
22 March 2024

Planning Department
Gravesham Borough Council

Dear Sir/Madam

Application under Regulation 77 of the Conservation of Habitats and Species Regulations 2010, relating to Prior Approval application under the GPDO Class MA for the change of use of the undercroft car park to 10 residential units at Joynes House, New Road, Gravesend.

This application is made under Regulation 77 of the Habitat Regulations, pursuant to the recently submitted Class MA prior approval application relating to the change of use of the undercroft car park at Joynes House to 10 residential units. This prior approval application has yet to be given a reference.

By way of background, Section 106 Agreements have previously been completed to secure habitat mitigation payments relating to 4 separate Prior Approval consents under Class O of the General Permitted Development Order 2015 (as amended) under the following references:-

1. Application Reference 20210974 - 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, First and Second Floors from Class E (previously Class B1(a)) (offices) to 26 residential units (Class C3 (dwellinghouses)). Prior Approval required and granted 16 September 2021. As amended by non-material amendment application reference 20220390, dated 20th April 2022.
2. Application Reference 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

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required and granted 16 September 2021. As amended by non-material amendment application reference 20220392, dated 20th April 2022.

3. Application Reference 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 required and granted 16 September 2021. As amended by non-material amendment application reference 20220393, dated 20th April 2022.
4. Application Reference 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 required and granted 16 September 2021. As amended by non-material amendment application reference 20220391, dated 20th April 2022.
5. A separate S106 has also been completed in respect of a Prior Approval application for an extension to the top of the building to provide 24 additional flats (reference 20221111).
6. A further S106 has been completed in respect of full planning permission granted for the conversion of the undercroft car park to 10 units. (Reference 20230612).

The current Class MA prior application for the undercroft car park seeks prior approval for the change of use to 10 units and would effectively supersede and replace the aforementioned planning permission under reference 20230612.

Background to Regulation 77 Application

Article 3 of the GPDO makes it clear that Permitted Development is granted “subject to ...the provisions of regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010...”. There is nothing that expressly removes the ability to exercise PD rights, but instead

Regulation 75 confers a “condition” that a development cannot be begun until the developer has received notification of the approval of the LPA under the Habitat Regulations.

Regulation 75 states:-

It is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which—

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

(b) is not directly connected with or necessary to the management of the site,

must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77 (approval of local planning authority).

This application thereby seeks the local authority’s approval under Regulation 77.

Mitigation

It is accepted that given the location of the site within 6km of the designated Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site, the consented schemes will require mitigation to ensure that the use of the building as residential flats does not have a significant effect on the integrity of the designated site through recreational disturbance. It is understood that the SAMMS mitigation payments are currently £275.88 per dwelling.

Due to the number of units involved, direct payment is not appropriate and the above tariffs will need to be secured through a Section 106 Agreement.

If you need any additional information please do not hesitate to contact me. In the meantime, please could you advise me of the requisite fee payable so that I can arrange payment.

Yours sincerely

Ruth Harding

Gemini Planning Services Ltd

