

MC/16/2957

Date Received: 12 July, 2016

Location: Crystal House, 14 London Road, Rainham, Gillingham, ME8 6YX

Proposal: Prior Notification of a proposed change of use from office (Use Class B1) to residential dwelling (Use Class C3)

Applicant: KM Partnership Limited

Agent: Mr P Cook Cook Associates Design Studion LLP Capital House  
3 Jubilee Way Faversham Kent ME13 8GD

Ward Twydall

Case Officer Thomas Stubbs

Contact Number 01634 331700

---

**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 24 August 2016.**

**Recommendation - Prior Approval required and Prior Approval granted, subject to:**

A. The applicant entering into a Section 106 Agreement to secure the following:

1. A contribution of £894.32 for Designated Habitats Mitigation;

B. The following conditions:

- 1 The development shall not be occupied until an Acoustic Assessment has been undertaken to determine the impact of noise from adjoining commercial-related noise sources and shall be made in accordance with BS4142 2014: Method for Rating and Assessing Industrial and Commercial Sound and the results of the assessment and details of a scheme of acoustic protection shall be submitted and approved in writing by the Local Planning Authority.

The scheme shall demonstrate that the internal noise levels within the residential units conforms to the indoor ambient noise levels for dwellings identified by BS8233 2014: Guidance on Sound Insulation and Noise Reduction for Buildings.

The scheme shall include details of acoustic protection sufficient to ensure

internal noise levels (LAeq,T) no greater than 30dB in bedrooms and 35dB in living rooms with windows closed and a maximum noise level (LAmax) of no more than 45dB(A) with windows closed.

Where the internal noise levels will be exceeded with windows open, the scheme shall incorporate appropriate acoustically screened mechanical ventilation. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: In accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and Policy BNE2 of the Medway Local Plan 2003.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawings referenced Project No: 16011 pages 03, 06 and 07 received on 12 July 2016.

Reason: For the avoidance of doubt and in the interests of proper planning.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This application seeks prior approval for a proposed change of use from office (Use Class B1) to a residential dwellings (Use Class C3). This application seeks to provide two ground floor studio flats and two first floor studio flats. The flats would be accessed to the middle of the property with a stairwell, providing access to the four flats. Window alterations are also proposed on the front and side elevations.

## **Relevant Planning History**

MC/99/5515	Erection of a two storey extension to form new offices. Decision Approval with Conditions Decided 8 December, 1999
------------	--

## **Representations**

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

There have been **seven** letters of objection received:

- Area is a local centre covered by Policy R10 of the Local Plan and the conversion is against policy;
- Substandard room sizes against Medway Design Standards;
- Parking concerns, parking area no large enough for four parking spaces and

- impact on Elizabeth Court;
- Highway safety concerns;
  - Overdevelopment of site;
  - Overlooking issues;
  - Description unclear;
  - Works have started on site.

## Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 (NPPF) and are considered to conform.

## Planning Appraisal

### *Assessment*

Class O of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016, sets out the issues for consideration for this form of notification.

Class O states that development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule of the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that schedule is permitted development, subject to a number of criteria being met. These criteria are set out below. The officer assessment of each criteria is set out in bold, for clarity.

*O.1 Development is not permitted by Class O if —*

*(a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30 May 2019; **The building is not on article 2(5) land.***

*(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order on 29 May 2013 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use; **It is stated that the site was in office use on 29 May 2013. This appears consistent with the planning history - MC1999/5515, which granted planning permission for an extension to form new offices.***

*(c) this part is omitted by the Amendment Order **No***

*(d) the site is or forms part of a safety hazard area; **The site does not fall within a safety hazard area.***

*(e) the site is or forms part of a military explosives storage area; **The site is not and does not form part of a military explosives area.***

*(f) the building is a listed building or is within the curtilage of a listed building; The building is not listed or within the curtilage of a listed building.*

*(g) the site is, or contains, a scheduled monument. This site is not and does not contain a scheduled monument.*

If the development meets the listed criteria, which this proposal does, Class O then requires that the development applies to the Local Planning Authority (LPA) for a determination as to whether the Prior Approval of the Authority will be required. It sets out four grounds under which the LPA must assess the proposal. These are:

- (a) Transport and highways impacts of the development;
- (b) Contamination risks on the site;
- (c) Flooding risks on the site, and
- (d) Impacts of noise from commercial premises on the intended occupiers of the development.

These matters will each be assessed below.

#### *Transport and highways impacts of the development*

The consultation has raised concerns regarding the parking spaces and safety of the access. The planning history shows that a separate crossover was refused planning permission in 1984. Parking was conditioned for four spaces (one to front and three to the rear) under MC1999/5515; this access was from the adjoining dropped kerb. The plans submitted do not show any parking provided. The existing use would require twelve parking spaces and the proposed four studio flats would only require four parking spaces. Consequently, due to the lower parking demand and the potential to provide parking onsite, it is considered that the proposed use would have a lower impact on highways than the existing use and therefore the application would be in accordance with Policies T1 and T13 of the Local Plan.

#### *Contamination risks on the site*

There are no objections to the conversion of the of the building to residential use with regard to contamination matters, including in respect of Policy BNE23 of the Local Plan and the advice in the NPPF (paragraph 120).

#### *Flooding risks on the site*

The site is not located within Flood Zones 2 or 3 on the Environment Agency's flood maps; therefore they have not been consulted and it is not considered that there would be any unacceptable flood risks. There are no objections with regard to Policy CF13 of the Local Plan and the advice in the NPPF (including paragraph 103).

#### *Impacts of noise from commercial premises on the intended occupiers of the development*

Due to the location of other commercial properties within the vicinity of the site, it is

considered that there may be an issue on noise from these commercial uses on the intended occupiers of the development. Prior Approval would, therefore be required.

Consideration within this application can also be given to whether Prior Approval can be granted.

It is considered that, subject to a condition requiring an Acoustic Assessment and acoustic protection to ensure suitable levels are provided, Prior Approval can be granted and the scheme would be in accordance with Policy BNE2 of the Local Plan and the advice in the NPPF (including paragraph 17).

### *Bird Mitigation*

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest.

Natural England has advised that an appropriate tariff of £223.58 per dwelling (excluding legal and monitoring officers costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014.

The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have agreed to pay this tariff. No objection is therefore raised under Paragraph 118 of the NPPF and Policies S6 and BNE35 of the Local Plan.

### *Local Finance Considerations*

There are no local finance considerations.

### *Other*

A number of letters of objection have been received, raising concerns such as overlooking, overdevelopment and room sizes. However, a Prior Approval application is different to a planning application, in that the Local Planning Authority can only

assess the proposal against the four grounds set out in Class O (listed as (a) to (d) above).

### **Conclusions and Reasons for Recommendation**

When assessing the proposed change of use against the permitted development requirements of Class O of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Prior Approval is considered to be required in relation to part (d) relating to noise from surrounding commercial properties.

It is considered that Prior Approval can be granted, subject to conditions and the completion of a signed Unilateral Undertaking.

The application would normally be determined under delegated powers, but is being referred to Planning Committee due to the number of contrary representations to the officer recommendation.

---

### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>