

Welwyn Hatfield Borough Council Offices
The Campus
Welwyn Garden City
Hertfordshire
AL8 6AE

28th July 2020
Our ref: JF/0222

Dear Sir/Madam,

**EVEREST HOUSE, SOPERS ROAD, CUFFLEY, POTTERS BAR EN6 4SG
APPLICATION FOR PRIOR NOTIFICATION FOR THE CHANGE OF USE FROM OFFICE
(B1a USE CLASS) TO RESIDENTIAL (C3 USE CLASS) TO CREATE NO.32 RESIDENTIAL
UNITS**

I write on behalf of my client, Cuffley Properties Ltd, to submit an application for determination as to whether prior approval is required for the change of use from Use Class B1a Office to C3 residential at the above site, in accordance with Class O of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.

This letter sets out the site context, planning history, proposed development and compliance with appropriate legislation under Class O of the GPDO (2016 Amendment).

Site Context

The site comprises a three-storey office building in B1a use class with a lower ground floor and on-site parking spaces.

The site is located on the east side of Sopers Road and is within 2-minute (approximately 150m) walking distance to Cuffley train and bus stations to the north of the site. Cuffley train station has regular services towards Stevenage and central London including Moorgate and Kings Cross. The bus stop serves bus number 242, 380 and 308 which provide services towards Potters Bar, Hertford and Waltham Cross.

The surrounding area comprises a mix of uses including employment and business uses to the south, residential to the north and west, and local shops, supporting services and facilities along Station Road.

The subject property is not statutorily or locally listed nor is it within a conservation area. The site falls within an area of Flood Zone 1 and it is located within the Sopers Road Employment Area designated in the Welwyn Hatfield District Plan 2005.

Relevant Planning History

The relevant planning history of the site is tabulated below. The most relevant is the 2015 prior approval application (ref. S6/2015/1119/OR) whereby prior approval was considered to not be required, on 15th July 2015. This indicates the change of use from B1a to C3 is acceptable and is permitted development.

Reference	Description	Decision
6/2020/1203/PN11	Prior approval for change of use from office (B1a Use Class) to residential (C3 Use Class) to create 45x residential units	Pending decision
6/2020/0447/PN11	Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings	Refused 09/04/2020
6/2018/3052/PN11	Prior approval for the change of use from offices (B1(a)) to dwellinghouses (C3) to create 45 residential dwellings	Withdrawn 23/01/2019
6/2016/2546/ADV	Replacement of existing company's signage with a new internally illuminated signs on the west and north elevations and one non-illuminated sign on east elevation	Granted 17/05/2017
S6/2015/1119/OR	Prior approval for the change of use from Class B1 (Office) to Class C3 (Dwellinghouses)	Prior Approval Not Required 15/07/2015
S6/1999/0016/FP	Erection of covered glass walkway	Withdrawn 05/05/1999
S6/1982/0303	Site for new office building with associated car park	Refused. Appeal dismissed 24/05/1983.
S6/1977/0256/	Site for office premises	Granted 23/03/1978

The 2015 permission has now expired and therefore our client is submitting a new prior approval application to allow development to commence. The prior approval application ref. 6/2020/0447/PN11 was refused for the following reason:

'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.'

Following the refusal, a pre-application meeting was held with Welwyn Hatfield Borough Council on the 4th June 2020 where it was agreed that sealed windows would resolve the potential noise issues. This was subsequently proposed under the prior approval application ref. 6/2020/1203/PN11, however the Council then considered sealed windows combined with the use of mechanical ventilation to be an inappropriate mitigation measure. It was considered that this would have a detrimental impact on future occupiers.

This prior approval application therefore seeks to address the noise related issues raised in the previous applications (ref. 6/2020/0447/PN11 and 6/2020/1203/PN11).

Proposed Development

The detailed parameters of the proposed development comprise:

- Conversion of the existing B1a office use to C3 residential use on the eastern part of the building;
- Provision of no.32 residential units comprising no.18 studios, no.4 one-bedroom flats and no.10 two-bedroom flats; and
- Provision of no.45 cycle parking spaces at lower ground floor level; and
- Provision of no.43 parking spaces on the ground level.

Legislation

On 6 April 2016 the Town and Country Planning (General Permitted Development) Order was amended. These amendments included changes to Class O of Part 3 of Schedule 2 of the Order, requiring the application to be received by the local planning authority on or before 30th May 2019. It also entailed the impacts of noise from commercial premises on the intended occupiers of the development to be a determination as to whether prior approval will be required. As such, Paragraphs O.1 and O.2 were amended to the following:

***O.1** Development is not permitted by Class O if—*

(a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;

(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—

i. on 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, when it was last in use;

(c) the site is, or forms part of, a safety hazard area;

- (d) the site is, or forms part of, a military explosives storage area;*
- (e) the building is a listed building or is within the curtilage of a listed building; or*
- (f) the site is, or contains, a scheduled monument.*

O.2.—(1) *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—*

- (a) transport and highways impacts of the development,*
 - (b) contamination risks on the site,*
 - (c) flooding risks on the site, and*
 - (d) impacts of noise from commercial premises on the intended occupiers of the development,*
- and the provisions of paragraph W (prior approval) apply in relation to that application.*
- (2) *Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.*

Interpretation of Class O

O.3. *For the purposes of Class O, “commercial premises” means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2(1), and includes any premises licensed under the Licensing Act 2003(1) or any other place of public entertainment.*

Article 7(2)

With effect from 31st May 2019 omit—

- (i) article 2(5);*
- (ii) Part 3 of Schedule 1 (article 2(5) land); and*
- (iii) paragraph O.1(a) of Part 3 of Schedule 2 (as substituted by this Order).*

Article 2(1) Interpretation

“building”—

- (a) includes any structure or erection and, except in Class F of Part 2, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16 and Class T of Part 19, of Schedule 2, includes any part of a building; and*
- (b) does not include plant or machinery and, in Schedule 2, except in Class F of Part 2 and Class C of Part 11, does not include any gate, fence, wall or other means of enclosure;*

Compliance with Legislation

The application is submitted on the basis that the proposed change of use is permitted by Class

O of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (2016 Amendment) because:

- a) Paragraph O.1(a) of Part 3 of Schedule 2 is no longer a criterion as it has been omitted since 31st May 2019, as outlined in Article 7(2) of the GPDO 2016 amendment;
- b) The building is currently in B1a office use and was in this use on 29th May 2013;
- c) The site is not and does not form part of a safety hazard area;
- d) The site is not and does not form part of a military explosives storage area;
- e) The building is not listed or within the curtilage of a listed building; and
- f) The site does not contain a scheduled monument.

Transport

The site is located in a sustainable location as it is approximately 150-200m from Cuffley railway station, bus station as well as local shops, services and facilities along Station Road. The proposed change of use will retain the existing no.43 parking spaces at the ground floor level for future residents, as well as provide no.45 cycle parking spaces. This will meet the transport needs of the future occupiers. Therefore, the proposal will not result in any negative transport and highways impacts.

As outlined in the officer's report for the prior approval ref. S6/2015/1119/OR, the proposed residential use would typically lead to a lower number of vehicular trips than a similar sized B1a office use. It was considered that the proposed change of use would not result in adverse transport and highways impacts. The Highway Authority has been consistent with this conclusion and has not raised objections to the proposals ref. 6/2018/3052/PN11, 6/2020/0447/PN11 and 6/2020/1203/PN11. The subject proposal comprises a lower number of flats proposed and thus, the number of vehicular trips. As such, the proposed development will not result in transport and highway impacts and will satisfy paragraph O.2(1)(a) of Class O of Part 3 of Schedule 2 of the GPDO (amendment) 2016.

Contamination

The proposed change of use does not include any groundworks, it is therefore considered that there will be no detrimental contamination impacts. The Environmental Health Officer for the previous application ref. 6/2020/0447/PN11 raised no concerns over contaminated land. As the proposed development is similar to ref. 6/2020/0447/PN11, it is considered that there will not be any contamination risks on the site. The proposal therefore meets the criterion set out in paragraph O.2(1)(b) of Class O of Part 3 of Schedule 2 of the GPDO (amendment) 2016.

Flood Risk

The site is located within an area of Flood Zone 1, which indicates that there are low risks of flooding on the site. No objections were raised regarding flood risk in the previous prior approval applications (ref. 6/2020/0447/PN11, 6/2018/3052/PN11, S6/2015/1119/OR). The proposed change of use is therefore in compliance with the legislation set out in Class O of the GPDO

(amendment) 2016.

Noise

A comprehensive Noise Impact Assessment (prepared by KP Acoustics) and a BS4142 Noise Assessment (prepared by KP Acoustics) are submitted in support of this prior notification application, to assess the suitability of the site for residential development in accordance with Class O of the GPDO (amendment) 2016. The Noise Impact Assessment (by KR Associates) undertaken and submitted for the previous prior approval application ref. 6/2020/0447/PN11 also accompanies this application as noise levels are taken from this report, as explained in KP Acoustic's Assessment.

To mitigate any impacts of noise from commercial premises on future occupiers of the development, appropriate secondary glazing and a MVHR system are proposed. The majority of windows within the residential units will be openable (on the north facade), whilst those on the south facade mainly serving the access corridor will be sealed to minimise noise impacts. These mitigation measures will reduce noise to acceptable levels, whilst ensuring that adequate ventilation is provided for future residents. As demonstrated in the Noise Impact Assessment by KP Acoustics, the internal noise level with closed windows will be 13dB(A) at the north facade, 21dB(A) at the southwest facade and 15dB(A) at the southeast facade throughout the day and night. The noise levels at the north and southeast facades are well below the proposed criterion of 20dB (i.e. 10dB below the BS 8233:2014 criteria). The exceedance of 1dB at the southwest facade is considered negligible. Noise levels with windows shut is therefore considered acceptable and will not adversely impact future residents.

The proposed internal layouts of the residential units have been further revised since the previous prior approval application (ref. 6/2020/1203/PN11) to further minimise any noise impacts on future residents. The existing office use on the west facade will be retained, as this is where it was found to be exposed to the highest noise levels. As such, residential use is proposed on the north and east elevations, where the noise levels are the lowest. The internal noise levels with partially opened windows at the north facade meets the daytime BS8233:2014 target of 35dB(A) and exceeds the night-time target by 1dB which is considered negligible. In fact, the facade noise levels recorded at the north and east/southeast facades are similar to or lower than those recorded at the existing residential block to the north of the site. This further suggests that the proposed residential use will be acceptable in terms of noise levels. The internal noise levels with partially opened windows at the south facade exceed the BS8233:2014 target and therefore these windows will be sealed.

The BS4142 assessment also confirms that there is a low likelihood of adverse impact on the future residents. The predicted internal noise levels are considered non-significant taking into account the proposed mitigation measures shows, it is deemed to be low enough such that complaints are unlikely.

As outlined in the accompanying Noise Impact Assessment (by KP Acoustics), the proposed ventilation strategy, including the MVHR system, is acceptable and in compliance with the

Building Regulations. The windows are openable which allows for purge ventilation and control over thermal comfort when required.

It should be noted that where opening windows is required for purge ventilation and overheating, it would only be for a short period of time, and the source of noise levels would likely be lower as the noise assessment by KR Associates was carried out with the assumption that the surrounding commercial premises would be fully active and operating 24/7. This is not the case as demonstrated in the table and map at **Appendix 1**, which shows that the average operating hours of surrounding commercial premises are between 8am to 5:30pm. The earliest and latest operation is at Barley Print, which opens at 7am and closes at 8pm. Barley Print is located at the southern end of Sopers Road, furthest from the site, and noise generated from operations here will not result in adverse noise impacts on future residents.

It should also be noted that the site is located within a mixed use area with an existing residential development immediately to the north of the site. These residential units have openable windows and are exposed to similar noise levels. This indicates that the co-existence of residential and commercial uses in the local area is acceptable for both residents and commercial occupiers in terms of noise, even with opened windows. On this basis, the proposed residential use is considered to be acceptable and will not be subject to unacceptable noise impacts.

The proposed development is therefore in compliance with the legislation set out in paragraph O.2(1)(d) of Class O of Part 3 of Schedule 2 of the GPDO (amendment) 2016.

Conclusion

It is considered that the proposed development complies with Class O of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (2016 Amendment), including paragraph O.2(1)(d) relating to noise impacts. The proposal will ensure an acceptable noise level for future residents through the use of secondary glazing, mechanical ventilation and a carefully designed internal layout. Other aspects of the scheme relating to transport, contamination and flood risk have been accepted by the Council in previous prior approval applications (ref. 6/2020/1203/PN11, 6/2020/0447/PN11, 6/2018/3052/PN11 and S6/2015/1119/OR).

It is therefore considered that the change of use from office to residential at the site to provide no.32 residential units through the prior approval process is acceptable.

This letter is accompanied by the following:

- Application form;
- Site Location Plan;
- Existing and proposed floor plans;
- CIL additional information form;
- Noise Impact Assessment by KP Acoustics;

- Planning Compliance Review (BS4142 Assessment) by KP Acoustics;
- (Noise Impact Assessment by KR Associates); and
- Application fee of £96.

I trust that the above is sufficient but please do not hesitate to contact me if you have any queries.

Yours faithfully,



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Director

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Appendix 1 - Operating Hours and Location of Surrounding Commercial Premises

Operating Hours of Surrounding Commercial Premises

Commercial Premise	Operating Hours	Source of Information
Ellis Training Works	Monday to Friday: 9am – 5:30pm	Google/ Google Maps
Tams Packaging Ltd	Monday to Friday: 8am – 5:30pm	Google/ Google Maps
Titchfield Group (Head Office)	Monday to Friday: 9am – 5pm	Google/ Google Maps and company website
D D S Food Imports Ltd	Monday to Friday: 9am – 4pm	Google/ Google Maps
Trux Storage and Removals	Monday to Friday: 9am – 5pm Saturday: 9am – 3pm	Google/ Google Maps
Travis Perkins	Temporarily closed; Otherwise, Monday to Friday: 7:30am – 5pm Saturday: 8am – 12pm	Google/ Google Maps and company website
Restore Datashred	Monday to Friday: 8am – 5pm	Google/ Google Maps
Mir Packaging Ltd	Monday to Saturday: 8am – 6pm	Google/ Google Maps
Barley House Agency	Monday to Friday: 8:30am – 5pm	Google/ Google Maps
Barley Print	Monday to Friday: 7am – 8pm	Google/ Google Maps
Cuffley Motor Co	Monday to Friday: 9:30am – 5:30am Saturday: 9:30am – 5pm Sunday: 11am – 3pm	Google/ Google Maps and company website. Please note other services offered by the company have slightly different operating hours. Please refer to the company website, https://www.cuffleymotorcompany.co.uk/

Location of Surrounding Commercial Premises (Google Map Screenshot)

