

Delegated Report

Part 3 M Prior Approval Application

Application No:	20230824
Location:	Joynes House, New Road, Gravesend, Kent, DA11 0AJ
Description:	Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use part-first, second and fourth floors from commercial floorspace to 28 residential units.
Applicant:	Mr Greg Kuzdenyi, Joynes House Development Limited

Procedural Issues

In determining a prior approval application, the Local Planning Authority (LPA) is not granting a planning application; it is simply deciding whether its prior approval is required in respect of the specified matters only. Consequently, the LPA is not able to take into account other considerations that it would be able to consider were it determining a planning application e.g. amenity space.

Proposal

This application is for determination as to whether prior approval for the change of Part First, Second and Fourth Floors Class E (offices) to 28 C3 (dwellinghouses) is required and whether it is approved or refused. The determination is made in relation to the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order (as amended).

This proposal follows approved Class O (ref. 20210973) and non-material amendment (ref. 20220393) applications for conversion of the building and would result in an uplift of 6 residential units.

By indicating that the development proposal complies with the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) the LPA is taking into account the information submitted with the application, material planning considerations raised within any representations received relevant to the Class MA assessment and any previous relevant applications. No information has been discovered revealing removal of permitted development rights, it is therefore understood that the property's permitted development rights are intact and there are no restrictive conditions or outstanding Enforcement notices covering the property.

Submitted Documents/Plans

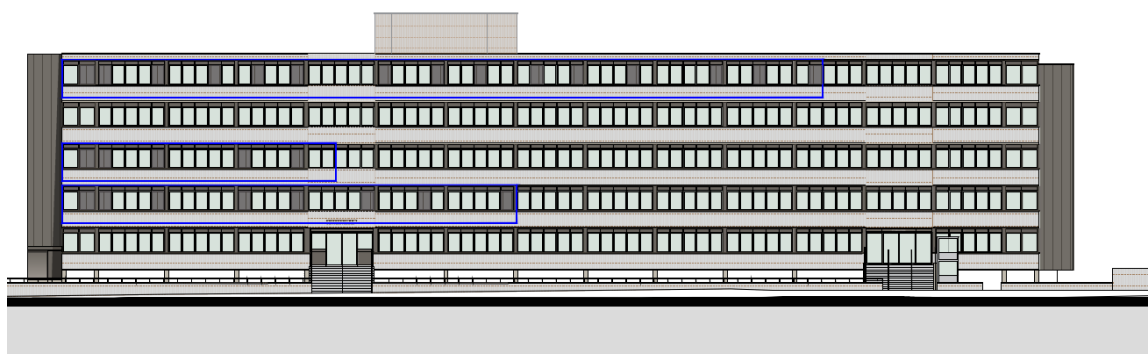
- Application Form – dated 01/08/2023;
- Covering Letter – dated 01/08/2023;
- Planning Statement by Gemini Planning Services Ltd – dated 08/2023;
- Internal Daylight Assessment by T16 Design Ltd – dated 08/2023;
- Transport Statement by Velocity Transport Planning – dated 07/2023;

- Drawing no. 001 – Rev. A – Proposed North and East Elevation
 - Drawing no. 002 – Rev. A – Proposed South and West Elevation
 - Drawing no. 003 – Rev. A – Proposed First Floor Plan
 - Drawing no. 004 – Rev. A – Proposed Second Floor Plan
 - Drawing no. 005 – Rev. A – Proposed Fourth Floor Plan;
 - Drawing no. 006 – Rev. A – Site Location and Block Plan
-
- ~~Drawing no. 001 – Rev. A – Proposed North and East Elevations (showing unauthorised basement alterations) – SUPERSEDED;~~
 - ~~Drawing no. 001 – Rev. A – Annotated Proposed North and East Elevations (with unauthorised basement alterations) – SUPERSEDED;~~
 - ~~Drawing no. 002 – Rev. A – Proposed South and West Elevations (with unauthorised basement alterations) – SUPERSEDED;~~
 - ~~Drawing no. 002 – Rev. A – Annotated Proposed South and West Elevations (with unauthorised basement alterations) – SUPERSEDED.~~

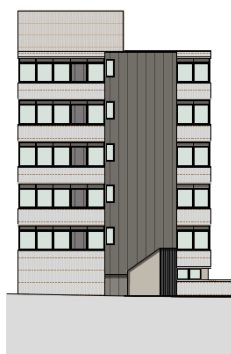
Plan Note - a number of elevation plans have been submitted with this application, many of which include unauthorised alterations to the building. These have been superseded and do not form part of the approved plans list.

As these plans have identical drawing numbers and dates, the screenshots below are to highlight which drawings form part of this application:

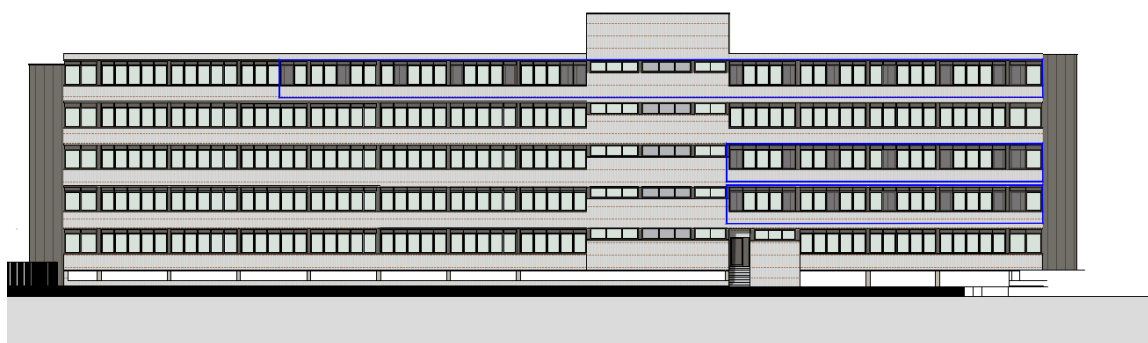
Proposed North Elevation



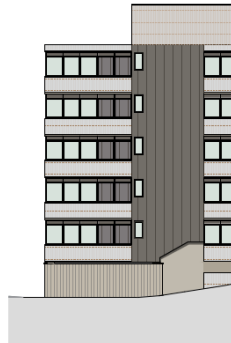
Proposed East Elevation



Proposed South Elevation



Proposed West Elevation



These elevations were agreed in the recent non-material amendment application ref. 20230894.

Relevant Planning History

Reference	Description	Decision	Decision Date
20230894	Application for non-material amendment to planning permission reference number 20210973 to allow minor amendments to internal layout on fourth floor with no change in number of units.	PERMITTED NON-MATERIAL AMENDMENT	
20230822	Application for non-material amendment to planning permission reference number 20221183 to allow amendments to elevation facades.	PERMITTED	25.08.2023
20221336	Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2010 under references 20210974 - 20210962 - 20210973 - 20210958	APPROVAL OF DETAILS	22.06.2023
20221326	Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2010 under reference 20221111	APPROVAL OF DETAILS	22.06.2023
20221183	**REVISED DESCRIPTION** Proposed external alterations to existing building facade including new windows, aluminium infill panels and infill glazing to lower ground floor. Relocation of existing entrance and lobby from ground floor to lower ground floor and minor amendments to internal layout of 2 no. ground floor residential units consented under reference 20210958, as amended by non-material amendment ref 20220391.	PERMITTED	03.05.2023
20220799	Application for prior approval under Part 20 Class AA of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for upward extension of existing commercial building through the construction of 2 additional storey to provide 24no. flats along with necessary ancillary works.	PRIOR APPROVAL IS REQUIRED AND REFUSED	23.09.2022
20220392	Application for non-material amendment to planning permission reference number 20210962 to allow minor amendments to the internal layout.	PERMITTED NON-MATERIAL AMENDMENT	20.04.2022
20220391	Application for non-material amendment to planning permission reference number 20210958 to allow minor amendments to the internal layout.	PERMITTED NON-MATERIAL AMENDMENT	20.04.2022
20220390	Application for non-material amendment to planning permission reference number 20210974 to allow minor amendments to the internal layout.	PERMITTED NON-MATERIAL AMENDMENT	20.04.2022
20210974	Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country	PRIOR APPROVAL IS	16.09.2021

	Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use of Part Ground, First and Second Floors from Class E (previously Class B1(a)) (offices) to 26 residential units (Class C3 (dwellinghouses)).	REQUIRED AND APPROVED	
20210973	Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use of Part First, Second and Fourth Floors from Class E (previously Class B1(a)) (offices) to 22 residential units (Class C3 (dwellinghouses)).	PRIOR APPROVAL IS REQUIRED AND APPROVED	16.09.2021
20210962	Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use third floor from Class E (previously Class B1(a)) (offices) to 13 residential units (Class C3 (dwellinghouses)).	PRIOR APPROVAL IS REQUIRED AND APPROVED	16.09.2021
20210958	Application for a determination pursuant to Article 3, Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change of use of Part Ground Floor from Class E (previously Class B1(a)) (offices) to 4 residential units (Class C3 (dwellinghouses)).	PRIOR APPROVAL IS REQUIRED AND APPROVED	16.09.2021
TH2/71/82B 1	Detailed plans of office block.	APPROVED	24.01.1973
TH/2/71/82 B	Detailed plans of office block.	APPROVED	12.10.1972
TH2/71/82A	Outline application for the erection of office block of 51,280 sq.ft. and erection of dwellings.	CONDITIONAL PERMISSION	31.05.1972
TH2/71/112	Outline application for the erection of an office block, flats and houses on sites of 1, 2, 3, 4 New Road, 2A St. James' Road, St. James' Church and Darnley Road.	PERMISSION	21.12.1971

Consultations, Publicity and Representations

Internal Consultees

GBC Environmental Protection - After reviewing this application, as well as previous comments we have made for applications at this site, we have the following comments;

Noise Control - The building is located immediate adjacent New Road and Darnley Road, both of which are busy roads in the town centre. The junction and traffic lights where Darnley Road meets New Road would also increase traffic noise volumes close to the proposed site.

Whilst we are aware that permitted development rules do not require traffic noise to be part of a noise impact assessment, the fact remains that traffic will be the most significant source of noise that can adversely impact the wellbeing of future residents if the design of the flats does not factor in this source and take appropriate measures to mitigate it.

We therefore consider it reasonable in order to protect the amenity of future residents that the applicant is required to provide the LPA with a noise impact assessment report for approval that shows it meets the following;

- a. The internal ambient noise levels in all habitable rooms of the proposed residential dwellings shall not exceed the guideline LAeq values found in Table 4 of BS8233:2014.
- b. The maximum internal noise levels in all habitable rooms should not exceed 45dB L_{Amax} more than 10 times per night in accordance with the Professional Practice Guidance on Planning & Noise and the WHO Guidelines for Community Noise.
- c. To protect residents from being adversely affected from outdoor sound levels any private garden, balcony, terrace or external communal space should not exceed 50-55dB LAeq 5 min during the day, and no more than 45dB LAeq 5 min should be exceeded 1 metre from the façade of residential properties at night, in accordance with WHO guidance. Where it is practical and feasible, the lower outdoor sound level (50dB) should be considered the maximum desirable sound level for new development.
- d. If relevant, the rating noise from fixed building services/mechanical plant/equipment associated with the development shall be at least 10dB below the existing LA90 background level at the nearest noise sensitive receptors (i.e. dwellings) when measured and assessed in accordance with BS4142:2014
- e. Where compliance with these criteria will rely on closed windows, the development must include sufficient and suitable ventilation to affected residential dwellings by means other than opening windows to ensure that the internal noise levels required by the above conditions can be retained all year round.
- f. Prior to first occupation of the apartments, a suitable post-completion demonstrating compliance with (a) shall be submitted to and approved, in writing, by the Local Planning Authority.

Air Quality - Whilst the development is not within an Air Quality Management Area (AQMA) for NO₂, it is immediately adjacent the A226 One Way System AQMA. As air quality does not change from poor to good based on a line on a map it is considered by this service that a suitable air extraction system is installed for all flats facing New Road and Darnley Road, in order to protect the quality of air future residents would be exposed to within their home.

- a. The air quality handling system shall be installed in accordance with the approved details. For the avoidance of doubt the installation of the air handling system will ensure the indoor air quality of each apartment is good and will enable the windows to be kept closed to reduce disturbance from outside noise. The air handling system must bring in clean air to each residential apartment so as to create positive pressure to ensure that pollution from outside is prevented from entering the unit. The scheme must also include:
 - i. An inlet flow greater than the outlet flow to ensure a positive pressure;
 - ii. Heat recovery;
 - iii. Sealed windows on all roadside elevations when required by the ventilation company to ensure the air system works as required;
 - iv. The air supply must come from a suitable clean source e.g. a rear roof of building etc. Care must be taken to locate the inlet such that it ensures that only clean air is brought into the residential units and that excessively hot or cold air is not brought in; and v. sound

attenuation such that there is no breakout noise or vibration from the system.

- b. Prior to first occupation of the apartments, a suitable post-completion commissioning report by a competent ventilation engineer confirming that the approved system has been incorporated into the residential apartments and that the systems fulfil the purpose (i.e. that it prevents outside air entering the residential apartments) shall be submitted to and approved, in writing, by the Local Planning Authority. For the avoidance of doubt this shall include an inspection by an officer of the Local Authority to see the system is in place and in suitable working order.

The approved scheme shall be maintained in full working order for the lifetime of the development.

Code of Practice on Construction and Demolition - Please apply as appropriate.

GBC Highways - No comment received.

Local Ward Councillors - No comment received.

Neighbouring properties

A notice was displayed on site 10th August 2023.

No representations were received as a result of the publication.

The consultation period expired 15th September 2023.

Officer's Analysis

This application seeks determination pursuant to Article 3, Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the proposed change.

Assessment

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

MA.1. (1) Development is not permitted by Class MA—		
<u>(a)</u>	unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;	Y
<u>(b)</u>	unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;	Y
<u>(c)</u>	if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;	Y
<u>(d)</u>	if land covered by, or within the curtilage of, the building— (i) is or forms part of a site of special scientific interest; (ii) is or forms part of a listed building or land within its curtilage; (iii) is or forms part of a scheduled monument or land within its curtilage; (iv) is or forms part of a safety hazard area; or (v) is or forms part of a military explosives storage area; (e) if the building is within—	N

	(i) an area of outstanding natural beauty; (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981; (iii) the Broads; (iv) a National Park; or (v) a World Heritage Site;	
<u>(e)</u>	if the building is within— (i) an area of outstanding natural beauty; (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981; (iii) the Broads; (iv) a National Park; or	N
<u>(f)</u>	if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or	N
<u>(g)</u>	before 1 August 2022, if— (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.	N/A

MA.2.—(1) Development under Class MA is permitted subject to the following conditions

- (2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—
- (a) transport impacts of the development, particularly to ensure safe site access;
 - (b) contamination risks in relation to the building;
 - (c) flooding risks in relation to the building;
 - (d) impacts of noise from commercial premises on the intended occupiers of the development;
 - (e) where—
 - (i) the building is located in a conservation area, and
 - (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
 - (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
 - (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; and
 - (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
 - (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The following paragraphs will assess the relevant prior approval matters (NB paragraphs (h) is not applicable to the proposed development).

It is noted that according to paragraph W(10) of the GPDO, when determining a prior approval application, the Local Planning Authority must have regard to the National Planning Policy Framework (NPPF) (2023) so far as it is relevant to the subject matter of the prior approval, as if the application were a planning

application. Therefore, the following discussion will refer to the NPPF (2023) and not refer to local development plan policies.

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

Paragraph 111 of the NPPF (2023) sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application site is located within the town centre and is in a sustainable location with good access to public transport links and public car parking.

A Transport Statement has been submitted with the application, which details that 28 secure cycle space will be provided. As such, due to the proximity to the town centre and to shops and amenities, the development would not result in significant additional vehicle movements, and the proposed bicycle parking would be appropriate in quantity and layout. Prior approval would not therefore be required in relation to transport impacts, as the development has no adverse impacts on highway safety and would be in line with paragraph 111 NPPF (2023).

(b) Contamination risks in relation to the building

The previous land use history of the area does not suggest that the site has previously been subject to contamination and the constraints associated with the site do not highlight any past land use such as industrial which may indicate contamination of the site. Given there are no proposed works that would result in excavation into previously undisturbed land, there would be limited risk. Therefore, no objection is raised in this regard, however the approval is subject to the following condition:

The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

(c) Flooding risks in relation to the building

The site is located in flood zone 1 which has a low probability of flooding. Given that the site is located within the lowest Flood Zone with an extremely low risk of flooding. Prior approval would not therefore be required in relation to flood risk.

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

Class MA applications only take into consideration commercial noise sources affecting potential new receivers, and does not include for traffic noise or pedestrians using New Road.

The application site is located immediately adjacent New Road and Darnley Road, both of which are busy roads in the town centre. The junction and traffic lights where Darnley Road meets New Road would also increase traffic noise volumes close to the proposed site. However no specific noise generation from commercial premises which will adversely impact on the amenity of future occupiers. Therefore, prior approval is not required in relation to commercial noise.

(e) Impacts on the character or sustainability of a conservation area

The application site is not within a conservation area. Therefore, it is considered that the proposed development would not be detrimental to the character or appearance of the adjacent conservation area.

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

Paragraph 125(c) of the NPPF (2023) sets out that, when considering applications for housing, Local Planning Authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

As can be seen on the accompanying floorplans and the supporting Internal Daylight Assessment future occupiers will receive a good provision of natural light. However, this is reliant on the implementation of the non-material amendment (ref. 20230822), which altered the window placement to provide adequate natural light. Therefore, a condition will be attached to ensure that the flats are not occupied until these amendments have been implemented.

Subject to this condition, each habitable room will be served by one window and the development would be in line with paragraph 125(c) and Policy CS19 of Gravesham's Local Plan Core Strategy (2014).

(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 application site is located within the town centre and therefore not located within an area of heavy industry, waste management, storage or distribution. Therefore, there would be no adverse noise, odour or air quality impacts on future residents arising from industrial or traffic sources and the proposed development would be in line paragraphs 185 and 186 NPPF (2023).

(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 200657,

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

The development would not involve the loss of a registered nursery or health care centre.

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

The building falls below the 18m height requirement and is therefore not considered a high-risk building by HSE Fire and Planning, as confirmed in planning application ref.20221183. Therefore, the development does not meet the requirement for a fire safety impact assessment.

Thames Estuary and Marshes Ramsar / Special Protection Area (SPA)

In addition to the criteria of Class MA, the proposed development is subject to Regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 (as amended), which require the Local Planning Authority to take into account whether the proposal would, either alone or in combination, have likely significant effects on a European Site (SPA/SAC/Ramsar site). Regulation 73 (1) of the Habitat Regulations states: "It is a condition of any planning permission granted by a general development order... that development which is likely to have a significant effect on a European site... (either alone or in combination with other plans or projects)... must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 75."

The proposed development is considered to have likely in-combination effects due to its recreational impacts. Thus, any successful application would need to satisfy the requirements of the Habitat Regulations and would require a financial contribution of £314.05 per residential unit to mitigate the adverse impacts.

An informative to this effect would be added to any approval. The informative would state the following;

It is a condition of any permission granted by a general development order that, in those cases where a development is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the development must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 73, of the Conservation of Habitats and Species Regulations 2010, which is expressly saved by Schedule 7 of the Conservation of Habitats and Species Regulations 2017. Pursuant to Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, an application under Regulation 73 would therefore be required before development is begun.

Conclusion

The application meets the criteria as set out in Part 3 (Class MA) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and in considering that criteria, the proposal is considered acceptable (subject to the conditions set out above) with regard to the transport and highways impacts, contamination risks, flooding risks, impacts of noise from commercial premises on future occupiers, impacts on the adjacent conservation area, the provision of adequate natural light and the impact on future occupiers of the introduction of a residential use in an important industrial area. On this basis, prior approval can be granted.

Paragraph W.13 of the GPDO states that prior approvals may be granted subject to conditions reasonably related to the subject matter of the prior approval. The following conditions are required:

- External Elevational Alterations
- Watching Brief
- Cycle Storage

Recommendation

Prior Approval is Required and Approved

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	26 th September 2023	Dated:	27 September 2023