

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	241853
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 erection of a two storey upwards extension to provide 32no residential units on the 4th and 5th floor with associated plant, car and cycle parking.	

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
Railways
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.
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Section 57	Planning permission is needed for all development of land.
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Section 187a	Enforcement for breach of conditions
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The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Section 7	Prior approval applications: time periods for decision
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Article 3	In conjunction with Schedule 2, Part 20 Class AA grants planning permission for new dwelling houses on detached buildings in commercial or mixed use
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Article 4	Provides that the planning authority may give direction to restrict the effect of Article 3
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PLANNING HISTORY

Application No.	Description	Decision & Date
241855	Prior approval submission for change of use of the ground, 1st, 2nd and 3rd floors to 62no residential dwellings (use Class C3)	Approved 20/09/2024
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 22/12/0989
44056	Approval of Reserved Matters (siting) on consents 28578 & 33683 for B1 development	Approved 24/04/1995

CONSULTATION RESPONSES

Internal

WBC Building Control – Advised that 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 - Objection
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	No comments received

PART AB.1 APPRAISAL

Town and Country Planning Act 1990 (as amended)			Yes	No
1	s.55	Does it constitute development?	✓	
2	s.191	Would it be contrary to an enforcement notice?		✓
3	s.187a Art.3 (4)	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓
The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)			Yes	No
4	Art.3 (5)	Are the building operations involved in the construction of the original building lawful?	✓	
5	Art.4	Is there an 'Article 4 Direction' in effect for the site?		✓
6	Sch.2 Pt. 20 AA (1)	Does it consist of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building to which sub paragraph (2) applies, together with any or all-- (a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses; (b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses; (c) works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases; (d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses?	✓	

PART AB.1 APPRAISAL

7	AA (2)	Is the building used for any purpose within: (a) Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the Use Classes Order, or as a betting office, pay day loan shop or launderette; (b) in a mixed use combining— (i) two or more uses within paragraph (a); or (ii) a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with one or more uses within paragraph (a)?	✓	
8	AA.1(a)	Above ground level, is the building less than three storeys in height?		✓
9	AA.1(b)	Was the building constructed before 1 st July 1948 or after 5 th March 2018?		✓
10	AA.1 (c)	On 5 th March 2018, was the building in a use other than: (i) a use or mixed use within paragraph AA(2)(a) or (b); or (ii) a use falling within Class C3 of the Schedule to the Use Classes Order?		✓
11	AA.1 (d)	Would the additional storeys be constructed on a part that is not the principal part of the building?		✓
12	AA.1 (e)	Would the floor to ceiling height of any additional storey, measured internally, exceed the lower of— (i) 3 metres; or (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building?		✓
13	AA.1 (f)	Would the new dwellinghouses be anything other than flats?		✓
14	AA.1 (g)	Would the height of the highest part of the roof of the extended building exceed by more than 7 metres the height of the highest part of the roof of the existing building (not including plant, in each case)?		✓
15	AA.1 (h)	Would the height of the highest part of the roof of the extended building (not including plant) be greater than 30 metres?		✓
16	AA.1 (i)	Would development under Class AA(1)(a) include the provision of visible support structures on or attached to the exterior of the building upon completion of the development?		✓
17	AA.1 (j)	Would development under Class AA(1)(a) consist of engineering operations other than works within the existing curtilage of the building to— (i) strengthen existing walls; (ii) strengthen existing foundations; or (iii) install or replace water, drainage, electricity, gas or other services;		✓
18	AA.1 (k)	In the case of Class AA(1)(b) development is there existing plant on the building?	✓	

PART AB.1 APPRAISAL				
19	AA.1 (l)	In the case of Class AA(1)(b) development would the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building?		✓
20	AA.1 (m)	Would development under Class AA(1)(c) extend beyond the curtilage of the existing building?		✓
21	AA.1 (n)	Would development under Class AA(1)(d)— (i) extend beyond the curtilage of the existing building; (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building?		✓
22	AA.1 (o)	Would the land or site on which the building is located, be or form part of — (i) article 2(3) land; (ii) a site of special scientific interest; (iii) a listed building or land within its curtilage; (iv) a scheduled monument or land within its curtilage; (v) a safety hazard area; (vi) a military explosives storage area; or (vii) land within 3 kilometres of the perimeter of an aerodrome?		✓

Application Description:

Prior approval is applied for the erection of a two storey upwards extension to provide 32no residential units on the 4th and 5th floor with associated plant, car and cycle parking.

As well as this application, the applicant has submitted a prior approval under Class MA, Part 3, Schedule 2. The proposal was for the conversion of the ground, first, second and third floors to provide 62 residential dwellings (WBC ref. 241855). This application was approved on 20th September 2024.

It should be noted that in the event this application was approved (along with 241855 which has been approved) the prior approval subject to this application 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 AA, Part 20, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. Class AA allows for development consisting of new dwellinghouses on detached buildings in commercial or mixed use.

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 AA.2 APPRAISAL

Development under Class AA is permitted subject to the following conditions under part AA.2:

(1) Where any development under Class AA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to:

(a) transport and highways impacts of the development:

The proposal will extend the existing 4 storey commercial building (Use Class E) by two storeys upwards to provide 32 no. of residential units (Use Class C3) under Prior Approval Class AA. Among those, 26 units will consist of two habitable rooms and 6 units will consist of three habitable rooms. It is relevant to note that the existing office floor areas will continue to operate, remaining unaffected by the proposals.

Access

The existing vehicular and pedestrian accesses from the main entrance will be retained, which is unlikely to induce adverse impacts to the existing access arrangement.

Vehicle Parking and Cycle Parking

The applicant proposes one allocated parking space per flat in Section 3.4. According to the WBC Car Parking Standards, the development of such scale in Urban location will require 6 visitor parking spaces and 7 unallocated parking spaces, resulting in a minimum of 45 off-street parking spaces. 1 cycle parking is proposed per unit, which is acceptable.

There would need to be a parking management strategy to ensure that the parking for both uses is managed. This strategy will be secured by condition.

Refuse Collection Strategy

The applicant proposes to retain the existing refuse collection arrangement for commercial uses, which is acceptable. The Highways recognise that alternation of external spaces of the building is not covered by this Order, the details of bin store and swept path analysis for refuse vehicle will be conditioned separately.

Traffic Impacts

The proposal will generate an additional 8 and 9 two-way vehicle trips during the AM and PM peaks respectively. Therefore, there would be no adverse impacts to the wider highway network are expected.

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

(b) air traffic and defence asset impacts of the development:

Due to the scale of the development and the location of the site it is not considered any harmful impact would arise with regard to air traffic and defence assets.

(c) 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 would be attached,

(d) flooding risks in relation to the building:

As the site is within flood zone 1 and the proposal would not result in any additional footprint, it is considered flood risk would not be increased.

(e) the external appearance of the building, including— (i) the design and architectural features of:

(aa) the principal elevation; and

(bb) any side elevation that fronts a highway; and

(ii) the impact of any works under sub-paragraph (1)(c) or (d) of Class AA:

The site is located within Thames Valley Park and has 3 full storeys (excluding basement and 4th floor which is roof level and contains a mechanical plant). The development would see the creation of two additional full storeys, resulting in the building having 5 full storeys (plus basement and new plant level on the 6th storey).

Appeal decisions under Class AA have taken into account the appearance of the proposed development in relation to the surrounding areas.

Case Law *CAB Housing Ltd v Secretary of State for Levelling Up, Housing and Communities & Anor* [2023] EWCA Civ 194 (23 February 2023) concerned determinations pursuant to Class AA, Schedule 2, Part 1 of the GPDO. The court concluded that the control of the external appearance of a dwelling house is not limited to impact on the subject property itself, but also may include impact on neighbouring premises and the locality. Planning Inspectors have applied this same principle to applications submitted under Class AA, Part 20, Schedule 2 of the GPDO, such as appeal APP/P5870/W/22/3306043. In this case, Officers to consider that the external appearance of the building needs to be assessed in relation to the surrounding context and street scene.

It is acknowledged that the upward extension would be at a height that would be greater than surroundings. However, there is not a high density of buildings whereby the increased height of this building would be starkly or obviously at odds with surroundings.

In terms of the extension's design in relation to the lower floors, it is acknowledged that it would not represent a direct replica in terms of finish and fenestration size and arrangement. However, at the same time, this would not result in a level of harm to warrant refusal of prior approval given the varying design and finishes of other buildings within Thames Valley Park.

Views of the building are largely contained to within the business park and therefore would not have a wide reaching audience or are required to compliment a distinct street scene.

(f) the provision of adequate natural light in all habitable rooms of the new dwellinghouse:

All proposed flats, located on fourth and fifth floors will have habitable rooms with windows. The submitted Daylight and Sunlight assessment concludes that the overall scheme will attain an exceptionally high level of daylight compliance, as all 80 windows evaluated for VSC (100%) meet the BRE Guidelines. It is acknowledged that some of the proposed dwellings would have just north facing windows however this is still deemed to be 'adequate'.

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

(g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light:

The upward extension should not impact the amenity of the existing building, which at the lower floors is commercial.

In terms of neighbouring premises, there is no residential development within the vicinity, only commercial buildings. The only neighbouring buildings that are considered to be potentially affected by the proposal is 410 Thames Valley Business Park to the north where the western most end of this neighbouring building is positioned opposite the application site and 510 Thames Valley Park to the west. There is approximately 30m between the site and no. 410 and 65m distance with no 510.

The eastern most part of the proposed extension would directly face no. 410 and would be at a greater height. There is no specific daylight criteria for commercial buildings, as also confirmed in the submitted Daylight and Sunlight Assessment submitted by the applicant. Notwithstanding this, the majority of the host building does not/ would not face directly onto this neighbouring commercial building and so concerns regarding overlooking and substantial loss of light are minimised. Due to the substantial separation distance (with a road and boundary treatment intersecting) there would be no substantial concerns in respect of overlooking and loss of light to no. 510.

Furthermore because neither of the neighbouring buildings are in a residential use, concerns over loss of privacy are also reduced due to the neighbouring building not being occupied with habitable spaces where neighbouring windows and proposed windows could conflict.

(h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses:

It is accepted there would be some noise from the existing commercial premises on the lower floors of the building and surrounding area. Nonetheless, residential and commercial (office) uses are generally compatible.

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. With regards to the plant to be installed, a condition for plant attenuation would be attached to reduce noise levels from this part of the development.

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

(i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area:

The proposed development should not affect other businesses or trade that is being

carried out within buildings in Thames Valley Business Park.

(j) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State

The development would not impact the identified views.

(k) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building;

Whilst the extended building would measure above 18m, the existing building does not, when taking into account guidance as to how to measure the existing building (see below). In summary, the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms).

When measuring the height on the basis of the above, the existing building does not have a height of 18m.

As such, the provisions of (k) are not applicable.

and

(l) where the development meets the fire risk condition (see paragraph C(3) of this Part), the fire safety impacts on the intended occupants of the building

For background information, Paragraph C(3) of Part 20 Schedule 2 states that:

“In Part 20, development meets the fire risk condition 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”

Paragraph (3), read with paragraph (7), Article 9A (Fire Statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, states that:

“(3) The height condition is that—

(a) the building is 18 metres or more in height; or

(b) the building contains 7 or more storeys.”

“(7) For the purpose of paragraph (3)—

(a) the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms);

(b) when determining the number of storeys a building has—

(i) any storey which is below ground level is to be ignored; and

(ii) any mezzanine floor is a storey if its internal floor area is at least 50% of the internal floor area of the largest storey in the building which is not below ground level"

The extended building would meet the fire risk condition as it would measure a height of 19.6m and therefore the provisions of paragraph (l) do apply.

The Health and Safety Executive (HSE) were consulted on this application to assess the fire safety impacts on the intended occupants of the building, as per the requirements of the legislation.

The fire statement submitted to support this application, dated 23/05/2024, states the adopted fire safety design standard is BS 9991. HSE has assessed this application on that basis.

They have advised the following:

- The proposed ground, first, second and third floor plans show the central stair (proposed firefighting shaft) connecting with 'Existing office use'. The cited fire safety standard states that any stair serving a dwelling within a mixed-use development should not communicate with any other occupancy.
- The proposed elevation plan drawings show the provision of external stairs. It should be noted that the cited fire safety standard states that external stairs should not form part of an escape route in building of this height.
- Section 7 of the fire statement states: *"As the area of each floor exceeds 900 m2, the guidance recommends that two firefighting shafts are provided"*, with section 10 further stating: *"As the area of the building exceeds 900 m2 a secondary firefighting shaft is required."* This is noted, however, the same section further states: *"It is therefore proposed that the central stair is designated as the firefighting shaft, subject to confirmation from the approving authorities."*
- As highlighted by the applicant and also as stated in the cited fire safety standard, at least two fire-fighting shafts (each containing a firefighting lift and fire main) should be provided in buildings with a storey of 900 m2 or more in area, 18 m or more above the fire service access. At least two fire-sighting shafts are not contained within the subject building.

Based on the above comments from HSE, Officers are not satisfied that the proposal suitably addresses fire safety impacts on the intended occupants and therefore fails AA.2(l) owing to inadequate means of escape and an insufficient number of fire-fighting shafts.

Whilst the lower floors may be converted to residential (under prior approval 241855), this application has to be assessed on its merits as a mixed-use building and the comments above from HSE are reflective of that.

Other correspondence with HSE

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, this prior approval application (if approved) could only be implemented should the lower floors (subject to the Class MA application) be in a commercial use. However, it may be the case that the lower floors are converted to residential (as a result of the approved Class MA 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.

And the provisions of paragraph B (prior approval) of this part:

B (2) The application must be accompanied by—

(a) a written description of the proposed development, which, in relation to development proposed under any of Classes A to AD, must include details of any dwellinghouse and other works proposed under paragraph A(a) to

(d), AA(1)(a) to (d), AB(3)(a) to (d), AC(2)(a) to (c), or AD(2)(a) to (c) (as the case may be):

A written description is contained in the application form and supporting statement along with the relevant plans.

(b) a plan which is drawn to an identified scale and shows the direction of North indicating the site and showing the proposed development:

This has been submitted.

(c) floor plans which are drawn to an identified scale and show the direction of North indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the existing and proposed elevations of the building:

This has been submitted.

(d) a written statement specifying the number of new dwellinghouses proposed by the development (that is, additional to any dwellinghouses in the existing building):

This is set out in the supporting information.

(e) a list of all addresses of any flats and any other premises in the existing building;

This has been submitted.

(f) the developer's contact address;

This has been submitted.

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

This has been submitted.

(h) where-

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

(ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development

The Environment Agency was consulted.

(i) where the application for prior approval relates to the requirement mentioned in paragraph A.2(1)(i) or AA.2(1)(k), a report from a chartered engineer or other competent professional confirming that the external wall construction of the existing building complies with paragraph B4(1) of Schedule 1 to the Building Regulations 2010 together with any fee required to be paid.

Not required - see discussion in paragraph (k) earlier in this report.

B (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, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

This is noted.

(4) Sub-paragraphs (5) to (10) and (12) 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.

Where appropriate, the correct consultation has been carried out.

(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—

(a) in an area within Flood Zone 2 or Flood Zone 3; or

(b) 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.

Where appropriate, the correct consultation has been carried out.

(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive

This consultation has been carried out.

(7) Where the application relates to prior approval as to the impact on air traffic or defence assets, the local planning authority must consult any relevant operators of aerodromes, technical sites or defence assets and where appropriate the Civil Aviation Authority and the Secretary of State for Defence.

This is noted but not relevant in this case.

(8) Where an aerodrome, technical site or defence asset is identified on a safeguarding map provided to the local planning authority, the local planning authority must not grant prior approval contrary to the advice of the operator of the aerodrome, technical site or defence asset, the Civil Aviation Authority or the Secretary of State for Defence.

This is noted.

(9) Where the application relates to prior approval as to 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 but is not applicable in this case.

(9A) Where the application relates to prior approval under paragraph A.2(1)(i) or AA.2(1)(k), the local planning authority must refuse prior approval if the application is not accompanied by the report mentioned in subparagraph (2)(i) above.

This is noted but not applicable in this case.

(10) Where the application relates to prior approval as to the impact on protected views, the local planning authority must consult Historic England, the Mayor of London and any local planning authorities identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State.

This is noted but is not applicable in this case.

(10A) Where the application relates to a prior approval as to the impact of the development on heritage and archaeology, the local planning authority must so far as they consider reasonably practicable consult any bodies that they consider to have heritage and archaeological expertise relevant to their functions under Part 3 of the Act and this Order.

Where appropriate, the correct consultation has been carried out.

(11) The local planning authority must notify the consultees referred to in subparagraphs (5), (6), (6A), (7), (10) and (10A) specifying the date by which they must respond, being not less than 21 days from the date the notice is given.

Where appropriate, the correct consultation has been carried out.

(12) 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; and

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

(b) unless the proposed development falls within Class ZA, by serving a notice in that form on all owners and occupiers of the flats within existing block of flats any flats and any other premises within the existing building; and

(c) by serving a notice in that form on any adjoining owner or occupier.

Consultation in this manner was carried out 22nd July 2024

(13) When computing the number of days in sub-paragraphs (11) and (12)(a), any day which is a public holiday must be disregarded.

This is noted.

(14) 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, having regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019; or

(c) details of proposed building or other operations.

This is noted.

(15) 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-paragraph (5), (6), (7) or (10) and any notice given under sub-paragraph (12);

(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in July 2021, 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 development, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990, 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.

Case law has established that the local planning authority can only have regard to matters relevant to the subject matter of the prior approval.

There are no other particular aspects of the NPFF that would be able to be considered relevant to the subject matter of the prior notification application.

Discussion regarding the potential contamination of the site is contained in the relevant section of this report above.

(16) The development must not begin before the receipt by the applicant from the local planning authority of a written notice giving their prior approval.

This is noted.

(17) The development must be carried out in accordance with the details approved by the local planning authority.

This is noted.

(18) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

This is noted.

(2) In sub-paragraph (1)(h), “commercial premises” means any premises in the building or the surrounding area which are normally used for the purpose of carrying on any trade or business, and includes any premises licensed under the Licensing Act 2003 or any other place of public entertainment.

This is noted.

(3) Any development under Class AA is permitted subject to the condition that it must be completed within a period of 3 years starting with the date prior approval is granted.

This can be included as a condition.

(4) Any development under Class AA is permitted subject to the condition that before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.

This can be included as a condition.

(5) The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.

This is noted.

(6) The notification referred to in sub-paragraph (5) must be in writing and must include—

- (a) the name of the developer;*
- (b) the address or location of the development; and*
- (c) the date of completion.*

This is noted.

(7) Following the development, every dwellinghouse in the building must remain in use 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 a dwellinghouse.

This is noted and could be included as a condition.

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

Conditions agreed:	Not required
Recommendation:	Prior Approval is required and refused for the following reason: 1. The development does not suitably address the fire safety impacts on the intended occupants of the building owing to inadequate means of escape from the building and an insufficient number of fire-fighting shafts being proposed for the size of the building. As such, the development does fails to comply with AA.2(1)(I) of Class AA, Part 20, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
Date:	23 September 2024
Earliest date for decision:	23 August 2024

Recommendation agreed by: (Authorised Officer)	
Date:	23/09/24