

<b>Application Number</b>	22/00882/AS
<b>Location</b>	Oakleigh House, Watercress Lane, Ashford, Kent
<b>Parish Council</b>	-
<b>Ward</b>	Beaver (Ashford)
<b>Application Description</b>	Prior Notification of the proposed demolition of two buildings.
<b>Applicant</b>	Ashford Borough Council
<b>Agent</b>	-
<b>Site Area</b>	0.54ha

## Introduction

1. This application is reported to the Planning Committee because the Council is the applicant and under the Council's scheme of delegation it falls to be determined by the Planning Committee.
2. The application is for the Prior Notification of Proposed Demolition of two buildings. Unlike applications for planning permission and other consents, Prior Notification is a procedure whereby a developer must notify the Local Planning Authority of proposals before exercising permitted development rights to demolish a building.
3. When a Prior Notification of Proposed Demolition is received, the Local Planning Authority is required to determine whether "prior approval" is or is not required within a time period of 28 days from receipt of the application. The only matters for which further details can be requested prior to the demolition taking place are the method of demolition and any proposed restoration of the site. The approval of other matters cannot be required through the Prior Notification process.
4. The 28 day time period has elapsed; however as set out in the assessment section below the Local Planning Authority is satisfied that prior approval of further details is not required. The application is nevertheless reported to Planning Committee in accordance with the Council's scheme of delegation.

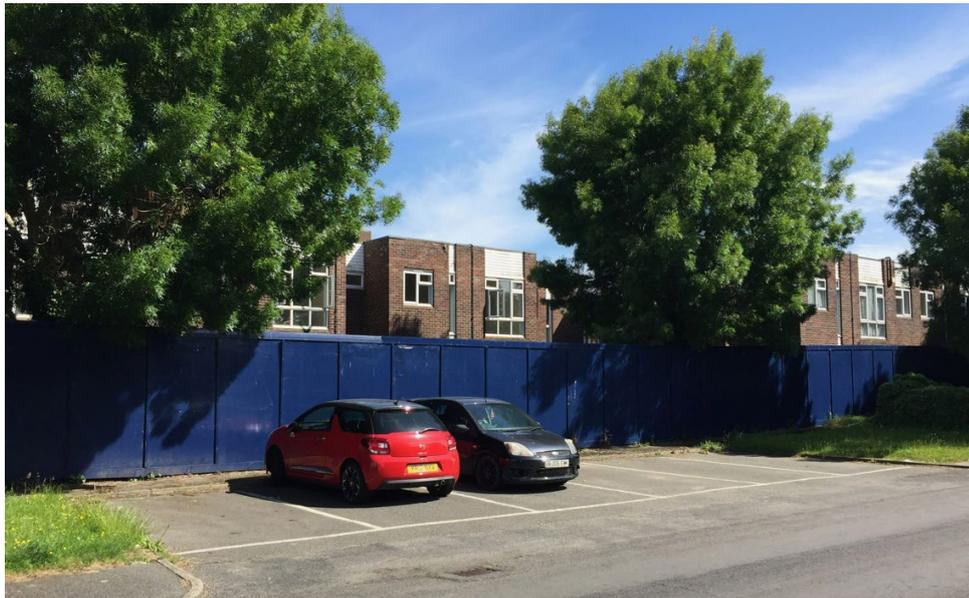
## Site and Surroundings

5. The application site is located in the Beaver Green area of South Ashford located to the east of Beaver Lane and west of Watercress Lane as shown in **Figure 1** below.



**Figure 1: Site Plan**

6. The application relates to two buildings; 'Oakleigh House' and the 'Star building'. Oakleigh House is a two-storey flat-roof building and comprises 33 units of former sheltered housing. The Star building (Nos. 1 to 17 Watercress Lane) is a 3-storey pitch-roof building comprising former social housing. The buildings are owned and managed by Ashford Borough Council. As shown in **Figures 2 and 3** below, they are currently vacant and the site is enclosed by security hoardings.



**Figure 2: Existing Oakleigh House building**



**Figure 3: Existing Star building (1 to 17 Watercress Lane)**

7. There is a public footpath running through the centre of the site. There are no conservation areas or listed buildings within proximity. There are several unprotected trees located around the boundaries of the site. The site is located in Flood Zone 1, an area of low flood risk. The site is not an Asset of Community Value.

## Proposal

8. This Prior Notification for Proposed Demolition application has been submitted by Ashford Borough Council for the demolition of both Oakleigh House and the Star building identified above.
9. The applicant has stated that the buildings are considered inadequate for current needs in terms of accessibility, maintenance and thermal efficiency. The application is accompanied by a Planning Statement which provides details of the proposed method of demolition of the buildings and the restoration of the site.
10. A planning application (reference 21/01250/AS) for the comprehensive redevelopment of the site is currently under consideration.

## Planning History

11.	FA	21/01250/AS	The demolition of Oakleigh House Sheltered Housing and the residential block on the corner of Beaver Lane and Watercress Lane to provide 54 apartments for Independent Living for Older People and 13 apartments for Adults with Learning Disabilities, with the associated communal facilities, landscaping and parking.	PC	PENDING DECISION
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## Consultations

12. The applicant is required to display a site notice and send a copy of the notice to the Local Planning Authority. This has been done by the applicant and the site notice is dated 30/05/2022. No representations from local residents have been received.

**ABC Building Control:** no comments.

**ABC Environmental Protection:** no comments.

## Assessment

13. The demolition of the buildings can be permitted development, subject to certain criteria and conditions set out in Class B ('Demolition of Buildings'),

Part 11 of Schedule 2 of the General Permitted Development Order 2015 (as amended). The demolition of a building as permitted development can occur independently from any planning permission for the development of a site.

14. The General Permitted Development Order (GPDO) sets out that demolition is permitted development if certain criteria are met and subject to specified conditions. An assessment of this scheme against the relevant criteria and conditions is set out below.
15. When determining this application the Local Planning Authority can only assess it against the relevant criteria set out in the GPDO. The only matters for which the prior approval of further details can be requested are the method of demolition and any proposed restoration of the site. The approval of other matters cannot be required through the Prior Notification process.
16. Class B, Part 11 of Schedule 2 of the GPDO allows for any building operation consisting of the demolition of a building subject to the following criteria:
17. Development is not permitted by Class B if —
  - (a) *the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;*
18. The buildings have not been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands. Safety or health by works of repair or works for affording temporary support are not required.
  - (b) *the demolition is “relevant demolition” for the purposes of section 196D of the Act (demolition of an unlisted etc. building in a conservation area)(1);*
19. The proposal would not constitute “relevant demolition” because the existing buildings are not located in a conservation area.
  - (c) *the building is used, or was last used, for a purpose falling within—
    - (i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or
    - (ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order;*
20. The buildings were not used for these purposes.
  - (d) *the building is used, or was last used, for the purpose of—
    - (i) a concert hall;
    - (ii) a venue for live music performance; or
    - (iii) a theatre; or*

21. The buildings were not used for these purposes.

*(e) the demolition relates to a statue, memorial or monument (“a commemorative structure”) in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure—*

*(i) that is a listed building;*

*(ii) that is a scheduled monument;*

*(iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;*

*(iv) within the grounds of a museum or art gallery; or*

*(v) within the curtilage of a dwellinghouse.*

22. The demolition does not relate to a statue, memorial or monument.

#### Conditions

23. B.2 Development is permitted by Class B subject to the following conditions—

*(a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;*

24. The demolition is not urgently necessary in the interests of safety or health.

*(b) where the demolition does not fall within paragraph (a) and is not excluded demolition—*

*(i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site;—*

*(ii) an application described in paragraph (b)(i) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid;*

25. The requirements have been met. A ‘Planning Statement / Description of Proposed Works for Proposed Demolition of Oakleigh House & Residential Block to Watercress Lane’ has been submitted and considered by the Council’s Environmental Protection team and no objections have been raised. The Council’s Building Control team have also not raised any objections.

*(iv) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited*

*and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;*

26. A site notice was displayed on 30/05/2022 and has been submitted by the applicant.

*(v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;*

27. Not applicable.

*(vii) the development must not begin before the occurrence of one of the following—*

*(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;*

*(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or*

*(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;*

28. More than 28 days have passed since the receipt of the application.

*(viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—*

*(aa) where prior approval is required, in accordance with the details approved;*

*(bb) where prior approval is not required, in accordance with the details submitted with the application;*

29. The prior approval of additional details of the demolition or restoration of the site have not been required so the demolition must be carried out in accordance with the details specified with the application.

*(ix) the development must be carried out—*

*(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;*

*(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii).*

## **Conclusion**

30. The proposed demolition would comply with all of the requirements of Class B.1 (a) of Part 11 of Schedule 2 of the GPDO and the applicant has currently complied with all the relevant conditions set out under B.2.
31. The applicant has confirmed in their submitted Planning Statement that all demolition work will be carried out in accordance with the relevant Codes of Practice and H.S.E. guidelines. Safeguards in other legislation and the details within the demolition works statement confirm that the removal of asbestos containing materials is to be undertaken in the correct legal manner.
32. It is considered that the guidance contained within the submitted Planning Statement provides sufficient safeguards to ensure good practice is followed in terms of the demolition of the buildings on the site. It is noted that no objection has been raised by relevant consultees.
33. In view of the above it is recommended that the prior approval of further details of the method of demolition and any proposed restoration of the site will not be necessary and that the demolition can be carried out in accordance with the submitted details.

## **Human Rights Issues**

34. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

## **Recommendation**

- A. PRIOR APPROVAL IS NOT REQUIRED, subject to planning conditions and notes, including those dealing with the subject matters identified below (but not limited to that list).**

Conditions:

1. Approved plans/documents condition

Notes:

- Building Control will require the submission of a demolition notice under the Building Regulations.

## **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 22/00882/AS)

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