Horsham District Council

# DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/0425
Room 20 Enterprise House, Foundry Lane, Horsham, West Sussex, RH13 5PX

DESCRIPTION:
Prior Approval for change of use of existing office premises to accommodate 4No. apartments, 2x2 bed and 2x1 bed units.

RELEVANT PLANNING HISTORY:

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|---|---|---|
| DC/23/2126 | Prior Approval for change of use of existing office premises to accommodate 4No. apartments, 2x2 bed and 2x1 bed units. | Prior Approval Required and REFUSED on 15.01.2024 |

SITE AND SURROUNDINGS

The application site lies to the west of Foundry lane and is within the built-up area of Horsham. There is parking provision around the existing offices. The locality as a built form of with a mixture of uses, being commercial, light industrial and residential. The locality is within a key employment area of Horsham.

DETAILED DESCRIPTION

The application seeks to change the existing office premises to accommodate 4 residential units, consisting of 2x2 beds and 2x1 bed.

RELEVANT PLANNING POLICIES

**National Planning Policy Framework**
**The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended** – Schedule 2, Part 3, Class MA - Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

REPRESENTATIONS AND CONSULTATIONS RESPONSES
Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations:

**HDC Environmental Health**:
The noise survey confirms that the proposed development is exposed to high levels of noise and therefore acoustic mitigation and measures to prevent overheating will be required. No amenity space

is proposed. However, unlike Abbey House, the development forms part of Enterprise House and the existing floor plan shows communicating corridors to other parts of the building at ground and first floor level. It is unclear that the separating structures between the new residential use and remaining part of Enterprise house will adequately control noise from uses permitted under use class E. Fixed plant, machinery or equipment attached to the party structures may also be a source of noise and vibration. This has not been considered in the noise assessment and further information is required on these matters. The proposed layout shows conflicting room stacking layouts contrary to the advice given in section 6.17 to the Building Regulations Approved Document E. For contamination risks the Asbestos Register for the building should be provided.

**WSCC Highways**:
This proposal seeks prior approval for the change of use of existing offices to residential to form four apartments. The site is located on Foundry Lane, a C-classified road subject to a speed restriction of 30 mph.

WSCC in its role as Local Highway Authority (LHA) previously provided consultation advice for this site for similar application DC/23/2126, raising no highway safety concerns. The Local Planning Authority (LPA) refused the application on grounds unrelated to highways.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from offices to residential subject first to prior approval being granted. As part of the prior approval process, there are a number of matters to be considered. This includes matters relating to highways and transport. However, the GDPO is quite clear as to what highways matter can be considered, namely whether the proposal is likely to result in a material increase or material change in the character of traffic in the vicinity of the site.

The site is served by an existing vehicular access point on Foundry Lane. No traffic flow information has been provided with the current application; however, office uses tend to generate greater material movements than residential. Therefore, the LHA does not anticipate that material movements associated with the site will exceed that of the existing.

Existing car parking provision is to be retained for use for the proposed dwellings. The WSCC Car Parking Demand Calculator indicates that a development of this size and location would require five car parking spaces. From inspection of the plans, there is suitable space within the existing parking area for this demand to be accommodated.

No details of cycle parking provision have been provided. Cycling is a viable option in the area and the LHA would request that secure cycle parking provision be provided for this development in accordance with WSCC Parking Standards, if there is space within the site to do so.

**Southern Water**:
Standard comment in relation to foul and surface water drainage. For Full comments, see public access.

Parish Comments:
None received

Representations:
None received

HUMAN RIGHTS AND EQUALITY:

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

The main issue is whether prior approval is required for the proposed change of use under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016. Schedule 2, Part 3, Class MA of the above Order states that the following constitutes permitted development:

***'Permitted development***

***MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.***

***Development not permitted***

***MA.1.—(1)Development is not permitted by Class MA—***

***(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;***

The unit has been marketed for a period of over 2 years according to the Planning Statement.

***(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;***

The unit has been in office use for a period longer than two years.

***(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;***

The cumulative floor space of the existing building sought for conversion does not exceed 1,500m$^2$ (c. 240m$^2$)

***(d) if land covered by, or within the curtilage of, the building—***
- ***(i) is or forms part of a site of special scientific interest;***
- ***(ii) is or forms part of a listed building or land within its curtilage;***
- ***(iii) is or forms part of a scheduled monument or land within its curtilage;***
- ***(iv) is or forms part of a safety hazard area; or***
- ***(v) is or forms part of a military explosives storage area;***

The land covered by the building is not / within the curtilage of any of the above listed designations.

***(e) if the building is within—***
- ***(i) an area of outstanding natural beauty;***
- ***(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 198155;***
- ***(iii) the Broads;***
- ***(iv) a National Park; or***
- ***(v) a World Heritage Site;***

The site is not located within any of the above designations,

***(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or***

N/A

***(g) before 1 August 2022, if—***

***(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and***

***(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.***

N/A

***(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—***

***(a) the following classes of the Schedule as it had effect before 1st September 2020—***

***(i) Class A1 (shops);***
***(ii) Class A2 (financial and professional services);***
***(iii) Class A3 (food and drink);***
***(iv) Class B1 (business);***
***(v) Class D1(a) (non-residential institutions – medical or health services);***
***(vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);***
***(vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;***

***(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.'***

The proposal is in accordance with the above.

**Consideration**

Paragraph MA.2 states that the development must apply to the Local Planning Authority for determination as to whether the prior approval of the authority will be required as to the following impacts:

*(a) Transport Impacts*

WSCC Highways have advised that the proposed conversion would not result in any increased movements given that office buildings are likely to generate more vehicular movements that residential uses. There is an existing access to the site, and the submitted application form indicates that the site would use the existing parking provision which is sufficient for the number of residential units. There are no known highways safety issues, and the proposal does not anticipate that the proposed would be harmful to the safe use and operation of the highways network. As the site is located centrally within Horsham, it is anticipated that occupants would utilise the public parking available or be reliant on the use of sustainable and public methods of transport.

The provisions of the order do not specify that cycle parking is a requirement such that it is not necessary to condition this. Accordingly, the proposed use would not result in adverse transport impacts.

*(b) Contamination Risks*

The application was accompanied with an asbestos survey, following the request of the Council's Environmental Health Officers. The survey concluded that no asbestos was detected on the site. The site was previously used as a retail premises, though any former use is not known. Given its previous

use, it is likely that the site is not subject to any ground-based contamination arising from a previous use. However, a condition is attached to ensure that the Council is notified if any previously unidentified contamination is recorded during the conversion process. As such, no objections are raised on these grounds.

*(c) Flood Risks*

The proposal is not within designated Flood Zone 2 or 3, or within an area identified as being susceptible to Surface Water Flooding. It would not be considered at likely risk of flooding such that mitigation details would be considered a requirement of this application.

*(d) Noise Impacts*

The application site is located within a key employment area within Horsham and is in close proximity to commercial and industrial premises. Environmental Health have raised concern that the proposed flats would be stacked with identical floor plans which would not be in accordance to Building Regulations. Nevertheless, this assessment can be made only in relation to effects arising from commercial premises in close proximity to the application site. Building regulations in this instance would not be a consideration for assessment.

The noise assessment notes that acoustic mitigation measures can be made to ensure that noise does not exceed maximum recommended levels within the proposed flats, they do not however make an assessment of the noise caused by the adjoining property which is in commercial use. In respect of the mitigation measures proposed within the submitted Noise mitigation assessment therefore, a pre-occupation condition will thus be required to ensure the mitigation measures suggested are introduced to limit noise from the nearby train line and traffic from Foundry lane.

*(e) Impact on the Conservation Area*

The site is not located within a Conservation Area. Therefore, no objection is raised on these grounds.

*(f) Provision of Adequate Natural Light*

Each habitable room serving each of the flats would benefit from adequate natural light intake. As such, no objection is raised on these grounds.

*(g) Introduction of a Residential Use*

As above, the site is located within a street predominantly formed of properties with a mixture of uses, being light industrial, some residential and commercial. There are some examples of heavy industry, storage / distribution uses located on Foundary Lane but none in the immediate locality. The proposed arrangement is not unusual for a town centre location- the occupation of the unit for residential purposes is not considered to adversely impact the future occupants of the dwelling. As such, no objection is raised on these grounds.

*(h) where the development involves the loss of services provided by (i) a registered nursery, or (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006*

N/A

*(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building*

The proposed use is not anticipated to pose any potential fire risk on the intended occupants.

**National Space Standards**

In accordance with Section (9A) of Article 3 of the General Permitted Development Order (2021 Amendment), Schedule 2 of the Order only permits development for the creation of new dwellinghouses:

*'(a) Where the gross internal floor area is less than 37 square metres in size; or*

*(b) That does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.'*

The proposal incorporates the creation of two x 2 bedroom flat, and 2 x 1 bedroom flats, with the 2 bedrooms being approximately 90sqm. The 2 one bedroom flats would be approximately 45 sqm. The proposed units are therefore considered to provide adequate living space in accordance with national space standards, in accordance with Section (9A) of Article 3 of the Order.

It is noted that a 2-bedroom flat is required to accommodate 2m2 of in-built storage, and a 1 x bedroom would accommodate 1m2 of built in storage- each flat is sized sufficiently to accommodate the storage requirements.

Water Neutrality

Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended states that:

*"Subject to the provisions of this Order and regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (general development orders), planning permission is hereby granted for the*

*classes of development described as permitted development in Schedule 2."*

Section 75 of the Conservation of Habitats and Species Regulations 2017 states that *"it is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which –*

*(a) Is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*

*(b) Is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 (approval of local planning authority)."*

The application site falls within the Sussex North Water Supply Zone as defined by Natural England which draws its water supply from groundwater abstraction at Hardham. Natural England has issued a Position Statement for applications within the Sussex North Water Supply Zone which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

On this basis, an application under Section 77 of the Conservation of Habitats and Species Regulations 2017 would be required to be submitted, and development subject of this Prior Approval application could not be carried out until a decision of such application has been made.

**Conclusion**

The proposal accords with the provisions of Paragraphs MA.1 and MA.2 of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016. Conditions relevant to the considerations of this class of the Order are attached as detailed below. Prior approval is therefore required and permitted.

**Recommendation: Prior Approval Required and PERMITTED**

Conditions:

1 **Pre-Occupation Condition**: Prior to the occupation of the residential units hereby permitted, the mitigation measures outlined within the Noise Impact Assessment (prepared by Environmental Assessment Services ltd, received by the Council on 14.05.2024) shall be installed and retained thereafter.

Reason: As this matter is fundamental in the interests of residential amenities by ensuring an acceptable noise level for the occupants of the development in accordance with Policy 33 of the Horsham District Planning Framework (2015).

2 **Pre-Occupation Condition**: Prior to the occupation of the residential units hereby permitted, confirmation shall be submitted to and approved in writing by the Local Planning Authority that the separating structures between the new residential use and remaining part of Enterprise House will adequately mitigate against potential noise impact, and that the residential uses will not be impacted by fixed plant, machinery or equipment attached to the party structures. In the event that this cannot be demonstrated, further mitigations shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the units.

Reason: As this matter is fundamental in the interests of residential amenities by ensuring an acceptable noise level for the occupants of the development in accordance with Policy 33 of the Horsham District Planning Framework (2015).

3 **Regulatory Condition**: If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved by the local planning authority detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is dealt with in accordance with Policies 24 and 33 of the Horsham District Planning Framework (2015).

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

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**Plans list for: DC/24/0425**

Schedule of plans/documents **approved**:

| Plan Type | Description | Drawing Number | Received Date |
|---|---|---|---|
| Block plan | | KP3 | 19.03.2024 |
| Location plan | | KP4 | 19.03.2024 |
| Floor plan | Existing | KP1 | 19.03.2024 |
| Elevation plan | | KP1A | 19.03.2024 |
| Floor plan | Proposed | KP2 | 19.03.2024 |
| Supporting Docs | Cover Letter | KCP/IT374/wjs | 19.03.2024 |
| Supporting Statement | Noise Impact Assessment | NONE | 14.05.2024 |
| Supporting Statement | Planning | none | 19.03.2024 |

**DELEGATED**

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|---|---|---|---|
| Case Officer sign/initial | Hannah Darley | Date: | 14/05/2024 |
| Authorising Officer sign/initial | RHERMITAGE | Date: | 17/05/2024 |