

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	242784
Site Address:	Mulberry Business Park, Indigo House, Wokingham, RG41 2GY
Expiry Date:	27 December 2024
Site Visit Date:	26.11.2024
Proposal: Prior approval submission for erection of a two-storey upwards extension to provide 32no. residential dwellings on the 2nd and 3rd floors.	

PLANNING CONSTRAINTS/STATUS

Water Utility Consultation Zones
Contaminated Land Consultation Zone
Heathrow Aerodrome Consultation Zone
Affordable Housing Thresholds
Bat Roost Habitat Suitability
Core Employment Areas
Scale and Location of Development Proposals
Farnborough Aerodrome Consultation Zone
Landfill Gas Consultation Zone
Landscape Character Assessment Area
SSSI Impact Risk Zones
Thames Basin Heaths SPA Mitigation Zones – 7kms

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	In conjunction with Schedule 2, Part 20 Class AA grants planning permission for new dwelling houses on detached buildings in commercial or mixed use
Article 4	Provides that the planning authority may give direction to restrict the effect of Article 3

PLANNING HISTORY

Application No.	Description	Decision & Date
242785	Prior approval submission for change of use of the ground and 1st floors to 32no. residential dwellings (Use Class C3).	Approved: 03.02.2025
213975	Full application for the proposed removal of the existing roof structure and the erection of a new second floor providing 11 No. 1 & 2 bedroom apartments, including 4 affordable housing units (36%), together with a cycle & refuse store.	Approved: 13.06.2022
210166	Prior approval submission for the proposed change of use from office (Class E(i)) to 30 no. residential dwellings (Class C3)	Approved: 11.03.2021
200540	Prior Approval submission for the proposed change of use from office (Class B1) to 54no. residential dwellings (Class C3)	Refused 08.04.2020
193259	Prior Approval submission for a proposed change of use from Office Use (Class B1(a) to 40no. residential dwellings (Class C3).	Refused 04.02.2020
193281	Prior Approval submission for a proposed change of use from Office Use (Class B1(a) to 14no. residential dwellings (Class C3)	Refused 04.02.2020
192602	Prior Approval submission for the proposed change of use of existing office building (Use Class B1(a)) to 40no. residential flats (Use Class C3)	Withdrawn 26.11.2019
192688	Prior Approval submission for the proposed change of use of existing office building roof space (use class B1(a)) to 14no. residential flats (Use Class C3)	Withdrawn 26.11.2019
182428	Application for Prior Approval for the proposed change of use from office to 30no. residential dwellings	Approved 30.10.2018

CONSULTATION RESPONSES

Internal
WBC Drainage – No objection WBC Highways – further information requested.
External
Thames Water – No objection subject to conditions

REPRESENTATIONS	
Parish/Town Council	No comment
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?	✓	
7	AA (2)	Is the building used for any purpose within: (a) Class A1 (shops), Class A2 (financial and professional	✓	

PART AB.1 APPRAISAL

		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(za)	The permission to use the building as a dwellinghouse has been granted only by virtue of Class MA of Part 3 of this Schedule	✓	
9	AA.1(a)	Above ground level, is the building less than three storeys in height?	✓	
10	AA.1(b)	Was the building constructed before 1 st July 1948 or after 5 th March 2018?		✓
11	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?		✓
12	AA.1 (d)	Would the additional storeys be constructed on a part that is not the principal part of the building?		✓
13	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?		✓
14	AA.1 (f)	Would the new dwellinghouses be anything other than flats?		✓
15	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)?		✓
16	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?		✓
17	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?		✓

PART AB.1 APPRAISAL

18	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;		✓
19	AA.1 (k)	In the case of Class AA(1)(b) development is there existing plant on the building?	✓	
20	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?		✓
21	AA.1 (m)	Would development under Class AA(1)(c) extend beyond the curtilage of the existing building?		✓
22	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?		✓
23	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 submission for erection of a two-storey upwards extension to provide 32no. residential dwellings on the 2nd and 3rd floors.

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 and first floor to provide 32 residential dwellings (WBC ref. 242785). This application was approved on 03.02.2025.

Paragraph AA.1(za) states that development is not permitted if *"the permission to use the building as a dwellinghouse has been granted only by virtue of Class MA of Part 3 of this Schedule"*. A residential use of the building has been permitted by Class MA and therefore

the proposal fails to meet this criterion. Had the Class MA Prior Approval been approved later, there would still be a conflict with this criterion once a class MA application is approved. There is also other conflicts with the GPDO criteria and these are set out in this report.

PART AA.1 APPRAISAL

Paragraph AA.1. (a) states that development is not permitted by Class AA if *"above ground level, the building is less than three storeys in height"*. From the ground level, the building is two storeys in height and does not meet this clause in the GPDO. Externally and internally the building comprises of a ground and first floor and there are no openings in the roof or any other three storey elements to the external elevations of the building.

The agent has referred to plant machinery in the roof void stating it is a third storey, but this can only be accessed by a loft ladder and is a clearly part of the roof void rather than an accessible storey to the building. It is commonplace for buildings to have storage and/or plant/machinery in the roof void and this does not change how the height or storeys of a building are ordinarily described - a single storey bungalow with loft space with a water tank would still be referred to a single storey structure.

A further indication that the roof void is not a storey is highlighted by the plans submitted. The description of Class AA allows *"two additional storeys of new dwellinghouses immediately above the topmost storey"*. The proposed plans show the extension immediately above the first floor, which therefore implies that this is the topmost storey and not the roof void with the plant machinery. The roof void is removed in the proposed plans and therefore even if this were the topmost storey, the proposal would fail to comply with Class AA because it would involve the demolition of an existing "storey".

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 2 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.

There is a total of 88 existing parking spaces on-site. The application form states that *'the existing site provides 88 No. parking spaces which is more than sufficient to meet the developments car parking demand of 32 flats, but each flat will be given a parking space with the remaining 56 being used for the offices.'*

The existing office has an approximate floor area of 2,250sqm and accordingly requires 90 spaces to comply with the councils parking standards. This highlights there is a shortfall of parking before the additional residential stories are considered.

A planning application for one additional storey has been approved and no objection was raised in that report. It was stated *'given the town & fringe location of the site, the proposed dwellings would require no more than 1 parking space per unit.'* This would still however result in a shortfall of parking against the council's parking standards when combined with the office use. The council's highway officer has also raised concerns regarding parking capacity but that is based on providing more than 1 space per dwelling.

Taking all the above into consideration, it is noted there is a shortfall in parking but there is insufficient evidence that this would lead to detrimental highway and transport impacts by reason of overspill parking creating a highway hazard or safety impacts. The building is within a sustainable location with good access to public transport links and Wokingham Town centre. There is considerable parking on the site and through the imposition of parking management plan, there is no good reason why a suitable parking arrangement for the development could not be achieved with non-allocated parking strategies and promoting/encouraging sustainable transport use.

The existing vehicular and pedestrian accesses from the main entrance will be retained, and the proposed use will not result in adverse impacts to the existing access arrangement. The council's Highway Officer has advised that the traffic impacts have not been assessed for this proposal due to the scale of the development and there is no evidence that the surrounding highway network has insufficient capacity for the proposed development.

There are no details of refuse collection but this could be controlled via planning condition.

(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.

There is no additional breaking ground proposed with the application and there are other residential uses in the immediate vicinity.

The WBC Environmental Health Team has previously raised no objection to the change of use of the building to offices and advised the following:

'There have been previous applications of a similar nature for this site, which were refused on contaminated land grounds, due to the proximity of former landfill / infilled

ground and the corresponding potential risk of ground gas. It is difficult to retrospectively remediate an existing building. Previous applications were not supported by an assessment of the risk.

Assessment of the site has been carried out and the report concluded:

Additional ground gas monitoring is required due to the high potential risk of gas. A verification plan to ensure there is adequate protection to future end users'

The above conclusion was based on an Internal Ground Gas Monitoring and Risk Assessment report (Aviron Project ref: 19-275.01 dated 6th Jan 2021). No migrating landfill gas was detected in the building. No changes are proposed to the structure of the building. the proposal is acceptable regarding contamination risks.

(d) flooding risks in relation to the building:

The building is located on Flood Zone 1 and there are no critical drainage problems in the area. As such there are no flood risk concerns. The Council's Drainage Team have raised no objection to this proposal given that there is no change in building footprint.

(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 existing building comprises of a shallow pitch roof, banks of glazing blue framed windows, brick and cladding.

The proposed development will add two additional stories with a flat roof, and this will result in a more monolithic looking building due to lack of a roof feature. Whilst the flat roof is not in and of itself problematic, the design has no features to the roof to cap the building and it would appear as a building with the roof missing.

The approved first floor and Sorbus House to the south have a top floor flat roof elements recessed from the sides of the building and this an orthodox solution to cap the building - this is not present in this case. Neither does the proposal design have a visual heavy roof feature to top the building like an overhang eaves of bold soffit features. The flat roof is disproportionately slender for the size of the building which result in an incomplete appearance to the structure.

Upwards extensions at the nearby buildings called Rosa and Ilex House have retained a pitch roof which provides an appropriate finish to the top of the structure. As stated, whilst a pitch is not a prescriptive requirement, large buildings do need to be appropriately capped to result in unified design with sympathetic proportions.

The upper floors also fail to match the detailing of the below floors which comprise of clad bays and would result in a more austere looking upper section and a building in two

different halves. In this case the proposed extension neither follows the existing design or results in obvious variation from it. This creates an poor design and appearance to the building with different section that fail to relate well to each other.

Overall, the proposed extension would result in a poor design and appearance. This impacts the principal elevation and will be visible from the public highway to the north and surrounding public realm.

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

All proposed flats, located on the second and third floors will have habitable rooms with windows and this includes the main living spaces and bedrooms. Access to daylight will naturally vary for each room/flat but broadly the flats would be served by large banks of glazing.

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

As stated, an additional second floor has been permitted via planning application ref: 213975. However, this element was recessed further from the side of the building.

The nearest parts of the building would be approximately 16.5 metres from the front elevation of Sorbus House. Whilst there would be some intervisibility between the flats, the proposal complies with the Borough Design Guide which suggest a minimum separation distance of 15m for a front-to-front relationship over two storeys in height.

The design Guide also states '*standards and measurements should only be applied once the overall character and nature of the scheme is agreed. Schemes in more urban settings or with a more intimate character will often require a tighter, more compact layout, for instance.*' The various residential developments in this location are all three storeys and this has created a dense residential enclave. The character of large residential and commercial building close to each other is well established.

The neighbouring buildings to the west (Rosa and Ilex House) would be between 20-26 metres to the nearest point of the building and therefore the separation distances also comply with the requirements in the Borough Design Guide SPD.

The upper floors would appreciably breach a 25-degree plane when drawn from the mid-point of the ground floor windows at Sorbus House. This would be within breach of the Borough Design Guide SPD and the BRE Guidance Site Layout Planning for Daylight and Sunlight - the latter states that if the development is within this 25 angle, a more detailed check is required and typical a Vertical Sky Component Test is carried out - this would have been requested if Prior Approval was available for the proposal. In the absence of further information, the proposed development would result in an unacceptable impact to neighbouring amenity by reason of a loss of light to the Northern residential windows at Sorbus House.

The upper stories would also fail to comply with the 25 degree plane when considering Ground Floor windows to the side of Rosa Building. However, the windows in the side

elevation are secondary windows and the rooms they serve would have large banks of glazing to the north or south. No objection regarding loss of light is raised with respect to this building.

(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 full application was approved for an additional storey to the building and this concluded that the impact on future residents would be acceptable. Since that decision, planning permission has been granted to use the neighbouring site to the east (Nigra House) for a mixed use including general industry. A Noise Impact Assessment was submitted as part of the application demonstrating there would be no detrimental noise impacts to the residents of the additional upper floor.

A prior approval application to change the use of the building to residential has been recently approved and as part of that assessment a Noise Impact Statement was submitted showing that flats within the building can be subject to acceptable noise levels, subject to a condition. This assessment took into account the change of use and development permitted at Nigra House.

Given that it has been demonstrated that flats within the existing building and within an additional storey would be subject to acceptable noise levels, it logically follows that the proposal would be also have acceptable noise levels.

(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 site falls within a Core Employment Area as set out in the Spatial Strategy of the development plan, where B uses will be permitted - to this extent the area is important to deliver commercial units and economic activity to the area. Whilst there are other residential blocks in the area as a consequence of prior approval applications, the area is still important in delivering the economic activity and employment to Wokingham in accordance with the spatial strategy in the development plan.

The impact regarding noise has been set out previously in this report and is considered that an appropriate impact can be achieved. The application site entrance and parking would be separated from the industrial use permitted at Nigra House to the east.

Notwithstanding the above, a greater intensity of residential units within this Core Employment Area could have future implications on the commercial viability of the area to provide commercial development without the constraint of nearby housing. The proposed residential development would however be in a cluster of other buildings that have permission to be used as residential dwellings, including the adjacent Sorbus House, Ilex House and Rosa building. These buildings and residential uses form a small domestic enclave and therefore additional residential stories would be part of this cluster.

Due to the containment of this enclave of residential properties, it is considered that the remaining Core Employment Area can continue to operate without undue restriction. This consideration is site specific based on its individual merits and makes no conclusions regarding further residential uses in the Core Employment Area.

(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;

The building would be less than 18 metres high.

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 building would be below the height thresholds set out above and therefore does not meet the fire risk condition and therefore the first safety impacts are not required to be assessed as part of this prior approval application.

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;

Not applicable

(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 area is within Flood Zone 1 and there are no critical Drainage problems. There is no requirement to consult the Environment Agency.

(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 and reasons for refusal have been drafted accordingly.

(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.

Not applicable due to the height of the building.

(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 but is not applicable in this case

(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 sub-paragraphs (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.*

This was carried out on 05.11.2024

(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.

This is noted.

(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 not available and would also have been refused for the following reason: 1. Prior approval is not available as proposed development does meet the criterion in AA.1(a) of Class AA, Part 20, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the building is two storeys in height and is not three storeys as required. 2. Prior approval is not available under Class AA because the proposal fails to comply with criterion AA.1(za) as prior approval under class MA has been previously granted to change the use of the building. 3. The proposed development would result in a poor external appearance to the building, including the principal elevation, by reason of the austere upper floors, absence of a roof from capping the building and appearing as building with two halves that poorly relate to each other, contrary to condition AA.2 (1) (e) of Class AA, Part 20, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). 4. The proposed development fails to demonstrate an acceptable impact on neighbours amenity with regard

	to a loss of light to neighbouring windows at Sorbus House to the South and therefore is contrary to condition AA.2 (1) (g) of Class AA, Part 20, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
Date:	07.02.2025
Earliest date for decision:	26.12.2024

Recommendation agreed by: (Authorised Officer)	<i>BJC</i>
Date:	07.02.25