

<b>Reference:</b>	23/01212/PA64	
<b>Application Type:</b>	Prior Approval – Change of Use	
<b>Ward:</b>	Belfairs	
<b>Proposal:</b>	Change of use of 3 Office Buildings (Class E) and land within its curtilage into 3 dwellinghouses (Class C3) with associated works, bin and cycle stores (Prior Approval)	
<b>Address:</b>	Woodside Parade, Woodside, Leigh-on-Sea, Essex	
<b>Applicant:</b>	Harrison Developments	
<b>Agent:</b>	Mrs Samantha Stephenson	
<b>Consultation Expiry:</b>	18.08.2023	
<b>Expiry Date:</b>	11.09.2023	
<b>Case Officer:</b>	Oliver Hart	
<b>Plan Nos:</b>	<p>WDPR-SCN-XX-XX-DR-A-01.001-A3-02 Rev P02;  WDPR-SCN-XX-XX-DR-A-01_002-A1-02 Rev P02;  WDPR-SCN-XX-XX-DR-A-10_001-A1-03 Rev P03;  WDPR-SCN-XX-XX-DR-A-10_002-A1-02 Rev P02;  WDPR-SCN-XX-ZZ-DR-A-ZZ_001-A1-03 Rev P03;  WDPR-SCN-XX-ZZ-DR-A-ZZ_002-A1-03 Rev P03;  WDPR-SCN-XX-ZZ-DR-A-ZZ_003-A1-02 Rev P02;  WDPR-SCN-XX-XX-DR-A-01_002-A3-02 Rev P02;  WDPR-SCN-XX-00-DR-A-10_001-A3-03 Rev P03;  WDPR-SCN-XX-00-M3-A-10_002-A3-01 Rev P01;  WDPR-SCN-XX-01-DR-A-10_002-A3-02 Rev P02;  WDPR-SCN-XX-ZZ-DR-A-ZZ_001-A3-03 Rev P03;  WDPR-SCN-XX-ZZ-DR-A-ZZ_002-A3-03 Rev P03;  WDPR-SCN-XX-ZZ-DR-A-ZZ_003-A3-02 Rev P02;  WDPR-SCN-XX-ZZ-DR-A-ZZ_004-A3-01 Rev P01</p>	
<b>Supporting information:</b>	<p><b>Statement of Evidence by Phase 2 dated July 2023;</b>  <b>Transport Technical Note by YES Engineering Group Limited dated July 2023;</b>  <b>Parking Survey Report by YES Engineering Group Limited dated 29/06/2023;</b>  <b>Internal Daylight &amp; Sunlight Assessment by Elmstean Energy Assessments and Building Services dated 15.06.2023</b></p>	
<b>Recommendation:</b>	<b>PRIOR APPROVAL REQUIRED AND PRIOR APPROVAL GRANTED</b>	



## 1 Site and Surroundings

- 1.1 The application site is occupied by a short terrace comprising 3No single storey commercial units. Whilst presently vacant, information submitted with the application details the most recent use of the units was in Use Class E
- 1.2 The units are flat roofed and step down in height from west to east following the gradient of Woodside. They are set back significantly from the street and have generously sized front curtilages which are not used for parking.
- 1.3 The area is residential in character, with detached and semi-detached bungalows to the north-east, north-west, south-east and south-west of the application site.
- 1.4 There are no designations affecting the application site or the immediate area.

## 2 The Proposal

- 2.1 The application is submitted under the terms of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. This allows development consisting of a change of use of a building and any land within its curtilage to a use falling within Use Class C3 (dwellinghouses) from a use falling within Class E (commercial, business and service) use.
- 2.2 The application proposes to convert the three vacant commercial units, historically in a Class E use, into 3No self-contained residential units. The development would require internal alterations to the building to create the habitable accommodation.
- 2.3 The proposed units and the Gross Internal Area would be as follows:

### Unit 1

1B1P; G.I.A (Gross Internal Area) 40.5sqm; Laid out in a bedsit type arrangement

### Unit 2

2B3P; G.I.A 75.5sqm; Bedroom 1- 14sqm; Bedroom 2- 9.5sqm

### Unit 3

2B4P; G.I.A 86sqm; Bedroom 1- 14sqm; Bedroom 2- 15sqm

- 2.4 No off-street car parking spaces are shown. Waste and cycle storage to the front curtilage are shown.
- 2.5 The application is presented to Committee as it has been called in by Councillors Aylen and Walker.

### **3 Relevant Planning History**

- 3.1 15/01859/FUL- Demolish existing buildings, erect three two storey terraced houses with associated parking and bin stores, form vehicular accesses on to Woodside- Refused

### **4 Representation Summary**

#### **Public Consultation**

- 4.1 A site notice was displayed and 13No neighbours were notified of the proposal. 6No letters of objection have been received. Summary of comments:

- Surface water drainage and flooding concerns
- Parking concerns
- Design concerns with the shopfronts being retained
- Development must be single storey

**[Officer Comment]** These concerns are noted and where relevant to material planning considerations they have been taken into account in the assessment of the application. The objecting points raised by the representations are not found to represent a reasonable basis to refuse prior approval in the circumstances of this case. No additional storeys to the units are proposed.

#### **Environmental Health**

- 4.2 No objections subject to conditions controlling construction hours and refuse and recycling storage.

#### **Highways**

- 4.3 No objections. The applicant has submitted a very comprehensive transport technical note. This information is considered extremely robust and demonstrates that there is a real opportunity to access the site via other sustainable transport means rather than relying on a motor vehicle. It is not considered that this proposal will have a detrimental impact on the local highway network. Therefore, given the information contained within the application no highway objections are raised.

### **5 Planning Policy and Legislation Summary**

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Core Strategy (2007): Policies KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance), CP8 (Dwelling Provision)
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality), Policy

DM3 (Efficient and Effective Use Of Land), DM8 (Residential Standards), DM10 (Employment Sectors), DM15 (Sustainable Transport Management)

- 5.4 The Southend-on-Sea Design and Townscape Guide (2009)
- 5.5 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 5.6 Southend-on-Sea Waste Management Plan for New Development (2019)
- 5.7 Technical Housing Standards – Nationally Described Space Standards (2015).
- 5.8 Technical Housing Standards Policy Transition Statement (2015)
- 5.9 Planning Practice Guidance and National Design Guide (2021)
- 5.10 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)
- 5.11 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended): Article 3, Schedule 2, Part 3, Classes MA and W

## **6 Planning Considerations**

- 6.1 The main considerations in relation to this application are whether the proposed development is permitted by the relevant class of the GPDO 2015 and whether the prior approval of the Local Planning Authority is required in relation to certain matters as dictated by Class MA which states:

*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;*

*(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.*

## 7 Appraisal

### Permitted Development

- 7.1 Under Class 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 is permitted development.

### Permitted Development Limitations

- 7.2 Paragraph MA.1 states: "*Development 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;*
- 7.3 **The submitted Statement of Evidence states that the commercial units have been vacant since February 2023 and therefore have been vacant for at least 3 months prior to the date of this application.**
- b) unless the use of the building fell within one or more of the classes specified in sub paragraph (2) which is for the following uses the following classes of the Schedule as it had effect before 1st September 2020—(i) Class A1 (shops); (ii) Class A2 (financial and professional services); (iii) Class A3 (food and drink); (iv) Class B1 (business); (v) Class D1(a) (non-residential institutions – medical or health services); (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre); (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink; b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2 for a continuous period of at least 2 years prior to the date of the application for prior approval;*
- 7.4 **Owing to the information submitted within the Statement of Evidence and review of business rates data, it has been sufficiently demonstrated on the balance of probability that the commercial units indicated as being in Class E use and proposed to be converted, have been used for purposes falling within Class E Commercial, Business and Service for a 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;*
- 7.5 **The floorspace changing use does not exceed 1500sqm.**
- (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;*
- 7.6 **The site is not covered by any of the above designations.**

- (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*
  - (iii) *the Broads;*
  - (iv) *a National Park; or*
  - (v) *a World Heritage Site;*

**7.7 The site is not covered by any of the above designations.**

*(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*

**7.8 The site is not covered by an agricultural tenancy.**

- (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.*

**7.9 Not relevant to this application.**

- (2) *The classes mentioned in sub-paragraph (1) (b) are the following classes of the Use Classes Order—*
  - (a) *the following classes of the Schedule as it had effect before 1st September 2020—*
    - (i) *Class A1 (shops);*
    - (b) (ii) *Class A2 (financial and professional services);*
    - (c) (iii) *Class A3 (food and drink);*
    - (d) (iv) *Class B1 (business);*
    - (e) (v) *Class D1(a) (non-residential institutions – medical or health services);*
    - (f) (vi) *Class D1(b) (non-residential institutions – crèche, day nursery or day centre);*
    - (g) (vii) *Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;*
    - (h) (b) *on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.*

**7.10 The proposed development would be consistent with all of the restrictions of paragraph MA.1 stated above.**

**7.11 Paragraph MA.2 includes some additional requirements:**

*(3) An application for prior approval for development under Class MA may not be made before 1 August 2021.*

**7.12 The application was submitted on 18<sup>th</sup> July 2023 and made valid the same day.**

**Prior approval considerations**

Transport Impacts of the Development, particularly safe site access

- 7.13 Given the nature of the proposed change of use, it is considered reasonable to assess any highways implications caused by the proposal and as such, prior approval would be required for the change of use in this respect.
- 7.14 The NPPF states (para 111) 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.”
- 7.15 Policy DM15 of the Development Management Document requires that all development should meet the minimum off-street car and cycle parking standards. For one bedroom dwellings, there is a minimum requirement for one car parking space and one cycle parking space. For two bedroom dwellings, the minimum requirement is for two car parking spaces and one cycle parking space, but this will be applied flexibly where the application site is located within a sustainable location. Regard is had to the fact that the existing commercial units would themselves have generated a notional maximum parking demand.
- 7.16 No off-street parking is present for the existing commercial use nor is any proposed with the application. The number of car parking spaces therefore continues to fall below the policy requirement.
- 7.17 The application is accompanied by the submission of a Transport Technical Note and Parking Survey Report which demonstrates that there is sufficient on-street parking provision available for future residents (the parking survey found 79 available on-street parking spaces within a 200m radius of the site).
- 7.18 The Transport Technical Note also demonstrated that the Site is in a sustainable location, being within walking distance to bus stops and local amenities and reflected in the Census data for both car ownership and method of travel to work for the area surrounding the site.
- 7.19 Furthermore, the Transport Technical Note advises that the TRICS database was interrogated to obtain trip rates for houses in a suburban area and a similar car ownership level to the site. The TRICS data shows that there is anticipated to be no more than 1- car peak hour movement associated with the 3 residential units and only up to 12 movements per day. It is clear that the development will have a minimal impact on the highway network, particularly when compared to the existing use which would have itself generated vehicle movements.
- 7.20 Highways officers in assessing the parking and highways impacts of the scheme have also raised no objections.
- 7.21 Policy compliant cycle parking is shown within a store to the front curtilage.
- 7.22 The proposal would be acceptable and policy compliant in the above regards.

### **Contamination Risks in Relation to the Building**

- 7.23 Policy DM14 deals with development which is on or near land that is known to be contaminated or which may be affected by contamination. The contamination risk is low and the alterations associated with the change of use proposed would not result in

breaking into existing ground. Furthermore, no objections have been raised by the Council's Environmental Health Officer. It is considered that prior approval for the proposal would not be required in relation to contamination risks.

### **Impacts of Noise from Commercial premises on the intended occupiers**

- 7.24 The site is within a residential area with no commercial premises near to the application site. The LPA's prior approval would not be required in this regard.

### **Impacts of the converted building if located in a conservation area**

- 7.25 The site is not in a conservation area. The LPA's prior approval would not be required in this regard.

### **The provision of adequate natural light in all habitable rooms of the dwellinghouses**

- 7.26 The proposed development would provide reasonable natural light to habitable rooms within the units and the layout was designed around existing fenestration. This position is supported by a Daylight and Sunlight Assessment which accompanies the application. Prior approval is required but no objection is raised in this regard.

### **Impact on intended occupiers of the development of the introduction of residential use in an area for general or heavy industry, waste management, storage and distribution or a mix of uses.**

- 7.27 The site is not in an area for heavy industry, waste management or storage and distribution or an area of mixed uses therefore prior approval would not be required.

### **The development involves the loss of services**

- 7.28 The site would not result in the loss of services provided by a registered nursery or health centre so prior approval is not required. The site is not within a designated Shopping Frontage Area such that it is not considered the loss of the commercial units would be significantly harmful to the character, function and sustainability of a key shopping area.

### **Other Matters**

- 7.29 Paragraphs 9A and 9B in Article 3 of the GPDO state:

*(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—*

*(a) Where the gross internal floor area is less than 37 square metres in size; or*

*(b) That does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.*

*(9B) the reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.*



- 7.30 All units comply with the minimum overall and bedroom size requirements outlined in the Technical Housing Standards – Nationally Described Space Standards document including designated built-in storage. The proposed development would therefore be consistent with all of the restrictions stated above.

### **Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS)**

- 7.31 New residential development at this site has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations (2017).
- 7.32 Any new residential development has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The RAMS Supplementary Planning Document (SPD) which was adopted by Full Council in October 2020 requires that a tariff of £156.76 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 7.33 The payment has been made and the proposal is therefore policy compliant in that regard.

### **Other Matters**

- 7.34 Drainage considerations do not fall within the scope of the prior approval procedure.

### **Community Infrastructure Levy (CIL)**

- 7.35 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. The proposed development includes a gross internal area of some 208sqm, which may equate to a CIL charge of approximately £5,696.38 (subject to confirmation). Any existing floor area that is being retained/demolished that satisfies the 'in-use building' test, as set out in the CIL Regulations 2010 (as amended), may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

### **Equality and Diversity**

- 7.36 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report have noted the provisions separately enforced including those designed to allow for safe and convenient passage by all people and have had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory

duties under this legislation.

## **8 Conclusion**

- 8.1 For the reasons outlined, the proposal is found to be acceptable and compliant with the relevant planning policies and guidance. As there are no other material planning considerations which would justify reaching a different conclusion, it is recommended that prior approval is required and should be granted subject to conditions.

## **9 Recommendation**

- 9.1 **PRIOR APPROVAL REQUIRED, PRIOR APPROVAL GRANTED subject to conditions:**

- 01 **The development hereby permitted shall be completed no later than three years from the date of this decision.**

**Reason: Required to be imposed pursuant to MA.2(5) of Class MA of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).**

- 02 **The development hereby permitted shall be carried out in accordance with the following approved plans: WDPR-SCN-XX-XX-DR-A-01.001-A3-02 Rev P02; WDPR-SCN-XX-XX-DR-A-01\_002-A1-02 Rev P02; WDPR-SCN-XX-XX-DR-A-10\_001-A1-03 Rev P03; WDPR-SCN-XX-XX-DR-A-10\_002-A1-02 Rev P02; WDPR-SCN-XX-ZZ-DR-A-ZZ\_001-A1-03 Rev P03; WDPR-SCN-XX-ZZ-DR-A-ZZ\_002-A1-03 Rev P03; WDPR-SCN-XX-ZZ-DR-A-ZZ\_003-A1-02 Rev P02; WDPR-SCN-XX-XX-DR-A-01\_002-A3-02 Rev P02; WDPR-SCN-XX-00-DR-A-10\_001-A3-03 Rev P03; WDPR-SCN-XX-00-M3-A-10\_002-A3-01 Rev P01; WDPR-SCN-XX-01-DR-A-10\_002-A3-02 Rev P02; WDPR-SCN-XX-ZZ-DR-A-ZZ\_001-A3-03 Rev P03; WDPR-SCN-XX-ZZ-DR-A-ZZ\_003-A3-02 Rev P02; WDPR-SCN-XX-ZZ-DR-A-ZZ\_004-A3-01 Rev P01; WDPR-SCN-XX-ZZ-DR-A-ZZ\_002-A3-03 Rev P03**

**Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.**

- 03 **The development hereby permitted shall be used as 3 dwellings within the meaning of Use Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.**

**Reason: Pursuant to paragraph MA.2 (6) of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).**

- 04 **Construction and demolition works for the approved development on site shall only be undertaken between 8 am to 6 pm on weekdays, between 8 am and 1 pm on Saturdays and not at any time on Sundays and Bank and Public Holidays.**

**Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development**

Management Document (2015).

- 05 In line with the details shown on the approved drawing WDPR-SCN-XX-ZZ-DR-A-ZZ\_004-A3-01 Rev P01 or alternative details which shall be submitted to and approved in writing by the Local Planning Authority pursuant to this condition, secure and covered cycle and waste storage shall be provided and made available for use by the occupants of the dwellings hereby approved prior to their first occupation and shall be retained as such for the lifetime of the development.

**Reason:** To ensure the provision of adequate cycle parking and waste storage in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP3 of the Core Strategy (2007), Policies DM1, DM8 and DM15 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) and Waste Storage, Collection and Management Guide for New Developments (2019).

#### **Informatives**

01 Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and it is the responsibility of the landowner(s) to ensure they have fully complied with the requirements of these regulations. A failure to comply with the CIL regulations in full can result in a range of penalties. For full planning permissions, a CIL Liability Notice will be issued by the Council as soon as practicable following this decision notice. For general consents, you are required to submit a Notice of Chargeable Development (Form 5) before commencement; and upon receipt of this, the Council will issue a CIL Liability Notice including details of the chargeable amount and when this is payable. If you have not received a CIL Liability Notice by the time you intend to commence development it is imperative that you contact [S106andCILAdministration@southend.gov.uk](mailto:S106andCILAdministration@southend.gov.uk) to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended). If the chargeable development has already commenced, no exemption or relief can be sought in relation to the charge and a CIL Demand Notice will be issued requiring immediate payment. Further details on CIL matters can be found on the Planning Portal:  
([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/))

02 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council will seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the city.