, prior approval is not required relation to the impact on the conservation



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area.

(f) Adequate natural light in all habitable rooms

Each room will be served by windows providing access to natural light and therefore the provision of natural light within the dwelling is acceptable and prior approval is not required.

(g) The impact on intended occupiers

The proposal is located within Whitehaven town centre and therefore the proposal does not relate to an area which is important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

(h) Loss of Services

The proposal does not involve the loss of a registered nursery or health centre;

(i) Fire risk and safety impacts

The submitted application form confirms the proposed development will not result in a building that contains one or more dwellinghouses and is not more than 18 metres in height. On this basis, prior approval is not required.

In respect of the provisions of MA.2. -

(3) the application is made after August 2021;

(4) An application has been submitted in accordance with the provisions of paragraph W (prior approval) of Part 3.

(5) Development under Class MA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. This can be ensured by the use of a planning condition.

(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. This is confirmed by the application form and can be ensured by the use of a planning condition.

In respect of the provisions of MA.3. -

This is not applicable as the proposal does not exceed what is referred to in paragraph

MA.2(2)(i).

Conclusion

The requirements of the provisions of Schedule 2, Part 3, Class MA of the GPDO 2015 and the provisions of paragraph W prior approval procedure are achieved.

It was considered that prior approval is not required in relation to the transport impacts of the development, the contamination risks, the flooding risks, the impacts of noise from commercial premises on future occupiers, the impact on the conservation area, the provision of adequate natural light in all habitable rooms of the dwellinghouses, impact on the intended occupiers, loss of services or fire risk.

No objections have been received as part of the consultation period.

Environmental Health have recommended conditions relating to construction hours and dust but due to all the works being internal, it is not considered to be reasonable to attach these to the decision. These issues can be covered by other legislation.

The proposed change of use to provide an additional residential dwelling within Whitehaven town centre is appropriate and supports sustainable development in accordance with the Local Plan and the NPPF.

Development under Class MA is permitted, subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

8. **Recommendation:**  
Prior approval not required.

9. **Conditions:**  
This notice indicates that the proposed Development would comply with condition MA.2.(2) of Schedule 2 Part 3 Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

1. It is a requirement of condition MA.2(5) of the GPDO that the Development under Class MA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.
2. It is a requirement of condition MA.2(6) of the GPDO that the Development under Class MA is permitted subject to the condition that the building permitted to be used as a dwellinghouse is to remain in use as a dwellinghouse within the meaning of Class



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	<p>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.</p> <p>3. It is a requirement under the procedure for prior approval under Part 3, condition W.12 of the GPDO where prior approval is not required, development must be carried out in accordance with the information that the developer provided to the Local planning authority, unless the Local Planning Authority and the developer agree otherwise in writing. For the avoidance of doubt, the details reviewed by the Local Planning Authority are as follows:</p> <p>Application Form, received 4<sup>th</sup> July 2023; Site Location Plan, scale 1:1250, received 4<sup>th</sup> July 2023; Existing Bar Area Floor Plan, scale 1:100, received 4<sup>th</sup> July 2023; Proposed Floor Plans, scale 1:100, received 4<sup>th</sup> July 2023.</p> <p>Reason</p> <p>To ensure that all works are properly implemented and retained.</p>
<b>Case Officer: C. Wootton</b>	<b>Date : 25/08/2023</b>
<b>Authorising Officer: N.J. Hayhurst</b>	<b>Date : 29/08/2023</b>
<b>Dedicated responses to:- N/A</b>	