



Delegated Report

Prior approval Class MA

Planning Application No: 20211359

Location: Warren Hastings Court Clifton Marine Parade Northfleet Gravesend

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 of the two ground floor units (Class E Commercial and Business Services) to 4 residential units (Class C3 (dwellinghouses))

Applicant: Mr T Billings, Grays Thurrock Properties Ltd

Site Visit Date: 11 November 2021

Submitted Documents/Plans

Application form for prior approval for change of use from Use Class E to Use Class C3;
Drawing no. DHA/14980/01 Proposed site location plan;
Drawing no. DHA/14980/02 Existing site layout plan;
Drawing no. DHA/14980/03 Existing ground floor layout;
Drawing no. DHA/14980/04 Existing northern and eastern elevations;
Drawing no. DHA/14980/05 Existing western and southern elevations and cross section;
Drawing no. DHA/14980/10 Proposed site layout;
Drawing no. DHA/14980/11 Proposed ground floor layout;
Drawing no. DHA/14980/12 Proposed northern and eastern elevations;
Drawing no. DHA/14980/13 Proposed western and southern elevations and cross sections;
Planning Statement October 2021;
Air Quality Technical Note 07 June 2021;
Daylight and Sunlight Assessment October 2021;
Flood Risk Assessment September 2021;
Noise Impact Assessment June 2021;
Transport Statement October 2021; and
Emails from the agent dated 04, 17 and 20 January and 10 February 2022.

Relevant Planning History

<u>Application No.</u>	<u>Description</u>	<u>Status</u>	<u>Decision</u>
20211347	Application for the installation of windows and doors to the ground floor in support of prior approval application (20211359).	Pending consideration	
20080925	Continued use of part of the warehouse as retail shop.	Permitted	08.12.2008

19800719	Erection of three storey building comprising warehouse at lower level with 8 no flats over at ground and first floor level incorporating car park at rear	Permitted	16.09.1980
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Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS03 – Northfleet Embankment and Swanscombe Peninsula East Opportunity Area
- CS07 – Economy, Employment and Skills
- CS11 – Transport
- CS12 – Green Infrastructure
- CS14 – Housing Type and Size
- CS15 – Housing Density
- CS16 – Affordable Housing
- CS18 – Climate Change
- CS19 – Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P5 – Exceptions to the Vehicle Parking Standards – Change of Use of Buildings
- T1 – Impact of Development on Highway Network
- TC2 – Policy for Listed Buildings
- TC3 – Development Affecting Conservation Areas
- TC7 – Other Archaeological Sites

Kent Minerals and Waste Local Plan 2013 – 2030 (September 2020)

- CSM 6 – Safeguarded Wharves and Rail Depots
- DM 7 – Safeguarding Mineral Resources

Paragraph 33 of the NPPF (2021) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 – Achieving sustainable development
- Section 5 – Delivering a sufficient supply of homes
- Section 6 – Building a strong, competitive economy
- Section 9 – Promoting sustainable transport
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and Enhancing the Natural Environment
- Section 16 – Conserving and Enhancing the Historic Environment

Supplementary Planning Guidance

- 2 - Residential layout guidelines including Housing Standards Policy Statement October 2015 Adopted 1996 – amended June 2020;
- SPG 4 - KCC Parking Standards (2006)
- KCC Updated Mineral and Waste Safeguarding Supplementary Planning Document (March 2021)

Other documents

- Technical housing standards – nationally described space standard (March 2015)
- Lansdowne Square Conservation Character Appraisal 2009

Consultations, Publicity and Representations

GBC Highways Officer

Initial response:

I have no objections to the proposal for this conversion as 12 off street car parking spaces will be provided. I do have concerns about the proposed removal of the waiting restrictions at the front of the property as this area provides a safe passing place for HGV's to pass before entering the narrower section of the public highway whilst travelling west, but in truth the road is sufficiently wide to allow two HGV's to pass at an appropriate speed. However, this is outside the planning system and is a matter for its own consultation process.

It should be noted that ideally the applicant should ensure that each parking space is cabled to accept a future electric vehicle charging point with a minimum continuous supply (more under surge) of 7kW/h

Second response:

I accept the parking court isn't necessarily the best of designs and has limitations. But given the drawings supplied there is space to accommodate and manoeuvre the 12 vehicles, although it may not comply exactly with K.C.C. requirements, it does conform to the nationally accepted norm of 2.4m x 4.8m for a car parking space, which I would expect any planning inspector to apply when considering the application.

In terms of vehicle numbers, Gravesham have maximum provision whilst Kent County Council have a mixture of minimum or maximums. Assuming this were considered a suburban area, (the worst case). One and two bedroom units would be expected to provide one space per dwelling minimum, plus one cycle space per new unit.

In terms of parking the existing situation is 8 flats and 4 commercial units are served by 9 parking spaces, the proposal changes this to 12 flats and 12 parking spaces. So the proposal complies with guidance whilst potentially removing any overflow that may have occurred by occupation of the commercial units. The cycle parking is provided internally for the new units at 2 cycles per unit, so is an improvement on the minimum requirement. In addition Kent County Council have a requirement of 20% visitor parking, but it is stated that this can be on street, with a requirement of 2 spaces, such provision should be readily achievable with the ebb and flow of vehicle movements.

I cannot see how existing residents' access to the car parking area will be affected by this proposal but accept that new residents appear to have a long walk along the highway between their dwelling and parking area, again not ideal, but I'm not aware of any policy or guidance that limits this walking distance. There may be scope and subject to a structural check of providing stairs from the rear storage area/fire escape to the existing amenity area or parking court.

No objections.

GBC Environmental Protection Team, Regulatory Services

Initial response:

Code of Practice on Construction and Demolition:

Please apply

Smoke Control Informative:

The proposed development is situated in a smoke control area. As such, only authorised smokeless fuels as listed in the Smoke Control Areas (Authorised Fuels) Regulations 1991 shall be burnt or fireplaces/appliances exempted by Smoke Control (Exempted Fireplaces) Orders shall be utilised. Exempt appliances are appliances (ovens including pizza and tandoori ovens, wood burners and stoves) which have been exempted by Statutory Instruments (Orders) under the Clean Air Act 1993. These have passed tests to confirm that they are capable of burning an unauthorised or inherently smoky solid fuel without emitting smoke. They must be fitted and used according to manufacturer's instructions and they can only be used for the fuel for which they are designed.

When purchasing fuels and fireplaces the applicant should clarify with the vendor their suitability with respect to use in Smoke Control Areas. For further information, including confirmation that an appliance and/or fuel is suitable for use in a smoke control area, the applicant should contact the Council's Regulatory Services air.quality@gravesham.gov.uk.

Drainage/sewerage informative:

The foul sewage shall be removed by means of the mains drainage system and not by the use of non-mains sewerage systems, unless connection to the drainage system is not reasonably practicable.

Noise Control:

In order to limit the likelihood of noise nuisance occurring as a possible outcome of poor construction/insulation, we would ask that the following is applied as a condition;

Prior to commencement, a noise impact assessment shall be carried out and submitted to the LPA for approval demonstrating that:

- 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.
- 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.
- 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

Second response:

Air Quality:

The site is in an area entirely within the Northfleet Industrial Area Air Quality Management Area. A standard comment was provided for the pre-application for change of use from commercial to residential accordingly. The application was accompanied by "Air Quality Technical Note 402.12078.00001 dated 07/06/2021 entitled "Rebuttal to Air Quality Content of Pre-Application Enquiry Response" the contents of which confirmed that a history of monitoring and various council air quality reports were appraised in order to ascertain whether the site was in exceedance of the national air quality objectives. The conclusion was that the site was not in exceedance and therefore an air quality mitigation scheme was not proposed.

This service accepts the conclusion that the site is not itself in an area of exceedance for nitrogen dioxide or particulate matter PM10 and therefore an air handling scheme does not need to be provided in order to mitigate poor air quality.

Noise:

The noise impact assessment from MRL acoustics (ref MRL/100/1749.1v1) dated June 2021 indicates that the development site is exposed to moderate levels of environmental noise during both the daytime and the night time periods due to road traffic noise, along with some noise from boats and ships along the River Thames.

It contains recommendations for an appropriate noise mitigation scheme for the new dwellings which should provide sufficient noise attenuation to meet the required internal acoustic criteria and fully protect the amenity of future residents in accordance with the standards outlined in the WHO Guidance, BS 8233 : 2014 and the ProPG guidance document.

This Service is satisfied that compliance with those recommendations, i.e. upgraded glazing and acoustically treated mechanical ventilation both as specified within the report, would provide a suitable acoustic environment in accordance with the aforementioned standards and therefore has no objections to the application on noise grounds provided that the following conditions are applied:

1: The recommendations set out within section 5 of the noise impact assessment from MRL acoustics (ref MRL/100/1749.1v1) dated June 2021 shall be complied with, as a minimum, to ensure that all habitable rooms of the dwellings meet the maximum values set out in table 4 of BS8233:2014 and The World Health Organisation 'Guidelines for Community Noise' as reference in the Noise Impact Assessment.

2: Because achieving a suitable acoustic environment within the dwellings is entirely reliant on the aforementioned recommendations being complied with, the installers of the glazing and mechanical ventilation doing so effectively, and no other structural defects/gaps, etc. existing or being introduced which would undermine the acoustic effectiveness of the recommended mitigation, prior to occupation of the dwellings, a post-installation noise impact assessment shall be provided to the authority for approval demonstrating compliance with the maximum values set out in table 4 of BS8233:2014 and The World Health Organisation 'Guidelines for Community Noise'. Any works identified as being required to meet these standards shall be carried out prior to occupation of the dwellings.

Air Handling System (Noise mitigation):

It is noted that the noise impact assessment from MRL acoustics (ref MRL/100/1749.1v1) dated June 2021 concludes that an air handling scheme is needed in conjunction with upgraded glazing etc to mitigate the considerable noise in the area which impacts the site significantly. Therefore this service requests

- a) Prior to determination, details for an air handling system shall be submitted to and approved, in writing, by the Local Planning Authority.
- b) The air quality handling system shall then be installed in accordance with the approved details.
- c) The air handling system must bring in clean air to each residential apartment and shall not bring in air from, or near to, the roadside elevation to avoid drawing traffic fumes into the residences. Ideally the inlet air should be brought from the rear and or top of the building as far away from any sources of air pollution, fume or odour as possible.
- d) The scheme must also include:
 - i. Heat recovery;
 - ii. The designing out of the use of passive and trickle vents in the fabric or windows/doors of the residential unit
 - iii. sound attenuation such that there is no breakout noise or vibration from the system."

Third response:

Re air system – as we ascertained when we looked at it originally that it is possible to source clean air from height at the rear corner of the building I am satisfied that the scheme is achievable and therefore I have no objection in requiring it by condition.

Re cont. land – please can you put the following cont. land conditions on as the historical use is unknown, contamination could have occurred and it is a change of use to a more sensitive end use with a potential impact on the health of future occupants:

Contaminated land – Phased Condition

The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment, which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

2) A site investigation, based on the recommendations of (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) A Remediation Method Statement (RMS) based on the site investigation results and the detailed risk assessment at (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4) Prior to occupation a closure report is submitted upon completion of the works. The closure report shall include full verification details as set out in (3). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto, or taken from, the site. Any material brought onto the site shall be certified clean.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Contaminated Land – Previously Unidentified Contamination

If during construction/demolition works, evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not recommence until an appropriate remediation scheme has been submitted to, and approved in writing by, the local planning authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to, and approved in writing by, the local planning authority. The closure report shall include:

A) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

B) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria, together with the necessary documentation detailing what waste materials have been removed from the site.

C) Even if no contamination has been discovered during the build then evidence (for example, photos or letters from site manager) to show that no contamination was discovered should be included.

GBC Private Housing

The report is well considered and finds in favour of the plans in consideration to BRE guidance and the targets set. (Table 5.1)

Essentially, there appear to be only 3 of the living/dining/kitchens (LKD) that fall short of the targets but which still achieve the minimum required level of light.

It would seem prudent to require the developers to install a 'hybrid lighting solution', to incorporate LED daylight 'Up-lighting', to overcome the deficiency while perhaps contributing to a positive design statement.

Additionally, any future development of the adjacent land should be 'Flagged' so that planning applications take into consideration their effect on this development and the possibility of further restricting access to the available daylight.

GBC Conservation Officer

The introduction of a live frontage will enhance the appearance of this bland and sterile frontage. Subject to agreeing the type of window/door (manufacturers details) to be introduced there are no adverse comments in respect of heritage setting.

Environment Agency

First response:

We have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee.

Please refer to the attached 'When to consult the Environment Agency' document for guidance on when to consult us.

Please note: If the application at a later stage proposes the use of non-mains drainage, we will need to be re-consulted.

Non planning consents

Although we have no comments on this planning application, the applicant may be required to apply for other consents directly from us. The term 'consent' covers consents, permissions or licenses for different activities (such as water abstraction or discharging to a stream), and we have a regulatory role in issuing and monitoring them.

The applicant should contact 03708 506 506 or consult our website (<https://www.gov.uk/guidance/check-if-you-need-an-environmental-permit>) to establish whether a consent will be required.

If you feel we should assess this planning application in more detail due to local issues/opportunities please email KSLPLANNING@environment-agency.gov.uk

Second response:

In the absence of an acceptable Flood Risk Assessment (FRA) we would object to this application.

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the development's flood risks. In particular, the FRA fails to identify some of the dwelling will be essentially in Flood Zone 3. The FRA would also need to consider the following :

The finished floor levels set at least 600mm above the latest modelled 1/100yr plus climate change flood event data

consider how people will be kept safe from the identified flood hazards

consider how a range of flooding events (including extreme events) will affect people and property

consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.

The applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection. Please consult us on any revised FRA and we will respond within 21 days of receiving it.

Third response:

Based on the information provided we have no objection to the development.

Reason:

The proposed development is defined by Table 2 of the Planning Practice Guidance (PPG) as More Vulnerable and lies within Flood Zone 1, defined by Table 1 of the PPG as having a 'Low Probability' of flooding and at the edge of Flood Zone 3 defined as having a 'High Probability' of flooding. It should be noted that the building is situated approximately 15 metres south of the Thames Tidal Defence wall. This structure will likely incorporate buried elements which could extend further inland to secure the wall.

The submitted Flood Risk Assessment (FRA) (reference: CS/15652, by: dha, dated: September 2021) states that finished floor levels for the ground level are 6.91mAOD. This provides more than 600mm of freeboard to the breach model level of 6.23mAOD for the 0.5% Annual Exceedance Probability (AEP) for the year 2115.

The land immediately north of the development slopes from the west to the east but is mostly above the 0.5% AEP modelled flood level for the year 2115. Therefore, it is unlikely that the site will be inundated by flooding, in this scenario, even when considering scour resulting from a breach.

Flood Risk Activity Permit (FRAP)

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the riverbank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

KCC Heritage

I have no comments to make on archaeological issues.

KCC Highways & Transportation

Referring to the above description, it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.

Informative: It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and

Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel> Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.

Neighbouring properties

In line with the requirements of paragraph W.(8) of Article 3, Schedule 2, Part 3, Class W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the application was publicised by a site notice. One representation (an objection) has been received and is summarised as follows;

- Concerned regarding the amount and arrangement of parking bays.
- Concerned regarding the security of the path from the main road to the car park.
- Would wish to see more information.
- Queries the publicity for the application.

Officer's Analysis

Proposal

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 of use of the two ground floor units (Class E Commercial and Business Services) to four residential units (Class C3 (dwellinghouses)).

Three of the proposed units would be one bedroom and one of the proposed units would be two bedroom (Unit A). The two bedroom unit would have a floor area of 120 square metres. The one bedroom units would have the following floor areas;

- Unit B 115 square metres;
- Unit C 115 square metres; and
- Unit D 133 square metres.

All of the units would have pedestrian accesses from Clifton Marine Parade. Each unit would have one car parking space located in an existing (re-configured from 9 spaces to 12) car park at the rear of the building, accessed via Pier Road. Each unit would have two bicycle parking spaces and space for refuse storage.

The proposal refers to the provision of four parking spaces located immediately in front of the building. However as these spaces would be located outside of the red line boundary of the application site and on the public highway (which is currently subject to parking restrictions), these spaces should not be considered as being part of the proposed development.

Assessment

Class MA of Article 3, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) reads as follows;

- 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—

- (a) 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;
- (b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;
- (c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;
- (d) 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—
 - (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;
- (f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or
- (g) 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.

The following paragraphs assess the submitted application against each of the above criteria:

- (a) The ground floor of the application building has been vacant since April 2020 and therefore the proposal is in line with paragraph MA.1.(1)(a).
- (b) The ground floor of the application building was previously occupied by a window restoration business and used for storage/workshops/offices and was a Class E use and therefore the proposal is in line with paragraph MA.1.(1)(b).
- (c) The cumulative floor space of building that is proposed to be changed to residential use would be some 620 square metres and therefore the proposal is in line with paragraph MA.1.(1)(c).
- (d) The application building is located immediately opposite the listed Rosherville Quay walls, steps, drawdock and WWII mine watching post. The listed structure is located outside of the red line boundary of the application site and therefore the proposal is in line with paragraph MA.1.(1)(d).
- (e) The building is not within any of the areas set out in paragraph MA.1.(1)(e).
- (f) Not applicable as the site is not occupied under an agricultural tenancy.
- (g) Not applicable as the proposed development would not fall within the description of, or be permitted by, Class O.

Overall it is considered that the proposed development would meet the requirements of paragraph MA.1. As such, the following conditions apply;

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) and (i) are 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 2021) 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 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 2021 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 close to the town centre, would provide on-site car parking provision for 12 vehicles in a reconfigured existing car park and would provide two bicycle parking spaces per dwelling. The proposed development would result in four additional residential units at a site that currently has eight residential units. It would also result in the loss of the commercial use of the building, which would reduce vehicle movements in the locality.

It is noted that the proposed on street parking in front of the application building would not be within the application site and could not be provided without removal of existing waiting restrictions. Therefore the application has been determined without reliance upon the provision of these parking spaces.

The proposed development would not result in significant additional vehicle movements, the proposed car and bicycle parking would be appropriate in quantity and layout and the GBC Highways Officer has not raised an objection to the proposal. Therefore the proposed development would have no adverse impacts on highway safety and would be in line with paragraph 111 of the NPPF 2021.

It is noted that future residents would have a long walk along the highway between their property and the proposed parking area, which is far from ideal, however it is considered that this would not be a justifiable ground of refusal.

(b) contamination risks in relation to the building

The application site would not be contaminated land as described in Part 2A of the Environmental Protection Act 1990.

Paragraph 183 of the NPPF 2021 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and

contamination and that this includes risks from former activities.

GBC Environmental Protection advise that due to historical uses, contamination could have occurred and because the proposal would introduce a sensitive end use, there is potential for an adverse impact on the health of future occupants. Therefore in order that there are no adverse contamination impacts to future occupiers, it would be appropriate to attach pre-commencement and general contamination conditions to any approval. Subject to these conditions, it is considered that there would be no adverse contamination impacts and the proposed development would be in line with paragraph 183 of the NPPF 2021.

(c) flooding risks in relation to the building

Paragraph 159 of the NPPF 2021 sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) and highlights that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraphs 161 and 162 of the NPPF 2021 set out the requirement and methodology to apply a sequential, risk based approach to the location of development taking into account all sources of flood risk and highlight that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.

The application details include a flood risk assessment, which concludes that the application site is located within Flood Zone 1, that there would be no change to existing surface water drainage and that the building would not be at risk from flooding from the River Thames. Following an initial objection, the Environment Agency do not now raise an objection to the proposal, as they consider that the application site is unlikely to be inundated by flooding. They highlight that a flood risk activity permit would be required, which is an issue that can be brought to the attention of the applicant, by way of an informative on any approval.

Therefore the proposed development would not be a risk from flooding and would be in line with paragraph 159 of the NPPF 2021.

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

Paragraph 185 of the NPPF 2021 sets out that planning decisions should avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 174(e) of the NPPF 2021 states that planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

The application site is located adjacent to a road used by heavy goods vehicles, close to a number of industrial/commercial premises and the River Thames and as such, the surrounding environment is noisy. The submitted noise impact assessment indicates that the application site is exposed to moderate levels of environmental noise during the day and at night and recommends a noise mitigation scheme (including upgraded glazing and acoustically treated mechanical ventilation) for the proposed dwellings.

GBC Environmental Protection do not raise an objection to the proposal, provided that the recommendations set out in the noise impact assessment are complied with and that details of the proposed air handling system are submitted for approval prior to the commencement of the development.

Subject to the imposition of the conditions set out by GBC Environmental Protection, a condition that ensures that all windows are non-openable, it is considered that there would be no adverse noise impacts and the proposed development would be in line with paragraph 185 of the NPPF 2021.

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

The application site is not located within a conservation area, it is however located immediately adjacent to the Lansdowne Square Conservation Area. The proposed development would remove an existing commercial use from the building and result in an improvement to the visual amenities of the ground floor of the building (replacing unsightly roller shutter doors with domestic fenestration and ensuring that the fabric of the building is maintained). The GBC Conservation Officer has not raised an objection to the proposal.

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 2021 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).

A Daylight and Sunlight Assessment has been submitted which indicates that all the proposed units would have levels of daylight that comply with BRE requirements. However only Unit A would have levels of sunlight that comply with BRE requirements and Units B to D would have inadequate levels of sunlight.

It should be noted that the main façade of all the proposed units would face north, with only Unit A having a side elevation where windows would be provided facing south and east. As such, there is limited access to sunlight due to the orientation of the building, which could not be overcome by amendments to the proposed development.

GBC Private Housing has not raised an objection to the proposal but considers that it would be appropriate to install a hybrid lighting solution, incorporating LED daylight up-lighting, to overcome the deficiency in natural light. A condition can be attached to any approval which requires the submission and approval of an appropriate lighting scheme. Subject to this condition, it is considered that the proposed development would provide an adequate standard of living for future occupiers and would be in line with paragraph 125(c) of the NPPF 2021.

(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 adjacent to Imperial Wharf and the Imperial Business Park, where there are a mix of uses including an industrial site that emits bitumen odour. The application site is immediately adjacent to the boundary of the Northfleet Industrial Air Quality Management Area (AQMA) and a road with heavy goods traffic. As such, GBC Environmental Protection has raised concerns regarding the potential for adverse noise, odour and air quality impacts on future residents arising from such sources.

Paragraph 186 of the NPPF 2021 states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas and opportunities to mitigate air quality impacts should be identified.

The submitted air quality assessment concludes that the ambient air quality at the application site is well below the air quality objectives for the Northfleet Industrial AQMA and that there are no air quality grounds for requiring an air handling system for the proposed development. However, in order to mitigate adverse noise impacts to future residents, the submitted noise assessment requires an air handling system to be installed. It is noted that this system would also mitigate any adverse odour impacts associated with the nearby bitumen plant.

Therefore, subject to the imposition of noise and air handling conditions on any approval, 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 of the NPPF 2021.

Representation from local resident

The concerns raised by a local resident are set out and commented upon as follows;

- *Concerned regarding the amount and arrangement of parking bays* – The submitted transport statement includes a swept path analysis, which demonstrates that the proposed parking layout is accessible. The above discussion at section (a) concludes that the amount of proposed parking would be sufficient.
- *Concerned regarding the security of the path from the main road to the car park* – it is acknowledged that this arrangement would not be ideal but it would not be a justifiable ground of refusal.
- *Would wish to see more information* – the application details are available online and sufficient information has been provided to allow the proposed development to be assessed.
- *Queries the publicity for the application* – the publicity has been undertaken in line with the requirements of paragraph W.(8) of Article 3, Schedule 2, Part 3, Class W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended),.

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 £253.83 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.

Suggested conditions

Time limit

Use of building as dwellinghouses

Submission and approval of contamination mitigation pre-commencement

Submission and approval of details of air handling system pre-commencement

Submission and approval of details of hybrid lighting pre-commencement

Contamination watching brief during works

Works in accordance with recommendations set out in section 5 of the noise impact assessment

Submission and approval of post installation noise impact assessment pre-occupation

Provision of approved car parking prior to first use

Installation of cycle storage prior to first occupation

All windows non-openable

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.

Recommendation

Grant prior approval.

(For detailed conditions and informatives, see draft Decision)

Case Officer:	Mrs Kelly Joyce	Team Leader:	Faye Hobbs
Signed:		Signed:	
Dated:	1st March 2022	Dated:	03 March 2022