

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

**DELEGATED APPLICATION**

**Application No:** 6/2021/1244/PN11  
**Location:** Andre House 19-25 Salisbury Square Hatfield AL9 5BT  
**Proposal:** Prior approval for change of use from offices (Class B1(a)) to dwellinghouses (Class C3) to create 8 flats  
**Officer:** Mr David Elmore

**Recommendation:** Granted

6/2021/1244/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.*

<b>Context</b>	
Application Description	<p>Prior approval for change of use from offices (Class B1(a)) to dwellinghouses (Class C3) to create 8 flats.</p> <p>The application initially proposed 9 flats. This was reduced to 8 flats during the course of the application as it was considered by Officers that the habitable rooms of a flat (Flat 03) would not receive adequate natural light.</p> <p>The application site comprises a two and a half storey building (inclusive of office space in roof) named Andre House and also six parking spaces of The Broadway Car Park which is situated adjacent to the building to the south.</p> <p>Andre House is located within Old Hatfield. The building backs on Salisbury Square which includes ground floor retail, two hot food takeaways, a restaurant a small number of other commercial uses. To the north-east, at the junction of The Broadway and Fore Street is The Eight Bells Public House. To the south-east, on the opposite side of The Broadway, are a number of retail/commercial units.</p>
Relevant planning History	<p>Application Number: 6/2018/0688/PN11  Decision: Not Determined (Decision not made with determination period)  Decision Date: 09 May 2018  Proposal: Prior approval for change of use of site and building from offices B1(a) to dwellinghouses (C3) to include the creation of 9 residential units</p>
<b>The main issues are:</b>	
<p><b>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</b></p>	

	Y/N	To be PD
<b>O.1 Development is not permitted by Class O where—</b>		
(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
<b>Conditions</b>		
<b>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—</b>		
<ul style="list-style-type: none"> <li>(a) transport and highways impacts of the development,</li> <li>(b) contamination risks on the site,</li> <li>(c) flooding risks on the site, and</li> <li>(d) impacts of noise from commercial premises on the intended occupiers of the</li> <li>(e) development, and</li> <li>(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses.</li> </ul>		
and the provisions of paragraph W (prior approval) apply in relation to that application.		
<b>W.2 The application must be accompanied by—</b>		
	Y/N	To be PD
(a) a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must in the same application include any building or other operations;	Y	Y
(b) a plan indicating the site and showing the proposed development;		
(ba) a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, "net increase in dwellinghouses" is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);	Y	Y
(bb) deliberately excluded		
(bc) a floor plan indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses	Y	Y
<b>Discussion where matters require prior approval</b>		
<b>Transport and highways impacts of the development</b>	No adverse impact.	
<b>Contamination risks on the site</b>	No adverse impact.	

<b>Flooding risks on the site</b>	<p>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.</p> <p>No objection in this regard.</p>
<b>Noise impacts</b>	<p>Paragraph 127 of the NPPF outlines that planning decisions should provide a high standard of amenity for future users. Paragraph 180 of the NPPF says that planning decisions should avoid noise giving rise to significant adverse impacts on health and quality of life.</p> <p>The application has not been supported with a noise impact assessment. The submitted Planning Statement states:</p> <p><i>“The nearby buildings are either in B1 office use or have been converted into residential use. There are no nearby commercial uses that might cause a noise nuisance for potential residents”.</i></p> <p>The Council’s Public Health &amp; Protection Officer has been consulted for this application and identified that the site is located close to a number of shops/retail units as well as the Eight Bells Public House. A site visit by the case officer also confirmed a hot food takeaway (New Dynasty Chinese) close to the north-western boundary of the site. This building also includes a large external flue on its side elevation.</p> <p>Having regard to the nearby commercial uses - in particular, the hot food takeaway and public house, a noise report with a scheme to mitigate the noise from nearby commercial activities, deliveries, plant and equipment, is recommended by planning condition to ensure that intended occupiers would not be subject to unacceptable levels of noise. The terms of this pre-commencement condition have been agreed by the applicant.</p>
<b>Natural light</b>	<p>Schedule 2, Part 3, Paragraph W(2A) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.</p> <p>The ‘Interpretation of Part 3’ in the same Order states that “habitable rooms” means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.</p> <p>Paragraph 127 of the NPPF outlines that planning decisions should provide a high standard of amenity for future users.</p> <p>Having regard to location, size and orientation of the windows serving each flat, it is considered that adequate natural light would</p>

	be provided in all the habitable rooms of all 8 flats.
<b>Conclusion</b>	
Subject to the suggested condition, the proposed change of use is acceptable. Prior approval is required and granted.	

**Conditions:**

1. Development must not commence until a noise report has been submitted to and approved in writing by the Local Planning Authority. The report must include:
  - An assessment of noise from commercial operations in accordance with BS4142;
  - A scheme to mitigate noise from nearby commercial activities, deliveries, plant and equipment, on the intended occupiers of the development. Mitigation measures must ensure that indoor ambient noise levels in living rooms and bedrooms from commercial noise sources are 10dB below the standards within BS 8233:2014 and L<sub>Amax</sub> levels do not exceed 40dB internally with windows closed; and
  - Details regarding reduced operating schedules in relation to COVID-19 and consideration of what additional operations will take place under normal working activities and the effects this will have on noise levels. Consideration must also be given to potential commercial operating hours and likelihood of commercial expansion.

The approved noise mitigation scheme must be implemented prior to first occupation of the development and must be fully adhered to in perpetuity with the development.

REASON: To ensure that intended occupiers of the development are not subject to unacceptable levels of noise from commercial premises, in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

**DRAWING NUMBERS**

2. The development/works shall not be started and completed other than in accordance with the approved plans and details:

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
18_311_PN0 8		Proposed Second Floor and Roof Plan	16 April 2021
18_311_PN0 2		Site & Block Plan	16 April 2021
18_311_PN0 3		Existing Ground & First Floor Plan	16 April 2021
18_311_PN0 4		Existing Second Floor & Roof Plan	16 April 2021

18_311_PN0 5	Existing Elevations	16 April 2021
18_311_PN0 6	Existing 3D Views	16 April 2021
18_311_PN0 1	Location Plan	16 April 2021
18_311_PN0 7A	Proposed Ground & First Floor Plan	9 June 2021

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

1. POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

**Informatives:**

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (water interest etc.) Neither does this permission negate or override any private covenants or legal interest (easements or wayleaves) which may affect the land.
2. In addition, and separate to your planning permission, for the majority of schemes, you are required by law to appoint a building regulator who will inspect your property at various stages during the course of your building project. This is to ensure it is compliant with the Building Regulations and the Building Act 1984.

The checks the building regulator will carry out include, but are not limited to, the structure, foundations, fire precautions and escape routes, electrical and plumbing compliance and other issues such as drainage and insulation. The objective of these checks is to ensure that your building is safe to live in, accessible and environmentally sustainable.

Once all build stages are checked and the works are finished, a Completion Certificate is issued confirming that these objectives have been met. You will also need the Completion Certificate, should you sell the property, as it will confirm to future owners that the work has been carried out in compliance with the Regulations.

As the owner of the property, you are responsible for Building Regulations compliance so we would urge you to decide which regulator to use, as opposed to leaving your builder or architect to make the choice. This is so that you can be sure the building regulator is truly independent and working to protect you from any breach or omission during the works.

Hertfordshire Building Control Limited are a Company wholly owned by eight local authorities in Hertfordshire including Welwyn Hatfield Borough Council. Please contact them on 01438 879990 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) to discuss the process and all that is involved. Or alternatively refer to the Homeowner Information section on their website at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk)

**Determined By:**

Mr Mark Peacock  
9 June 2021