

**WELWYN HATFIELD BOROUGH COUNCIL
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

DELEGATED APPLICATION

Application No: 6/2020/0447/PN11
Location: Everest House, Sopers Road, Cuffley, Potters Bar, EN6 4SG
Proposal: Prior approval for the change of use from offices (B1(a) to dwellinghouses (C3) to create 45 residential dwellings
Officer: Mr David Elmore

Recommendation: Refused

6/2020/0447/PN11 *These applications are for an assessment as to whether prior approval of those matters detailed within the legislation is required from the Council. However, other matters have been considered, but are not referred to as part of the decision letter. The contents of matters other than the prior approval considerations cannot be relied on as to the development's lawfulness. These require confirmation, if required by the developer, through the submission of an application for a Certificate of Lawful Use.*

Context		
Application Description	Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings	
Relevant planning History	Application Number: 6/2018/3052/PN11 Decision: Withdrawn Decision Date: 23 January 2019 Proposal: Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings Application Number: S6/2015/1119/OR Decision: Prior Approval Not Required Decision Date: 20 July 2015 Proposal: Prior approval for the change of use from Class B1 (Office) to Class C3 (Dwellinghouses)	
The main issues are:		
Whether the proposed works are permitted development by virtue of Schedule 2, Part 3, Class O (change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class B1(a) (offices) of that Schedule of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended		
	Y/N	To be PD
O.1 Development is not permitted by Class O where—		
(a) Deliberately excluded		
(b) (i) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 29th May 2013 or,	Y	Y

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use		
(c) deliberately excluded		
(d) the site is, or forms part of, a "safety hazard area;	N	N
(e) deliberately excluded		
(f) the building is a listed building or is within the curtilage of a listed building; or	N	N
(g) the site is, or contains, a scheduled monument.	N	N
Conditions		
O.2 Development under Class O is permitted subject to the condition that before beginning the development, 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—		
Prior approval of the following matters:		
	Y / N / N/A	
(a) transport and highways impacts of the development	Y	
(b) contamination risks in relation to the building	Y	
(c) flooding risks in relation to the building,	N/A	
(d) impacts of noise from commercial premises on the intended occupiers of the development	Y	
Discussion where matters require prior approval		
Transport and highways impacts of the development	The Highways Authority have been consulted for this application and present no objection	
Contamination risks on the site	The Council's Public Health & Protection Team have been consulted for this application and present no objection on this ground.	
Flooding risks on the site	The application site is located within Flood Zone 1, does not have critical drainage problems and has not been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order	
Noise impacts	<p>This application has been supported by a Noise Impact Assessment (by KR Associates, Version 1.0 – 3rd February 2020) and the Council's Public Health & Protection Officer has been consulted accordingly.</p> <p>There are serious concerns regarding noise from nearby commercial/industrial noise sources, with the Noise Impact Assessment showing a 73dB LAeq external noise level, along with a 49dB internal noise level with windows open.</p> <p>It is unclear how the 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 59 to 64dB internally. Serious impacts on things people take for granted, such as holding a conversation or watching television, would result.</p> <p>Taking account of the above, it is considered that there would be an unacceptable noise impact from commercial premises on</p>	

the intended occupiers of the development. As a consequence, it is recommended that the application is refused because the Council cannot be confident that future residents will be afforded a good standard of amenity and that the businesses activities will not be affected due to complaints.

Reasons for Refusal:

1. Insufficient information has been provided in relation to the impact of noise from adjacent commercial premises on the occupiers of the proposed dwellings. Schedule 2, Part 3, Class O, Paragraph (3)(d) of the Town and Country Planning (General Permitted Development) Order 2016 (or as amended) states that the local planning authority may refuse an application where, in the opinion of the authority the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, limitations or restrictions specified in this Part as being applicable to the development in question. As such, the prior approval is refused.

REFUSED DRAWING NUMBERS

2.

Plan Number	Revision Number	Details	Received Date
1414_04_004		Site Location Plan	14 February 2020
1414_04_005		Existing Site Plan	14 February 2020
21302_01_P		Existing Ground Floor & First Floor Plans	14 February 2020
21302_02_P		Existing Basement & Second Floor Plans	14 February 2020
EH.09.PR.FP.		Proposed First & Second Floor Plans	14 February 2020
EH.10.PR.FP.		Proposed Basement & Ground Floor Plans	21 February 2020

Determined By:

Mr William Myers
9 April 2020