

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	241855
Site Address:	400 Regus House, Thames Valley Park Drive, Wokingham, Earley, RG6 1PT
Expiry Date:	27 September 2024
Site Visit Date:	14 August 2024
Proposal: Prior approval submission for change of use of the ground, 1st, 2nd and 3rd floors to 62no residential dwellings (use Class C3).	

PLANNING CONSTRAINTS/STATUS

Contaminated Land Consultation Zone
Bat Roost Habitat Suitability
Core Employment Areas
Scale and Location of Development Proposals
Crossrail Safeguarded Route
Great Crested Newt Consultation Zone
Major Transport Schemes
Nuclear Consultation Zone
Landscape Character Assessment Area
SSSI Impact Risk Zones
PRoW Within WB Consultation Zone
Great Crested Newt Consultation Zone Householder
JCEB Mineral Safeguarding Areas
Great Crested Newt Consultation Zone Minor

PLANNING POLICY/LEGISLATION

Town and Country Planning Act 1990 (as amended)

Section 55	Provides that 'development' includes the carrying out of building operations on land, and 'building operations' includes structural alterations or additions to buildings.
Section 57	Planning permission is needed for all development of land.
Section 187a	Enforcement for breach of conditions

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Section 7	Prior approval applications: time periods for decision
Article 3	
Article 4	Provides that the planning authority may give direction to restrict the effect of Article 3

PLANNING HISTORY

241853	Prior approval submission for erection of a two storey upwards extension to provide 32 no.	Application pending
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	residential units on the 4 th and 5 th floor with associated plant, car and cycle parking	determination
232098	Application for a certificate of lawfulness for the proposed use of an existing office as a taxi office call centre.	Approved 19/10/2023
221595	Application for a certificate of lawfulness for the proposed use of an existing office as a taxi office call centre	Approved 14/07/2022
213073	Application for a certificate of lawfulness for the proposed use of office as a Private Hire Taxi business.	Approved 22/10/2021
221028	Application for a certificate of lawfulness for the proposed use of an existing office as a taxi office call centre.	Approved 07/06/2022
180973	Application for a certificate of lawfulness to use office space as licensed private hire.	Approved 31/05/2018
170855	Full planning application for proposed change of use for 1no. office within office building from B1 use to Sui Generis use (Vehicle Hire Business).	Withdrawn 27/07/2017
143304	Application for a certificate of lawfulness for the proposed use of an office as a Taxi business.	Approved 16/05/2014
100836	Application for a certificate of lawfulness for the use of existing office for a taxi based business.	Refused 16/03/2010

24147	A - Outline application for business park B – Full application for country/riverside park	Approved 24/09/1987
28578	A - Outline application for business park, Information Age Project, Hotel and Local Centre B – Full application for country/riverside park	Approved 22/11/1988
33683	Phase 1 – demolition of existing buildings and redevelopment to provide 55275 sq m of B1 (unrestricted) buildings, railway station	Approved 22/12/1989
44056	Approval of Reserved Matters (siting) on consents 28578 & 33683 for B1 development	Approved 24/04/1995

CONSULTATION RESPONSES

Internal

WBC Building Control – Full Building Regulations application is required
WBC Environmental Health – No objection subject to conditions
WBC Drainage – No objection
WBC Highways – No objection subject to conditions
WBC CIL – Development will be CIL liable

External

Health and Safety Executive – No comments to make as the building does not meet the threshold for a 'relevant building'
The Environment Agency – No objection subject to conditions
Thames Water – No objection

REPRESENTATIONS	
Parish/Town Council	No comments received
Ward Member(s)	No comments received
Neighbours	Two comments have been received: - Concern over how this application would relate with the prior approval application under Class AA (Officer note: See planning history for application in question) - Perfect location for housing development given the free bus service to Reading Town Centre, nearby gym and a new nursery opening within Thames Vally Park. Officer comment: The first comment will be discussed in the report. The second is noted.

PART MA.1 APPRAISAL				
			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3 (4)	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓
Art.3 (5)	4	Are the building operations involved in the construction of the original building lawful?	✓	
Art.4	5	Is there an 'Article 4 Direction' in effect for the site?		✓
Sch.2 Pt. MA	6	Does it consist of a change of use from a use falling within Class E (commercial, business and service) to a dwellinghouse?	✓	
MA.1(1)(b)	8	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	✓	
MA.1(1)(d)	10	Is the land covered by, or within the curtilage of, the building (i) In a site of special scientific interest; (ii) A listed building; (iii) A schedule monument; (iv) In a safety hazard area; or (v) In a military explosives storage area?		✓
MA.1(1)(e)	11	Is the building within (i) An area of outstanding beauty; (ii) An area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and		✓

		Countryside Act 1981; (iii) The Broads; (iv) A National Park; or (v) A World Heritage Site?		
MA.1(1)(f)	12	Is the site occupied under an agricultural tenancy?		✓
MA.1(1)(g)	13	Before 1 August 2022, (i) The proposed development is of a description falling within Class O as that Class had effect immediately before 1 st 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

Application Description:

Prior approval is applied for the conversion of the change of use of the ground, 1st, 2nd and 3rd floors to 62no residential dwellings (use Class C3).

As well as this application, the applicant has submitted a prior approval application for of a two storey upwards extension to provide 32 no. residential units on the 4th and 5th floor with associated plant, car and cycle parking (WBC ref. 241853). This has been submitted under Class AA, Part 20, Schedule 2 of the General Permitted Development Order (2015). It should be noted that in the event both of these applications were approved, the prior approval application under class AA would need to be implemented first owing to that prior approval criteria requiring the lower floors (that are subject to this application), being in a Class E use. The applicant has been made aware of this. However, each of the application needs to be assessed on its merits and against the prior approval criteria for the relevant class of the GPDO. As such, the cumulative impact of both the proposals proposal cannot be considered under either application.

Permitted Development:

It needs to be established whether the proposed change of use would fall within the parameters of Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Class MA allows for development consisting of a change of use, full or partial, of a building and any land within its curtilage to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order from a use falling within E of that Schedule.

The applicant has asserted that the whole building has been in commercial use for at least 2 continuous years. Again, the Local Planning Authority has no evidence to the contrary. The Council's Business rates information supports that the whole building is and has been in an office use, albeit into different 'suites' but are all used for office purposes.

PART MA.2 APPRAISAL

MA.2.(2) states that development under Class MA is permitted subject to the developer applying to the local planning authority for a determination as to whether the prior approval will be required as to –

(a) Transport impacts of the development, particularly to ensure safe site access

WBC Highways have confirmed that the existing vehicular and pedestrian accesses from the main entrance will be retained and is acceptable. It is proposed there will be two allocated parking spaces per flat which will result in 124 allocated spaces and 12 visitor spaces. This is in line with the Borough's standards. There are 180 existing parking spaces on site and so there is sufficient parking to meet the parking requirements of this proposal. The exceeded parking spaces are proposed to be utilised for cycle and bin storage. There will be 1 cycle space per dwelling which is acceptable.

For the existing office it is generating a total of 64 and 55 two-way movements in the AM and PM peak hours respectively. With the proposed conversion from office to residential units under this application, there will be a reduction of over 30 vehicle trips in both AM and PM peaks. The proposal will therefore reduce the impact on the wider highway network as less trips will be generated compared to the existing use.

WBC Highways did make some comments on the cumulative impact of the development (in combination with the class AA prior approval currently pending) however, cumulative impact cannot be considered (as discussed previously); only the transport impacts of this subject development under class MA.

Conditions were requested by WBC Highways for parking management strategy and details of both cycle and bin storage. Whilst cycle and bin storage can be considered under prior approval applications submitted under Class MA (as demonstrated in appeal decision APP/E5900/W/23/3334717 in London), conditions for cycle/ bin details are relevant to the matters for prior approval. However the request for a parking management strategy has not been justified. Given a sufficient level of parking is proposed and has been demonstrated on the plans, a parking strategy is not deemed to be necessary or relevant given the whole site will be in a residential use as opposed to a mixed use of office and residential that may require a bespoke strategy to accommodate multiple uses.

(b) Contamination risks in relation to the building

Section 78A(2) of Part 2A of the Environmental Protection Act 1990(a) states that 'contaminated land' is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land

that (a) significant harm is being caused; or (b) significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused. The site falls partly within the potentially contaminated land consultation area.

The application building is located on potentially contaminated land. A contaminated land preliminary risk assessment has been submitted. It concludes that should groundworks be required, the potential risk to human health will be increased. However, no ground works are proposed as this proposal is only for the change of use of existing floor space.

However, the report advises that programme of site investigation be undertaken in order to establish the presence or absence of contamination and to enable a quantitative assessment of the associated environmental risks. Both WBC Environmental Health and the Environment Agency recommend conditions to secure a remediation strategy, verification report and a process for reporting unexpected contamination.

The Environment Agency also recommended conditions relating to infiltration of surface water into the ground, decommissioning of investigative boreholes and a drainage scheme to ensure that waters (surface and ground water) do not become contaminated as a result of the proposal. All these conditions are relevant to this matter for prior approval and will be attached.

(c) Flooding risks in relation to the building

The building is located within Flood Zone 1 with very low risk from surface water flooding. No external works are proposed and as such the Council's Drainage and Flood Risk Officer has raised no objection to the development. The Environment Agency also made no comments in relation to flood risk.

(d) Impacts of noise from commercial premises on the intended occupiers of the development

The site is located in a commercial area (offices). This prior approval would see the conversion of the entirety of the building and so it would not result in a mixed use development with Class E. There are two commercial blocks in the immediate vicinity. A noise report has been submitted by the applicant which concludes that the development presents a low risk of noise having an adverse effect. WBC Environmental Health Officers raise no objection in principle, or have concerns with the submitted report. However they do advise that the recommendations for glazing and ventilation should be implemented and this will be secured via condition. To meet the requirements of BS8233:2014, a glazing system with an acoustic rating of 32 dB Rw will be required.

Environmental Health Officers recommended a condition for a Construction Method Statement and hours of work condition. However, it is not clear how these relate directly to matters for prior approval and so these have not been proceeded with by Officers.

(e) The impact of that change of use on the character or sustainability of the conservation area

The site does not fall within a Conservation Area and as such this assessment is not applicable in this case.

(f) The provision of adequate natural light in all habitable rooms of the dwellinghouses.

The applicant has provided floorplans, in accordance with paragraph W. The windows in the existing building would provide adequate natural light to all habitable rooms. It is acknowledged that some of the proposed dwellings would have just north facing windows however this is still deemed to be 'adequate'.

A Daylight and Sunlight Assessment has also been submitted and concluded 'the results demonstrate that the proposal will ensure that all new flats receive an adequate level of daylight and sunlight'. The assessment also indicates that all the habitual spaces in the proposed development meet the recommended values for VSC and APSH.

Based on the level of natural light within the dwellings needing to meet the threshold of 'adequate' only, this has been passed.

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses

The site not used for general or heavy industry, waste management, storage and distribution or a mix of such uses.

(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

the impact on the local provision of the type of services lost; and

The development will not lead to a loss of a registered nursery or a health centre.

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

The fire risk condition is set out in MA.2(2)(i) if the development relates to a building which will –

a) Contain two or more dwellinghouses and

b) Satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The height condition is that the building is 18m or more in height or the building consists of 7 or more storeys.

The height of the existing building is measured to the floor level of the top storey. This is identified in the Fire statement as 16.5m, below the 18m height threshold for a relevant building. This has been confirmed by the Health and Safety Executive (HSE). As such, this subject application does not meet the fire risk condition and therefore no further assessment is required under criterion (i).

However, it should be noted that HSE have raised dissatisfaction over the approach the applicant has taken in submitted two prior approval applications concurrently given the applications, individually, may not reflect the final development and it therefore prevents HSE assessing the fire safety characteristics of the potential final building. In this case, the class AA prior approval (currently pending consideration) can only be implemented should the lower floors (subject to this application) be in a commercial use. However, it may be the case that the lower floors are converted to residential (as a result of this application). As such, HSE, are unable to assess the building being completely in a residential use.

However, the LPA are unable to control this, and cannot condition that both prior approvals are/ are not implemented. The LPA is required to assess each of these prior approval applications based on the regulations for that class of the GPDO and cannot combine these to make an overall assessment of both applications together. This is noted by HSE and they have factored this into how they respond to the applications (they are to comment on each individually on its merits). However HSE have advised that they have alerted the Ministry of Housing, Community and Local Government (MHCLG) of this situation.

(3) An application for prior approval for development under Class MA may not be made before 1 August 2021

This is not the case.

(4) And the provisions of paragraph W (prior approval – where relevant)

(2) The application must be accompanied by—

(a) a written description of the proposed development, which, in relation to development proposed under Class M, MA, N or Q of this Part, must in the same application include any building or other operations;

(b) A plan indicating the site and showing the proposed development.

(ba) in relation to development proposed under Classes G, M, MA, N, O, P, PA and Q of this Part, 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);

(bc) in relation to development proposed under Class G, M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in sqm of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of

windows, doors and walls, and the elevations of the dwellinghouses;

(c) the developer's contact address;

(d) the developer's email address if the developer is content to receive communications electronically; and

(e) where sub-paragraph (6) requires the Environment Agency to be consulted, a site specific flood risk assessment,

together with any fee required to be paid.

A written description as contained in the application form and supporting planning statement along with the relevant plans, assessments, fee and contact details. The application is supported by a Planning Statement which specifies the resulting increase of dwellings.

(2A) 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

This is noted.

(3) The local planning authority may refuse an application where, in the opinion of the authority—

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions applicable to the development in question.

It is possible to assess the application based on the details provided.

(4) Sub-paragraphs (5) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

This is noted.

(5) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult

(a) where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road;

(b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and

(c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

The Council's Highways Officer raises no objection. No other Highways consultee is required to be consulted for this development.

(6) Where the application relates to prior approval as to the flooding risks on the

site, on receipt of the application, the local planning authority must consult the Environment Agency where the development is in an area within Flood Zone 1 which has critical drainage problems and which has 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.

The Council's Drainage Officer has no objection to the proposal. The Environment Agency have provided no comments in relation to flood risk.

(7) The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

This is noted.

(8) The local planning authority must give notice of the proposed development

a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which –

(i) describes the proposed development;

(ii) provides the address of the proposed development;

(iii) specifies the date by which representations are to be received by the local planning authority; or

(b) by serving a notice in that form –

(i) on any adjoining owner or occupier and

(ii) where the proposed development relates to part of a building, on any owner or occupier of the other part or parts of the building

Neighbour letters were sent on 22nd July 2024.

(9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include –

(a) assessments of impacts or risks

(b) statements setting out how impacts or risks are to be mitigated; or

(c) details of proposed building or other operations.

This is noted and sufficient information has been submitted to determine the application.

10) The local planning authority must, when determining an application—

(a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8)

(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019 July 202168, so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and

(c) in relation to the contamination risks on the site—

(i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 199069, and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012, and

(ii) if they determine that the site will be contaminated land, refuse to give prior approval.

Representations have been considered. Case Law has established that the local planning authority can only have regard to matters relevant to the subject matter of the prior approval. The other concerns raised are not relevant to the matters that the LPA can assess under this type of application. There are no other particular assets of the NPPF that would be able to be considered relevant to the subject matter of the prior notification application. Contamination risks to the site are discussed elsewhere in this report.

Class MA is also subject to the following requirements:

(a) development under Class MA, if any, must be completed within a period of 3 years starting with the prior approval date; and

(b) any building which has changed use under Class MA is to be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwellinghouse.

These are noted and would be attached as conditions in the event prior approval is given.

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION: Prior approval required and given

Conditions agreed:	Yes – pre-commencement conditions agreed by the agent (indicated by *)
Recommendation:	Prior approval is given, subject to the following conditions: 1. Prior approval to be completed within 3 years 2. Only to be used for C3 use 3. Remediation strategy * 4. Verification report 5. Previously unidentified contamination 6. Infiltration of surface water into ground

	7. Decommissioning of investigative boreholes 8. Drainage scheme * 9. Implementation of noise mitigation 10. Cycle parking details 11. Bin storage details 12. Approved Details
Date:	20 September 2024
Earliest date for decision:	23 August 2024

Recommendation agreed by: (Authorised Officer)	<i>BJC</i>
Date:	20.09.24