

Appendix 6 - Prior Approval Application ref. 6/2020/0447/PN11 (subject appeal scheme) – formal response from EHO and subsequent email correspondence including response from KR Associates

Planning Consultation Memo

Date	Planning Officer	Environmental Health Officer
16/03/2020	David Elmore	Karl Riahi
Planning Application Number	Worksheet Number	
6/2020/0447/PN11	WK/116050	

Address: Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Application Details: Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings

Considerations relevant to Environmental Health for this application

Noise from commercial/industrial properties
Contaminated land

Description of site and discussion of considerations

Noise from commercial/industrial properties

There are serious concerns regarding noise from commercial/industrial noise sources, with the report showing a 73dB LAeq external noise level, along with a 49dB internal noise level with windows open. It is unclear how this internal noise level has been calculated or which rooms it refers to, as generally it is accepted that a partially open window provides an attenuation of 10 to 15dB, which would make the internal noise level 58 to 63dB internally. This would have serious impacts on things people take for granted, such as holding a conversation or watching television.

Due to the calculated/measured high noise levels and expected impact on future occupants of the proposed development, it is recommended that the application is refused.

Contaminated land

Contaminated land is not a concern due to the following statement within the prior approval cover letter;

"The proposed change of use does not include any groundworks, it is therefore considered that there will be no detrimental contamination impacts".

Conclusion

Recommend planning application is permitted

Recommend planning application is permitted but with conditions

Recommend planning application is refused

Conditions

N/A

Heather Yuen

From: Heather Yuen
Sent: 08 April 2020 16:23
To: David Elmore; Karl Riahi
Cc: John Ferguson
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear David and Karl,

As the determination date for the above application is fast approaching, please can you let us know your thoughts on our responses to Karl's noise comments? (i.e. KRA's response as set out in my email dated 1 April 2020 and the revised plans provided)

Can you please also confirm whether a decision will be made by the set determination date (10 April 2020)?

Kind regards,

Heather Yuen BSc (Hons)
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From: Heather Yuen
Sent: 07 April 2020 12:35
To: David Elmore <d.elmore@welhat.gov.uk>; Karl Riahi <k.riahi@welhat.gov.uk>
Cc: John Ferguson <john@collectiveplanning.co.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear David and Karl,

Can you please let us know your thoughts on the below emails?

As per my email dated 01 April 2020, a second qualified noise consultant has advised to reconfigure the proposed residential units to further minimise noise impacts on future residents. Please see attached revised plans.

As the west facade is predicted to be exposed to the highest noise levels (as demonstrated in KRA's noise impact assessment), we have reconfigured the internal layout of the proposed units so that non-sensitive spaces (e.g. bathrooms, stairs, hallways etc.) are located on this side of the building. These non-sensitive spaces will act as a buffer to further minimise the noise impacts on the western residential units. The revised internal layout replaces the more noise sensitive spaces that were previously proposed.

Our client is keen to cooperate and improve the scheme to resolve the issues raised. I trust that the revised plans will address the noise concerns raised and that the proposed development is now acceptable however, please do not hesitate to contact me if you have any further comments.

Please note that our noise consultant is currently undertaking further technical assessments taking into consideration the revised plans. We will advise further on this once we are able.

Kind regards,

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From: Heather Yuen
Sent: 03 April 2020 13:02
To: David Elmore <d.elmore@welhat.gov.uk>; Karl Riahi <k.riahi@welhat.gov.uk>
Cc: John Ferguson <john@collectiveplanning.co.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear David and Karl,

Do you have any comments on the below?

Thank you.

Kind regards,

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From: Heather Yuen
Sent: 02 April 2020 12:13
To: 'David Elmore' <d.elmore@welhat.gov.uk>
Cc: John Ferguson <john@collectiveplanning.co.uk>; 'Karl Riahi' <k.riahi@welhat.gov.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear David and Karl,

David - I have just tried to call but was unable to get through. I am unsure whether your phone line is still in use given the current situation.

Have you and/or Karl had a chance to review the below? It would be much appreciated if you could take the below into consideration. Please let us know your thoughts.

Thank you.

Kind regards,

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From: Heather Yuen
Sent: 01 April 2020 10:30
To: David Elmore <d.elmore@welhat.gov.uk>
Cc: John Ferguson <john@collectiveplanning.co.uk>; Karl Riahi <k.riahi@welhat.gov.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear David,

I hope you are well.

Thank you for your email. Given there are no objections from the other consultee (highway), noise concerns remain to be the only issue that needs to be addressed. This makes it all the more important to cooperate and address the concerns raised. Therefore, please see below a response from our noise consultant (KRA) to the Council's noise comments. In summary, the submitted Noise Impact Assessment by KRA clearly sets out that the proposed development will result in acceptable noise levels for future residents. Mitigation measures including secondary glazing and a MVHR system ensure that the development is acceptable in terms of noise impacts.

We have also consulted another qualified noise consultant for a second opinion and whilst they agree with the conclusions of the submitted noise impact assessment, they have advised that reconfiguring the proposed

residential units may further minimise noise impacts on the future residents. We are keen to improve the scheme and mitigate any noise impacts as much as possible, therefore can you please confirm whether revised plans will be accepted?

With regards to discussing the proposal through a pre-application, we hope you appreciate that a similar prior approval application was permitted in 2015 and a later application submitted in 2018 was withdrawn. Noise issues were already extensively discussed which has assisted our preparation for the current application. At the time, the case officer did not advise us to go through a pre-application but to withdraw the application, review and address the noise issues raised and re-submit the application. We have also tried to liaise with the EHO prior to submitting the current application and at very early stages of the determination period to understand whether the Council has any noise concerns.

Response from KRA

Local Authority Comments...

The Environmental Health Officer Karl Riahi made the following comments in his memorandum to the Planning Officer David Elmore on 16th March 2020 regarding the Prior Approval Application for the change of use of the offices at Everest House in Cuffley falling within Use Class B1(a) for a permitted development to allow a change of use to dwellinghouses falling within Use Class C3.

"Noise from commercial/industrial properties

There are serious concerns regarding noise from commercial/industrial noise sources, with the report showing a 73dBLAeq external noise level, along with a 49dB internal noise level with windows open. It is unclear how this internal noise level has been calculated or which rooms it refers to, as generally it is accepted that a partially open window provides an attenuation of 10 to 15dB, which would make the internal noise level 58 to 63dB internally. This would have serious impacts on things people take for granted, such as holding a conversation or watching television.

Due to the calculated / measured high noise levels and expected impact on future occupants of the proposed development, it is recommended that the application is refused."

The above comments are very subjective and provide no objective concerns regarding the validity of the noise impact assessment. Furthermore, the comments suggest the Local Authority have not fully read the report and have only read the conclusions at the end of the report.

External Noise Level of 73 dBLAeq...

At no point does the National Planning Policy Framework, any British Standard or any part of the Local Authority Policy provide an absolute external level above which residential dwellings should not be allowed.

Therefore, the point raised by the Local Authority is irrelevant.

Internal Level with Window Open 49dB...

This noise level is ambiguous. However, I will assume that they are referring to an A-weighted equivalent continuous level with a 16-hour time base during the day time and 8-hour time base during the night-time.

The Local Authority have completely ignored the very clear and concise guidance provided by the Association of Noise Consultants document entitled "*Acoustics Ventilation and Over-Heating - Residential Design Guide*". The current version of the document (v1.1) was published at the end of January 2020. However, as the report was first drafted before this date reference was made to the 2018 draft version at section 6.2. of the report entitled "*Association of Noise Consultants AVO Guide*"

The free field level of $L_{Aeq, 16 \text{ hour}}$ 73 places the site in a High Risk

The internal noise levels with the windows open provides the following assessment.

Day Time: *“As noise levels increase, small behaviour changes are expected e.g. turning up the volume on the television ; speaking a little louder; having to close windows during certain activities...”*

Night Time: *“Having to keep windows closed most of the time because of the noise.”*

At present all the commercial properties only predominantly operate between 07:00 and 23:00. If they did operate outside these times they would very likely cause a Statutory Nuisance for the existing residents close by.

Therefore, the point raised by the Local Authority is incorrect and therefore no applicable.

Unclear How the Internal Level Has Been Calculated...

The report provides a very clear and detailed calculation following the guidance in BS EN ISO 12354- Part 3: 2017 which is contained within section 6.1 of the report entitled *“Internal Noise Levels Calculations”*. This section defines the performance of the various elements of the building, including the windows when they are closed and open and provides a detailed and robust calculation of the internal noise levels.

Therefore, the point raised by the Local Authority is incorrect and therefore no applicable.

Accepted Windows provide attenuation of 10 -15 dB(A)...

The report clearly makes reference to the performance through a partially opened window at section 3.1.8. of the report entitled *“NANR116 Open Closed / Window Research”*. The Building Performance Centre produced a document entitled NANR116: Open / Closed Window Research – Sound Insulation through Ventilated Domestic Windows: 2007 for Napier University which details the results of the sound insulation through partially open windows.

Therefore, the point raised by the Local Authority is irrelevant.

Internal noise level 58 to 63dB internally...

This calculation by the Local Authority is incorrect and reference should be made to the detailed calculations provided within the original report at section 6.1

Therefore, the point raised by the Local Authority is incorrect and therefore no applicable.

This would have serious impacts...

This statement by the Local Authority is incorrect and differs from the conclusions drawn in the original noise impact assessment.

Therefore, the point raised by the Local Authority is incorrect and therefore no applicable.

Moving Forward...

I am of the professional opinion that based on the substantive evidence provided within the Noise Impact Assessment Prior Approval should be granted by the Local Authority to allow the permitted development of Everest House from offices to residential.

Furthermore, if the Local Authority does refuse the application I would recommend an immediate Appeal of the decision as the clear precedent has been set by Appeal Reference APP/G5180/W/19/3237984. The Local Authority will have to provide substantive evidence to back up their current position which appears to have been based on a quick read of the summary of the Noise Impact Assessment.

Institute of Acoustics...

I have checked the register of members of the Institute of Acoustic and can't find Karl Riahi listed as either an associate or corporate member and therefore I am unable to raise any concerns with them regarding the original memorandum and the professional competence in terms of acoustics of the author.

Best regards

Rhys

Mr. R. M. Scrivener - [KR Associates \(UK\) Ltd](#)

Direct: [07966 398969](#) Southampton: [02380 55 04 55](#)

Kind regards,

Heather Yuen BSc (Hons)

Planner

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From: David Elmore <d.elmore@welhat.gov.uk>

Sent: 19 March 2020 09:29

To: Heather Yuen <heather@collectiveplanning.co.uk>

Cc: Karl Riahi <k.riahi@welhat.gov.uk>; John Ferguson <john@collectiveplanning.co.uk>

Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear Heather,

The other consultee for this prior approval was the Highway Authority and they raised no objection.

As stated in my previous email, the application will be decided as submitted which will be a refusal on the ground of unacceptable levels of noise. The issue of noise can be discussed through the Council's paid pre-application service.

David.

David Elmore
Senior Development Management Officer
Welwyn Hatfield Borough Council
Tel: 01707 357221
Email: d.elmore@welhat.gov.uk

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From: Heather Yuen [<mailto:heather@collectiveplanning.co.uk>]
Sent: 18 March 2020 11:27
To: David Elmore <d.elmore@welhat.gov.uk>
Cc: John Ferguson <john@collectiveplanning.co.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

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Dear David,

Thank you for your email.

Our noise consultant is currently reviewing the Council's comments and will provide a response shortly. As requested previously, we would like to meet with yourself and the Public Health & Protection Team as we consider this to be the most effective way to discuss the Council's concerns and to reach an agreement/way forward. However, given the current situation regarding the coronavirus outbreak, can a conference call please be arranged instead? We are very keen to address the concerns that the Council have at the moment.

Other than concerns over noise, can you please advise whether there are any other comments received and concerns raised?

Kind regards,

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From: David Elmore <d.elmore@welhat.gov.uk>
Sent: 16 March 2020 16:05
To: Heather Yuen <heather@collectiveplanning.co.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear Heather,

The Council's Public Health & Protection Team have today objected to the application on the ground of unacceptable levels of noise for future occupiers of the residential units. See their response attached.

The application will be decided as submitted which will be a refusal for this reason.

Planning do operate a paid pre-application advice service which your client may want to use to discuss the noise issues with the change of use. Pre-application advice can be requested through the following link:
<https://www.welhat.gov.uk/planning-advice/cost>

David.

David Elmore
Senior Development Management Officer
Welwyn Hatfield Borough Council
Tel: 01707 357221
Email: d.elmore@welhat.gov.uk

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From: Heather Yuen [<mailto:heather@collectiveplanning.co.uk>]
Sent: 16 March 2020 15:43
To: David Elmore <d.elmore@welhat.gov.uk>
Cc: John Ferguson <john@collectiveplanning.co.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

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.
Dear David,

Do you have any updates on the below?

Kind regards,

Heather Yuen BSc (Hons)
Planner

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From: Heather Yuen

Sent: 13 March 2020 11:29

To: David Elmore <d.elmore@welhat.gov.uk>

Cc: John Ferguson <john@collectiveplanning.co.uk>

Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear David,

Thank you for your email.

I understand that the consultation period ends today. Can you please advise on the comments received?

Further to this, given the unresolved noise concerns in the previous prior approval application ref. 6/2018/3052/PN11, we are keen to work with the Council to resolve any noise issues there may be on the current application. If there are concerns regarding noise, we would like to request a meeting with yourself and/or the EHO to discuss the application and iron out any issues raised. Please can you advise whether this would be possible?

Kind regards,

Heather Yuen BSc (Hons)

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From: David Elmore <d.elmore@welhat.gov.uk>

Sent: 04 March 2020 14:26

To: Heather Yuen <heather@collectiveplanning.co.uk>

Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear Heather,

The application is still out at consultation and no comments have been received to date. The consultation period ends on 13 March. You can view any comments made from statutory consultee's on the Council's website.

David.

David Elmore
Senior Development Management Officer
Welwyn Hatfield Borough Council
Tel: 01707 357221
Email: d.elmore@welhat.gov.uk

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From: Heather Yuen [<mailto:heather@collectiveplanning.co.uk>]
Sent: 04 March 2020 13:12
To: David Elmore <d.elmore@welhat.gov.uk>
Cc: John Ferguson <john@collectiveplanning.co.uk>
Subject: RE: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

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Dear David,

I have tried to call but was unable to get through.

Have you had a chance to review the application? If so, please let us know if you have any initial comments.

Thank you.

Kind regards,

Heather Yuen BSc (Hons)
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From: Heather Yuen
Sent: 24 February 2020 15:37
To: d.elmore@welhat.gov.uk
Cc: John Ferguson <john@collectiveplanning.co.uk>
Subject: 6/2020/0447/PN11 - Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG

Dear David,

By way of introduction, I am the planning agent for the above prior approval application at Everest House.

Once you have had the chance to review the application, please do let us know your comments if any. We are keen to work with the Council to reach a positive outcome.

Thank you and please do not hesitate to contact us if you have any queries.

Kind regards,

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