

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

DELEGATED APPLICATION

Application No: 6/2020/1990/PN11
Location: Everest House Sopers Road Cuffley Potters Bar EN6 4SG
Proposal: Prior notification for the change of use from office (B1A use class) to residential (C3 use class) to create no. 32 residential units.
Officer: Mr Antoine Commenville

Recommendation: Prior Approval Required and Refused

6/2020/1990/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 notification for the change of use from office (B1A use class) to residential (C3 use class) to create no. 32 residential units.
Relevant planning History	<p>Application Number: 6/2020/0984/PA Decision: Refused Decision Date: 10 July 2020 Proposal: Pre-application advice for the change of use from use class B1a office to C3 residential to create 45 dwellings</p> <p>Application Number: 6/2020/1203/PN11 Decision: Withdrawn Decision Date: 20 July 2020 Proposal: Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings</p> <p>Application Number: 6/2020/0447/PN11 Decision: Refused Decision Date: 9 April 2020 Proposal: Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings</p> <p>Application Number: 6/2018/3052/PN11 Decision: Withdrawn Decision Date: 23 January 2019 Proposal: Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings</p> <p>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)</p>

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, (ii) in the case of a building which was in use before that date but was not in use on that date,	Y	Y (was used)
(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—		
The Development also need to comply with the relevant sections of Class W of the above mentioned Order.		
Prior approval of the following matters:		
	Y ¹ /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	
(e) the provision of adequate natural light in all habitable rooms of the dwellinghouses	Y	
Discussion where matters require prior approval		
Transport and highways impacts of the development	The Highways Authority have been consulted and has commented that there is insufficient information supplied with this application to enable the Highway Authority to reach a recommendation for approval. In the absence of the necessary information, the Highway Authority recommends refusal due to doubt over possible implications for pedestrian and highway safety, sustainable transport and convenience.	

¹ Where Yes – discuss the issue after the table. If insufficient information has been provided or the development does not comply the conditions, limitations or restrictions, permission may be refused.

The Highway Authority is aware of the site's planning history. Although the Highway Authority raised no objection to the previous applications on this site, they have commented that this current proposal should be assessed against the current government's guidance (NPPF), Hertfordshire's Local Transport Plan 4, and the LTN 1/20 "cycle infrastructure design" published in July 2020, which all put a stronger emphasis on all applications to promote use of sustainable modes of travel. Para 10 of the Procedure for applications for prior approval under Part 3 states that the local planning authority must, when determining an application have regard to the National Planning Policy Framework. Para 108 and 110 of the NPPF refer to access by sustainable modes of transport.

The subject site is located to the eastern side of Sopers Road that is designated as a local distributor road and is subject to a 30mph speed limit along this section of road. Since no detailed site layout plans were submitted to show the access to/from Sopers Road and internal arrangements it is unclear what access provisions would be for the new use and how access will be shared between the residential and the office use remaining on site.

In terms of traffic impact, although there may be an overall decrease in traffic peak times, the direction of travel and frequency of movements outside of peak times will change. There is also likely to be an intensification in pedestrian and cycle trips, and to this end and in the light of the recent policy changes the Highway Authority requests that the submission demonstrates how pedestrians (a person in a wheelchair) and cyclist (child cyclist) can safely access across and to and from the site.

It is acknowledged that the proposed change of use should result in a reduced trip generation for the site overall. However, although the number of vehicle movements during peak times is likely to decrease in comparison to the current use, the aims of the LTP4 and NPPF are to promote walking and cycling and to this end, the Highway Authority requests that more information is provided on the cycle parking and how would a lower ground floor be accessed from the units themselves and from the public highway.

In line with the LTN 1/20 cycle parking should also offer an option for storage of non-standard bicycles like tricycles, cargo bikes, handcycles (normally 5% of the total cycle parking provision) and offer the highest level of security to encourage cycling in line with the NPPF and the LTP4. No cycle parking is proposed for visitors but should be made available in a secure and overlooked location.

The site will require access by domestic waste collection vehicles, yet there is no information provided as part of this submission to explain how refuse and servicing will be undertaken. It should be noted that there are distance limits for refuse vehicle operatives to walk from the truck to the collection point and trucks should not reverse more than 12m. Likewise, the applicant should demonstrate that refuse areas are within acceptable walking

distance for residents of the development. Given the number of units and an increase in online shopping, consideration should be given now to accommodate, within the parking layout, bays for delivery vehicles like food deliveries.

In terms of on-site parking, the proposed development would include the provision of 43 car parking spaces (according to the Cover Letter). WHDC's parking standards are set out within the Council's Supplementary Planning Guidance (SPG) and zonal restraint-based approach is applied. The site falls within Zone 4. Although the provision appears to comply with the adopted standards, parking spaces have not been shown on the plans and again it is unclear how these will be accessed or shared with the office use nearby.

The applicant has not submitted information regarding the provision of electric vehicle charging points (EVCP) – Policy 5 of the LTP4 applies. Due to the scale and nature of the development, the Highway Authority recommends that the development shall include provision for at a minimum, 10% of the car parking spaces to be designated for plug-in Electric Vehicles (EV) and served by EV ready charging points. A further 10% (minimum) of spaces should include passive provision for EVCPs in the future.

HCC encourage the LPA to seek EV charging provision within the site to promote sustainable development future proof the site.

A Construction Traffic Management Plan would be required to ensure construction vehicles will not have a detrimental impact on the vicinity of the site and a condition will be required to provide adequate parking for construction vehicles on-site to prevent on-street conflict and impacts to the highway safety.

Para 109 of the NPPF allows to refuse the applications, which would have an unacceptable impact on highway safety, i.e., inability of the site to be serviced by a domestic refuse vehicle. To ensure compliance with the NPPF more information is also required on car and cycle parking provision on site, the pedestrian/cycle access, etc.

In light of the above, it is considered that there is insufficient information to demonstrate that the development would not result in an unacceptable impact on local highway network and its safety, contrary of the Hertfordshire County Council Local Transport Plan 4; and, Section 9 of the National Planning Policy Framework (2019).

Paragraph W of the Procedure for applications for prior approval under Part 3 states that the local planning authority must have regard to the National Planning Policy Framework (NPPF) issued by the Ministry of Housing, Communities and Local Government in February 2019, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. This allows for consideration against Section 9 (Promoting

	sustainable transport - in particular, Paragraphs 108 - 109) of the NPPF (2019), which seeks to avoid development that creates unacceptable impacts on highway safety. The scheme subject of this Prior Approval would therefore be contrary to the National Planning Policy Framework.
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 letter of objection received from the Local Lead Flood Authority requesting a drainage strategy has been noted. However, the application site is located within Flood Zone 1, does not have critical drainage problems and the response from the Environment Agency is not relevant 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 KP Acoustics, Report 20765.NIA.01.Rev. B) and the Council's Public Health & Protection Officer has been consulted accordingly.</p> <p>Together with advice from the Council's Public Health & Protection Team, the Council have instructed an acoustic consultancy named 'MAS Environmental Ltd' to review The report 20765.NIA.01.Rev.B.</p> <p>Mas Environmental Ltd consider on behalf of the Public Health and Protection department that there remains a failure to recognise the full relevance of 'agent of change' principles or what constitutes an acceptable internal noise environment and to appropriately protect existing commercial operations and sites from constraint. The assessment are therefore inadequate.</p> <p>This proposal presents an improvement in terms of noise mitigation and impact assessment in some elements although substantially worse in others compared to the previous application for this building.</p> <p>As a result, the council's Public Health and Protection Officer's recommendation is strongly of refusal. There remains inadequate information to properly assess the revised proposal but the evidence presented not only provides substantial contradictions throughout but it serves to indicate significant land use conflicts and a fundamental failure to meet 'agent of change' constraints. The main element that can be extracted from the assessments is of excessive noise and likely at night.</p> <p>A key consideration is the use of incorrect background sound levels and failure to assess at night. In any event the assessments presented are rejected as not remotely accurate and not following guidance or the science.</p> <p>The assessment using BS4142 and the separate Noise Impact</p>

	Assessment of an earlier July 2020 date present a significant number of reasons for concern. Not only are there contradictions between the two methods, critically they repeatedly do not follow the science of acoustics nor the standards and guidance documents. They fail to report limitations in guidance and report their application, contrary to caveats within them, as if that is the norm.
Adequate natural light in all habitable rooms	Having regard to the floor and elevation plans submitted there are no objections with regard to the natural light provided to all habitable rooms.

Non-Statutory / Public Responses:

Several responses were received raising objections to matters that fall outside of the above assessment criteria. The provisions of Class O, of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) do not allow for such matters to be considered within the assessment.

Reasons for Refusal:

1. Insufficient information has been provided in relation to the highway and transport impacts of the development to demonstrate that the pedestrian and highway safety, sustainable transport and convenience would not be adversely prejudiced, and would therefore be contrary to the Hertfordshire County Council Local Transport Plan 4; and, the provisions Section 9 of the National Planning Policy Framework.
2. 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

3.

Plan Number	Revision Number	Details	Received Date
00 201	B	Superseded - Proposed Floor Plans Ground and Lower Ground	10 August 2020
00 202	B	Superseded - Proposed Floor Plans First and Second Floor	10 August 2020
90 101	P01	Location Plan	10 August 2020
90 201	P01	Existing Floor Plans Ground and Lower Ground	10 August 2020

90 202	P01	Existing Floor Plans First and Second Floor	10 August 2020
N/A		Block plan	12 August 2020
90 110		Block plan	13 August 2020
N/A		Title plan	13 August 2020
90 220	P01	Elevations 1 to 3	18 August 2020
90 221	P01	Elevations 4 to 8	18 August 2020
00 201	P01	Ground floor plan	17 August 2020
00 202	P01	1st and 2nd floor plans	17 August 2020

Determined By:

Mr Mark Peacock
7 October 2020