

## CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	<b>Reference No:</b>	4/25/2395/0F1
2.	<b>Proposed Development:</b>	APPLICATION TO DETERMINE IF PRIOR APPROVAL IS REQUIRED FOR THE CONVERSION OF THE FIRST AND SECOND FLOOR OF THE EXISTING BUILDING TO FORM 8 RESIDENTIAL UNITS
3.	<b>Location:</b>	TANGIER BUILDINGS, TANGIER STREET, WHITEHAVEN
4.	<b>Parish:</b>	Whitehaven
5.	<b>Constraints:</b>	ASC Adverts - ASC;Adverts, Conservation Area - Conservation Area, Flood Area - Flood Zone 2, Flood Area - Flood Zone 3, Coal - Standing Advice - 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>	<p><b>SITE LOCATION</b></p> <p>This application relates to the Tangier Buildings in Whitehaven. The buildings are terraced and sited in a prominent location on the entrance into the town centre.</p> <p>There are commercial buildings surrounding the property with Tangier Street running to the west and George Street to the north.</p> <p>The site is situated within the Whitehaven Conservation Area.</p>

## **PROPOSAL**

This application comprises an application to determine if prior approval is required for the proposed change of use of the first and second floors from a Class E commercial premises to C3 dwellinghouses (x8 flats) 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 proposed conversion does not involve any structural alterations, however the internal layout configuration will be altered to provide 8 apartments with either one, two or three bedrooms.

## **CONSULTATION RESPONSES**

### Whitehaven Town Council

No objections.

### Conservation and Design Officer

No objections.

### Highways and Local Lead Flood Authority

No objections.

### Environmental Health

Environmental Health have concerns over noise from external sources to this proposed development. There is a nightclub with opening hours to 02.00 am and a food takeaway premises with opening hours to midnight at ground floor level, as well as multiple pieces of refrigeration / extraction / ventilation mechanical plant sited both on the building or in close proximity along the Gregg's Lane façade.

The nightclub in particular poses a noise risk.

The age and construction (timber floors / single glazed windows) of Tangier Buildings make it very vulnerable to the airborne transmission of high volume and low frequency amplified bass music from the nightclub.

Whilst the provisions of Part E Building Regulations provides a minimum standard of noise insulation to a building use conversion, it is likely that these standards will not provide a reasonable level of amenity to occupants in the flats above. The levels of noise, especially at night (23.00 – 07.00 hours) are likely to exceed the recommended guideline WHO Community Noise 1999 continuous night time noise level of 30 DB(A) in bedrooms to otherwise avoid sleep disturbance. In this case, therefore, Environmental Health requests that there should reasonably be a higher standard of noise insulation for this development than that laid out in the Building Regulations. A condition on this is laid out below. In other respects, there are commercial kitchens on the ground floor level of Tangier Buildings and so



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fire safety measures should be appropriately provided. If the development is approved, construction working hours should be limited to protect other neighbours against undue noise disturbance.

Environmental Health therefore requests that the following conditions are considered:

- Sound Insulation – Submission of scheme and retention thereafter

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of noise insulation measures for all residential accommodation, this scheme shall also include ventilation if necessary. The scheme of noise insulation measures shall demonstrate that the following criteria will be achieved:

- Noise rating curve NR20 in bedrooms (23.00 to 07.00 hours)
- Noise rating curve NR25 in all habitable rooms (07.00 to 23.00 hours)
- Noise rating curves should be measured and assessed against a 15 minute linear Leq at the octave band frequencies 31.5 to 8 KHz. 2

Reason: In order to safeguard the amenities of the residential occupiers and the details are needed prior to the start of work so that measures can be incorporated in to the build.

- Noise from construction works Following approval of the development, construction activities that are audible at the site boundary shall be carried out only between the following hours Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00 and at no time on Sunday or Bank Holiday. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above unless otherwise agreed with the Local Planning Authority.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

### Environment Agency

#### 1<sup>st</sup> Response

Environment Agency position

In the absence of a flood risk assessment (FRA), we object to this application and recommend that planning permission is refused.

Reason

The application site partially lies within Flood Zone 3 and 2, which is land defined by the planning practice guidance as having a high and medium probability of flooding. The NPPF (paragraph 181, footnote 63) and the Flood Risk and Coastal Change Planning Practice Guidance (paragraphs 20 and 21) states that an FRA must be submitted when development is proposed in such locations.

An FRA is vital to making informed planning decisions. In its absence, the flood risks posed

by the development are unknown. This is sufficient reason for refusing planning permission.

#### Overcoming our objection

To overcome our objection, the applicant should submit an FRA which demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

#### 2<sup>nd</sup> Response

In our letter referenced NO/2025/117180/01-L01 and dated 15 December 2025, we objected because the application site partially lies within Flood Zone 3 and 2, which is land defined by the planning practice guidance as having a high and medium probability of flooding and no Flood Risk Assessment (FRA) was provided on which to base our advice.

The planning application is now accompanied by a Flood Risk Assessment (FRA) prepared by Oakshire Environmental, referenced; Preliminary Flood Risk Assessment for Tangier Buildings, Whitehaven, CA28 7UZ and dated 28 January 2026.

We have reviewed the FRA in so far as it relates to our remit, and we are satisfied that the development would be safe without exacerbating flood risk elsewhere.

We are satisfied that we can therefore now remove our objection as the Preliminary Flood Risk Assessment has satisfactorily identified the baseline flood risks.

As per the section 4.5 of the FRA, it should be noted that these conclusions are based on the currently proposed development plan which involves the change of use of first and second floor units to residential only, therefore, flood risk at the site should be reassessed if material changes are made to the proposed development.

The development as currently proposed must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA.

#### Public Representation

The application has been advertised by way of neighbour notification letters issued to 6 no. properties.

No responses have been received as a result of these advertisements.

#### **RELEVANT LEGISLATION:**

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

National Planning Policy Framework (NPPF)



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### ASSESSMENT

The proposal is for the conversion of an existing commercial building (Use Class E) for use as residential flats (Use Class C). Under Class MA of the General Permitted Development Rights 2015, this development can be completed under Permitted Development provided that the works meet a number of criteria and the Local Planning Authority receives a Prior Approval application.

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) –

- The building has been vacant for at least 3 months immediately prior to application (the commercial use ended in 2003);
- The building was used commercially for a continuous period of at least 2 years;
- The cumulative floor space does not exceed 1500 square metres;
- The building has no statutory designation, nor is it within the curtilage of one or designated area;
- There is no agricultural tenancy;

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

The use class falls within (a)(ii) Class A2 (financial and commercial).

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 the vicinity. Whilst there is no off street parking proposed – the previous use for commercial purposes was likely to have created some vehicle movements and the change of use to flats is unlikely to materially increase this. Furthermore, the town centre location of the building allows for active and sustainable travel options as well as ample public parking within the vicinity.

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

(b) Contamination risk in relation to the building

There are no known contamination risks on the site, and the previous use is unlikely to have given rise 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 site is located partially within Flood Zones 2 and 3 which therefore required consideration and the submission of a Flood Risk Assessment. An assessment was submitted and approved by the Environment Agency, and it is considered that the development should be carried out in accordance with this document.

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

Environmental Health raised concerns relating to potential noise from external sources, in particular the nightclub located on the ground floor and various ventilation/extraction/refrigeration systems.

It is requested that suitable levels of noise insulation are installed and conditions have been suggested in order to ensure this.

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

(e) The impact on the conservation area

The property is located within the Conservation Area. As there will be no external alterations, there will be a neutral effect on the character and appearance of the locality. The building is not listed therefore the internal alterations are not a consideration in this instance.

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



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### (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 and comments can be dealt with by way of suitably worded planning conditions.

The proposed change of use to provide additional residential flats 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

	<p>within a period of 3 years starting with the prior approval date.</p> <p>On the basis of the above, no objections are raised to the application and planning permission is not considered to be required as the proposal meets the criteria for prior notification approval.</p>
8.	<p><b>Recommendation:</b> Approve (commence within 3 years)</p>
9.	<p><b>Conditions and Reasons:</b></p> <p>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.</p> <p>Reason</p> <p>To ensure that all works are properly implemented and retained.</p> <p>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 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>Reason</p> <p>To ensure that all works are properly implemented and retained.</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> <ul style="list-style-type: none"> <li>• Application form, received 24th November 2025;</li> <li>• Site Location Plan, scale 1:1250, drawing number 25.186.201 P1, received 24th November 2025;</li> <li>• Existing and Proposed Site Plan, scale 1:200, drawing number 25.186.202 P1, received 24th November 2025;</li> <li>• Proposed Floor Plans, scale 1:100, drawing number 25.186.302 P1, received 24th</li> </ul>



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November 2025;

- Proposed Elevations, scale 1:100, drawing number 25.186.402 P1, received 24th November 2025;
- Planning Statement, written by Architecture Unknown?, received 24th November 2025;
- Preliminary Flood Risk Assessment, written by Oakshire Environmental, received 28th January 2026.

### Reason

To ensure that all works are properly implemented and retained.

4. The development as currently proposed must proceed in strict accordance with the Preliminary Flood Risk Assessment, written by Oakshire Environmental, dated 28<sup>th</sup> January 2026, and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved Preliminary Flood Risk Assessment and / or the mitigation measures identified will require the submission of a revised Flood Risk Assessment.

### Reason

To ensure that the risk of flooding is not increased on site or elsewhere.

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of noise insulation measures for all residential accommodation, this scheme shall also include ventilation if necessary. The scheme of noise insulation measures shall demonstrate that the following criteria will be achieved:

- Noise rating curve NR20 in bedrooms (23.00 to 07.00 hours)
- Noise rating curve NR25 in all habitable rooms (07.00 to 23.00 hours)
- Noise rating curves should be measured and assessed against a 15 minute linear Leq at the octave band frequencies 31.5 to 8 KHz. 2

### Reason

In order to safeguard the amenities of the residential occupiers and the details are needed prior to the start of work so that measures can be incorporated in to the build.

6. Following approval of the development, construction activities that are audible at the site boundary shall be carried out only between the following hours Monday to Friday 08.00 – 18.00 and Saturday 08.00 – 13.00 and at no time on Sunday or Bank Holiday. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above unless otherwise agreed with the Local Planning Authority.

**Reason**

In the interests of the amenities of surrounding occupiers during the construction of the development.

**Informative**

A separate planning application is required for all external alterations to the building. External alterations do not form part of the prior approval application.

**Statement:**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

**Case Officer: Sarah Papaleo**

**Date : 25/02/2026**

**Authorising Officer: N.J. Hayhurst**

**Date : 04/03/2026**

**Dedicated responses to:- N/A**