

DELEGATED PLANNING APPLICATION REPORT

Ward: Thames

App Ref: 240990/VAR

Address: Great Brighams Mead Vastern Road Reading

Proposals: Change of use from office use Class B1(a) to use Class C3 to comprise 110 residential units. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 without complying with condition 1 (time limit for completion) of consent ref. 210567 to allow for completion of the development within 6 years rather than 3 years

Case Officer: Matt Burns

Date received (valid from): 4 October 2024 Target Decision date: 29 November 2024

Extension of time date: 6 December 2024

1. SITE DESCRIPTION

The application site comprises a three-storey office building called Great Brighams Mead with a part brick façade, a hipped roof and a distinctive clocktower. The site is surrounded by mature Plane trees protected trees to the south and west of the building (TPO ref. 80/05).

The site is located to the north of Reading Station, fronting onto the Caversham Road / Vastern Road roundabout. It is on the edge of a residential area comprising terraced Victorian houses and flats to the rear.

The site is located within Flood Zone 3. The River Thames is located 40m to the rear of the site. The site is within an air quality management area and includes land identified as being potentially contaminated.

The site lies outside, but on the edge, of the Central Core Policy Area and the Office Core Policy Area.

2. PROPOSAL AND SUPPORTING INFORMATION

The application proposes to vary condition 1 of the prior approval consent which relates to the timeframe for completion of the development subject to the prior approval notice. The proposal seeks to change the timeframe for completion of the development from 3 years from the date of the decision notice to 6 years. Therefore, the development would be required to be completed by 1st June 2027 as opposed to the current requirement of by 1st June 2024.

The existing condition states the following:

1. *This development under Class O is permitted subject to it being completed within a period of 3 years starting with the prior approval date on this decision notice.
REASON: To comply with the requirement of paragraph O.2. (2) of the Town and*

Country Planning (General Permitted Development) (England) (Amendment) Order 2016

The proposed varied condition would state the following:

1. *This development under Class O is permitted subject to it being completed within a period of 3 6 years starting with the prior approval date on this decision notice.
REASON: To comply with the requirement of paragraph O.2. (2) of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016*

The applicant states that the conversion works commenced in May 2022 but that a longer period for completion of the development is sought as a result of:

- Financial difficulties experienced by the original main contractor for the conversion works.
- A new contractor was appointed in April 2023 and anticipated completion by January 2024 but bats were then discovered in the roof space resulting in further delay whilst a license for works that could impact bats was sought from Natural England.
- During this delay the new contractor also then experienced financial difficulties and was not able to continue with the works.
- The delays resulted in the developer (Kings Oak Miami LLP) falling in to administration.
- The administrator has appointed a new team to bring the conversion works to completion but was not able to do so by 1st June 2024, hence a longer period for completion of the development has been applied for.

Plans and supporting documents submitted:

- Simply Planning letter ref. SP24-1060
- Counsel Opinion dated 14th July 2024
- Location Plan ref. 5025893-SK01 Rev A

Received by the Local Planning Authority on 4th October 2024

- Counsel Opinion dated ref. 22 November 2024

Received by the Local Planning Authority on 22nd November 2024

3. RELEVANT PLANNING HISTORY

210567 - Change of use from office use Class B1(a) to use Class C3 to comprise 110 residential units. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. Approved on 1st June 2021.

220717 - External alterations in connection with conversion to residential use, including replacement of main revolving doors with double swing doors, new glazing to lobby, creation of side and rear door openings, new window openings and replacement windows.
Approved on 4 August 2022.

221479 - Application for prior approval of 72 proposed new dwellinghouses on detached buildings in commercial or mixed use - Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended) - Schedule 2, Part 20, Class AA, for the proposed additional storeys to result in a third and fourth floor. Refused 21 November 2022

220778 - Application for prior approval of 72 proposed new dwellinghouses on detached buildings in commercial or mixed use - Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 20, Class AA, for the proposed additional storeys to result in a maximum overall building height of 21.92m. Refused 4 August 2022

220343 - Application for approval of details reserved by conditions 3 (nature and extent of contamination), 4 (remediation scheme) and 5 (validation report) of consent ref. 210567 (amended description). Details Approved 13 May 2022

230182 - Replacement of existing non-illuminated signage. Granted 20th September 2023

230698 - Application for approval of details reserved by condition 8 (Flood Management and Evacuation Plan) of consent ref. 210567. Details Approved 10 October 2023

230745 Construction of a two-storey roof (third and fourth floor) extension to accommodate 100 apart-hotel rooms (Use Class C1) with associated parking, cycle stores and bin stores. Refused 13 August 2024

4. CONSULTATIONS

Public Notification

4 x site notices displayed outside the application site on 4th November 2024.

No letters of representation have been received.

5. EQUALITY ACT 2010:

In determining this application, the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore, in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

6. LEGAL AND PLANNING POLICY CONTEXT

The application relates to prior approval consent given under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class O, refers to development consisting of a change of use of a building and any land within its curtilage from a use falling within former B1 (office) use (now Class E commercial, business and service use)) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Under Class O the following were relevant considerations in the assessment of a prior approval application.

- 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,
- e) the provision of adequate natural light in all habitable rooms of the dwellinghouses

In granting prior approval, subject to conditions, for the approved development on 1st June 2021, the LPA confirmed that prior approval was given in respect of the matters above.

The current application is submission under section 73 of the Town and Country Planning Act (TCPA) and allows the Local Planning Authority to only consider the proposed amendments to the conditions and any other changes in circumstances or policies since the original grant of consent. The application does not reopen assessment of the development as a whole, only whether it should be granted subject to conditions differing to those of the extant consent. If consent to vary conditions is granted, this has the effect of granting a new consent for the development.

National Policy and Guidance

National Planning Policy Framework

National Planning Practice Guidance

Reading Borough Local Plan (2019)

CC8: SAFEGUARDING AMENITY

EN16: POLLUTION AND WATER RESOURCES

CR6: LIVING IN CENTRAL READING

7. APPRAISAL

As set out above an application submitted under section 73 allows the Local Planning Authority to only consider the proposed amendments to the conditions and any other changes in circumstances or policies since the original grant of consent. The application does not reopen assessment of the development as a whole, only whether it should be granted subject to conditions differing to those of the extant consent. If consent to vary conditions is granted, this has the effect of granting a new consent for the development

In this instance the proposed amendment relates only to matters relating to the timeframe for completion of the prior approval development. No changes to any other aspects of the development are proposed.

The change of use of the building from offices to residential has already been considered and found to be acceptable in respect of the provisions of Class O of schedule 2 of the GPDO that were relevant at the time prior approval was given. This application does not re-open consideration of those relevant matters other than the proposed change to the time frame for completion of the development.

At the time the application was considered and for the development to be permitted, Para 0.2 (2) (a) of the of the GPDO required the development to be completed within 3 years of the

decision date. This condition of the GPDO was therefore included on the decision notice as condition 1.

Officer's initial view on the proposal was that an application under s73 of the TCPA was not the appropriate process to amend a condition that is effectively a condition that informs whether the development is permitted development in the first instance. Officer's view was that this condition is written in to the GPDO and therefore it is not possible to be changed and unless a development satisfied this condition it could not qualify as permitted development under Class O of the GPDO.

However, following receipt of legal advice on this matter and relevant case law, the information and evidence before Officers is considered to demonstrate that conditions imposed by the GPDO can later be varied using s73, even where those conditions were imposed as a requirement of the GPDO itself, subject to the development still being acceptable in all other relevant respects. The case of *Pressland v Hammersmith and Fulham LBC* [2016] EWHC 1763 is relevant in this respect.

It is also noted that the 3 year timeframe required by the GPDO and condition 1 of the prior approval consent for completion of the development (1st June 2024) had passed prior to the current s73 application being submitted. Legal advice to officers is that given the condition requires the completion of the development rather than its commencement and that because the development has already commenced, then this does not mean that the consent has lapsed, but rather there is a current breach of condition. S73 of the TCPA is clear that it is not an application route whereby conditions relating to the time frame for commencement of development can be extended. However, there is nothing within s73 that prevents conditions relating to timeframes for completion of development from being varied, subject to proposals being acceptable in all other respects.

In order to consider whether it is appropriate to extend the time period for completion of the prior approval development it is necessary to consider whether there are any material changes in circumstances that would suggest that prior approval can no longer be given. As set out above the following are the relevant criteria able to be considered in the assessment of such an application for prior approval.

- 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,
- e) the provision of adequate natural light in all habitable rooms of the dwellinghouses

No other changes to the development are proposed which is for the same number of units (110) and same layout as previously approved. Officers do not identify any changes in context at the site or in relevant planning policy or any additional conflicts that would arise from the proposed extended timeframe for completion of the development that would mean prior approval cannot still be given in respect of the above relevant matters. Notably conditions were attached to the original prior approval consent in respect of contamination risks and flooding which would be carried across to any new s73 consent that is granted.

Previously submitted approval of details reserved by condition application ref. 220343 relating to conditions 3, 4 and 5 of the original consent confirmed, through advice from RBC Environmental Protection Officers, that there were no significant contamination risks at the site and that no further remediation or validation works were required. Therefore, any s73 consent would refer to the previously approved contamination assessment under condition 3 but would no longer need to include conditions 4 and 5 given further contamination remediation works is not deemed necessary.

Condition 6 relating to reporting of unidentified contamination measures would be carried across to any new s73 consent.

Condition 8 of the original consent required submission and approval of a flood management and evacuation plan (FMEP). An approval of details reserved by condition application ref. 230698 relating to condition 8 confirmed that the proposed FMEP was acceptable. Therefore, condition 8 can be changed to a compliance condition to require the development to be completed and carried out in accordance with the FMEP.

Condition 7 requiring implementation of an approved flood mitigation measures prior to first occupation of the development would be carried across to any new s73 consent.

Therefore, it is considered that there are no reasons as to why the proposed variation of condition 1 to extend the timeframe for completion of the development from 3 to 6 years from the date of the original decision notice cannot be granted.

RECOMMENDATION

GRANT s73 variation of condition 1 of prior approval consent ref. 210567, subject to the following varied conditions:

Condition 1 (Time Limit) (VARIED)

Original condition 1

1. This development under Class O is permitted subject to it being completed within a period of 3 years starting with the prior approval date on this decision notice.

REASON: To comply with the requirement of paragraph O.2 (2) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Changes to condition 1

1. This development under Class O is permitted subject to it being completed within a period of 3 6 years starting from 1st June 2021, which is the date prior approval was granted. ~~with the prior approval date on this decision notice.~~

REASON: To comply with the requirement of paragraph O.2 (2) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Amended condition 1

1. This development under Class O is permitted subject to it being completed within a period of 6 years starting from 1st June 2021, which is the date prior approval was granted.

REASON: To comply with the requirement of paragraph O.2 (2) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Condition 2 (Approved Plans) (UNCHANGED)

Original condition 2

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

Proposed Ground Floor Plan (drawing ref. (PD)_100_P02)

Proposed First Floor Plan (drawing ref. (PD)_101_P02)

Proposed Second Floor Plan (drawing ref. (PD)_102_P02)

Proposed Third Floor Plan (drawing ref. (PD)_103_P02)

Proposed Roof Plan (drawing ref. (PD)_104_P02)

Proposed Sections (drawing ref. (PD)_200_P02)

Proposed Elevations (drawing ref. (PD)_300_P02)

Transport Statement and Residential Travel Plan, prepared by Stantec Flood Risk Assessment, prepared by Stantec

Received by the Local Planning Authority on 7th April 2021

REASON: For the avoidance of doubt and to ensure that the development is carried out and adhered to in accordance with the application form and associated details hereby approved

Condition 3 (Contamination Risk Assessment) (VARIED AS A RESULT OF PREVIOUS APPROVAL OF DETAILS RESERVED BY CONDITION APPLICATION REF. 220343)

Original condition 3

3. No development hereby permitted shall commence on site until a detailed scheme, informed by an assessment of the current noise environment, for protecting the dwellings from the external noise environment of the area has been submitted to and approved, in writing, by the Local Planning Authority. The scheme itself shall be designed, specified and constructed so that the sound insulation performance of the structure and the layout of the dwellings are such that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233:2014 and the and that the individual noise events do not exceed 45 dB LA,max,F more than 10 times a night. Where opening windows will lead to an internal noise level increase of 5 dBA or greater above BS 8233:2014 recommended internal levels, the scheme shall include provision of alternative mechanical ventilation with minimum performance equivalent to a mechanical heat recovery (MVHR) system with cool air bypass as an alternative means of cooling and ventilation. Noise from the system should not result in BS8233 internal levels being exceeded.

Thereafter, the development shall not be carried out other than in accordance with the approved scheme which shall be completed before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing.

REASON: To safeguard the amenity of occupants in accordance with Policies CR6 and CC8 of the Reading Borough Local Plan 2019.220343

Changes to condition 3

~~3. No development hereby permitted shall commence on site until a detailed scheme, informed by an assessment of the current noise environment, for protecting the dwellings from the external noise environment of the area has been submitted to and approved, in writing, by the Local Planning Authority. The scheme itself shall be designed, specified and constructed so that the sound insulation performance of the structure and the layout of the dwellings are such that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233:2014 and the and that the individual noise events do not exceed 45 dB LA,max,F more than 10 times a night. Where opening windows will lead to an internal noise level increase of 5 dBA or greater above BS 8233:2014 recommended internal levels, the scheme shall include provision of alternative mechanical ventilation with minimum performance equivalent to a mechanical heat recovery (MVHR) system with cool air bypass as an alternative means of cooling and ventilation. Noise from the system should not result in BS8233 internal levels being exceeded.~~

~~Thereafter, the development shall not be carried out other than in accordance with the approved scheme which shall be completed before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing.~~

Amended Condition 3

3. The development hereby permitted shall not be carried out other than in strict accordance with the following documents:

Stantec - Great Brighams Mead, Reading - Ground Conditions Assessment Main
Received by the Local Planning Authority on 27th April 2022

Appendix A Methodology for Assessment of Land Contamination (England)
Appendix B Site Walkover
Appendix C Envirocheck report
Appendix D Historical and Recent borehole logs
Appendix E Zetica UXO Risk Map
Appendix F Linesearch before You Dig Information
Appendix G Table of Estimated Risk
Appendix H EA Response Letter
Appendix I Essential Guidance for Report Readers
Received by the Local Planning Authority on 15th March 2022

REASON: to ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policy EN16 of the Reading local Plan 2019.

Condition 4 (contamination remediation) - NO LONGER REQUIRED A RESULT OF PREVIOUS APPROVAL OF DETAILS RESERVED BY CONDITION APPLICATION REF. 220343

- ~~4. No development shall commence on site including demolition and any preparatory works until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and been approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. REASON: These details are required due to insufficient information being contained within this submission and to ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policy EN16 of the Reading local Plan 2019.~~

Condition 5 (contamination remediation validation report) – NO LONGER REQUIRED AS A RESULT OF PREVIOUS APPROVAL OF DETAILS RESERVED BY CONDITION APPLICATION REF. 220343

- ~~5. The approved remediation scheme under Condition 4 shall be implemented in accordance with the approved timetable of works. A validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved by the Local Planning Authority before construction above foundation level.~~
- ~~REASON: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policy EN16 of the Reading local Plan 2019~~

Condition 6 (unexpected contamination) - UNCHANGED

6. In the event that contamination is found at any time when carrying out the approved development not previously identified, development shall be halted on that part of the site the contamination reported in writing to the Local Planning Authority.
- An assessment of the nature and extent of contamination shall be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, shall be submitted in writing to the Local

Planning Authority for its written approval. The measures in the approved remediation scheme shall be implemented in accordance with the approved timetable. Halted works shall not be re-commenced until the measures identified in the approved remediation scheme have been completed and a validation report has been submitted to and been approved in writing by the Local Planning Authority.

REASON: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policy EN16 of the Reading local Plan 2019.

Condition 7 (flood mitigation) - UNCHANGED

7. Prior to first occupation of the development hereby permitted, all flood mitigation and protection measures as contained within Flood Risk Assessment, prepared by Stantec received 7th April 2021 shall be implemented in full and maintained in perpetuity for the lifetime of the development.

REASON: In order to comply with good practice building for flood resilience/safety in the flood zone and in accordance with Policy EN18 of the Reading Borough Local Plan 2019

Condition 8 (Flood Management and Evacuation Plan) - VARIED AS A RESULT OF PREVIOUS APPROVAL OF DETAILS RESERVED BY CONDITION APPLICATION REF. 230698

Original condition 8

8. Prior to first occupation, a site-specific Flood Management and Evacuation Plan (FMEP) in line with the requirements of Reading Borough Council's Strategic Flood Risk Assessment (SFRA) shall be submitted to and approved in writing by the Local Planning Authority. The FMEP will be prepared for the residential scheme in accordance with criterion (b) of the SFRA. This FRMP will include a continuous safe access route in the in the present day 1 in 100 annual probability scenario and will be produced in order to ensure that residents are provided with sufficient advance warning to evacuate the site prior to any access routes becoming blocked. The approved FMEP shall be implemented in full and maintained in perpetuity for the lifetime of the development.

REASON: In order to comply with good practice building for flood resilience/safety in the flood zone and in accordance with Policy EN18 of the Reading Borough Local Plan 2019 and National Planning Policy Framework 2019

Changes to condition 8

- ~~8. Prior to first occupation, a site-specific Flood Management and Evacuation Plan (FMEP) in line with the requirements of Reading Borough Council's Strategic Flood Risk Assessment (SFRA) shall be submitted to and approved in writing by the Local~~

~~Planning Authority. The FMEP will be prepared for the residential scheme in accordance with criterion (b) of the SFRA. This FRMP will include a continuous safe access route in the in the present day 1 in 100 annual probability scenario and will be produced in order to ensure that residents are provided with sufficient advance warning to evacuate the site prior to any access routes becoming blocked. The approved FMEP shall be implemented in full and maintained in perpetuity for the lifetime of the development.~~

~~**REASON:** In order to comply with good practice building for flood resilience/safety in the flood zone and in accordance with Policy EN18 of the Reading Borough Local Plan 2019 and National Planning Policy Framework 2019~~

Amended Condition 8

8. The development hereby permitted shall not be occupied other than strict accordance with the Stantec Flood Management and Evacuation Plan ref. 332511484 Rev 4, received on 4th October 2023. The approved Flood Management and Evacuation Plan shall be implemented in full and maintained in perpetuity for the lifetime of the development.

REASON: In order to comply with good practice building for flood resilience/safety in the flood zone and in accordance with Policy EN18 of the Reading Borough Local Plan 2019 and National Planning Policy Framework 2019

Informatives

1. The applicant is advised that this decision represents the determination of the Local Planning Authority in respect of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 as to whether Prior Approval is required in respect of the change of use only. Class O does NOT afford any permitted development rights for external works which affect the exterior of the building in order to implement the change of use. Replacement windows, doors, roofing, elevations or other external development to accommodate this change of use would require a separate full planning application. 3. The occupiers of the residential unit(s) will not be automatically entitled to an on-street car parking permit. Current and new occupiers should be informed of this and be advised to find out more about parking permits on the Council's website. There is already a high level of on street car parking in the area and the site is located close to local facilities, with frequent public transport services on nearby roads.
2. It will be up to Council's Parking Permits Team to determine whether occupiers of the residential units will be automatically entitled to an on-street car parking permit. Current and new occupiers should be informed of this and be advised to find out more about parking permits on the Council's website. There is already a high level of on street car parking in the area and the site is located close to local facilities, with frequent public transport services on nearby roads.

4. i) The attention of the applicant is drawn to Section 59 of the Highways Act 1980, which enables the Highway Authority to recover expenses due to damage caused by extraordinary traffic.
ii) Any works affecting the Highway shall be in accordance with Reading Borough's Council's document "Guidance Notes for Activities on the Public Highway within the Borough of Reading". The applicant should note that compliance with this document is mandatory and licences to work on the Highway will only be issued if the requirements contained within it are met. A copy can be obtained from the Council's website.
5. In connection with the implementation of this prior approval, no noisy construction, demolition and associated activities should take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. No noisy works shall take place at any time on Sundays and Bank or Statutory Holidays. Please refer to the Council's website for more detailed information:
<http://beta.reading.gov.uk/article/2565/What-noise-is-acceptable-during-construction-and-demolition-work>
6. There should be no burning of waste on site.
7. Complaints are commonly received about noise and dust caused by construction and demolition works, particularly working outside reasonable hours and smoke from bonfires associated with the burning of waste on site. The developer is reminded that construction and demolition associated with the approved development will be subject to environmental health law.
8. To minimise the disturbance by noise of future residential occupiers of the flats and its effect on neighbouring residents, residential accommodation must be designed and constructed or converted so as to achieve the insulation requirements set out in Building Regulations Approved Document E.