PRIOR NOTIFICATION APPLICATION



December 2023	**1st Floor, Unit 10, Warren Business Park, Knockdown, GL8 8QY**

Application for a determination as to whether the prior approval of the authority is required for a proposed change of use under Class G, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for conversion of first floor of office (Use Class E) to create a mixed use of office at ground floor and flat (Use Class C3) above.

1. INTRODUCTION AND DETAILS OF PROPOSAL

1.1. Context Planning Ltd have been instructed to assist in the preparation of an application for a determination as to whether the prior approval of the authority is required for a proposed change of use under Class G in Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 for the conversion of the first floor of Unit 10 at Warren Business Park near Tetbury.

1.2. Warren Business Park is located in Knockdown just off the A433 between Tetbury and Didmarton. The business park incorporates a mix of uses including Class E and B8 uses and a number of buildings which have been converted into residential units. Figure 1 shows a location plan for the site.

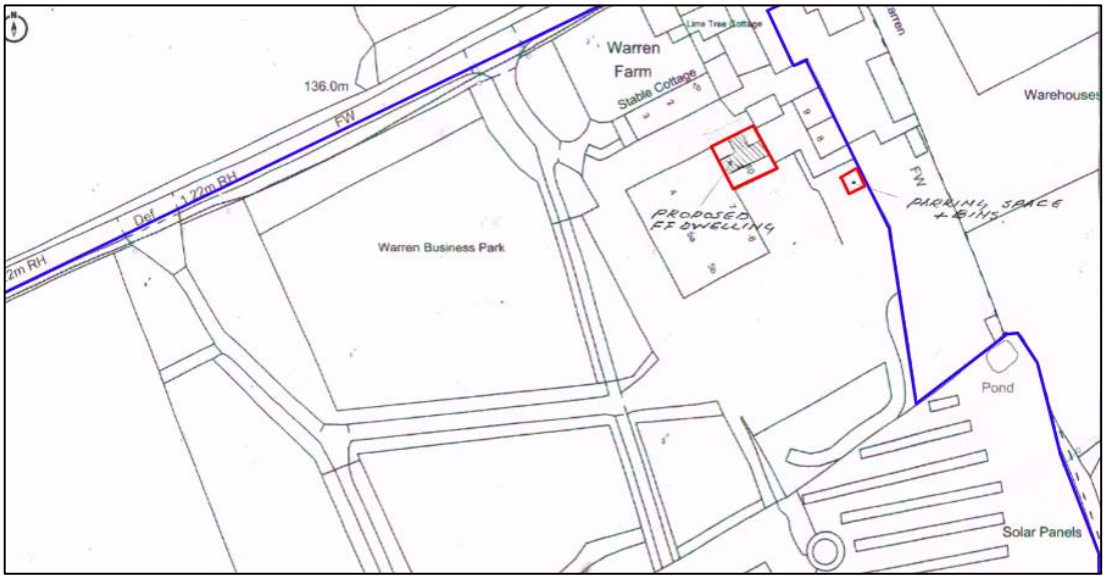

Figure 1- Site location plan.

1.3. An earlier prior approval application (PL/2022/00245), relating to part of the first floor of unit 10 was submitted for the '*Prior Notification under Class G, Part 3,*

Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for Conversion of First Floor Accommodation to Create a Flat (Use Class C3)' which was approved by the council in March 2022. The previously approved application is particularly relevant as this proposed a similar conversion but with a smaller sized flat on the first floor. This remains an extant fall-back position for the applicant.

1.4. The current application relates to unit 10 in the business park which is currently in office use. The ground floor is in use as an office whilst the first floor operates as an office and ancillary storage area. Usage of the first-floor space has decreased over time and is now under-utilised. The current floor plan of the first floor can be seen below in Figure 2.

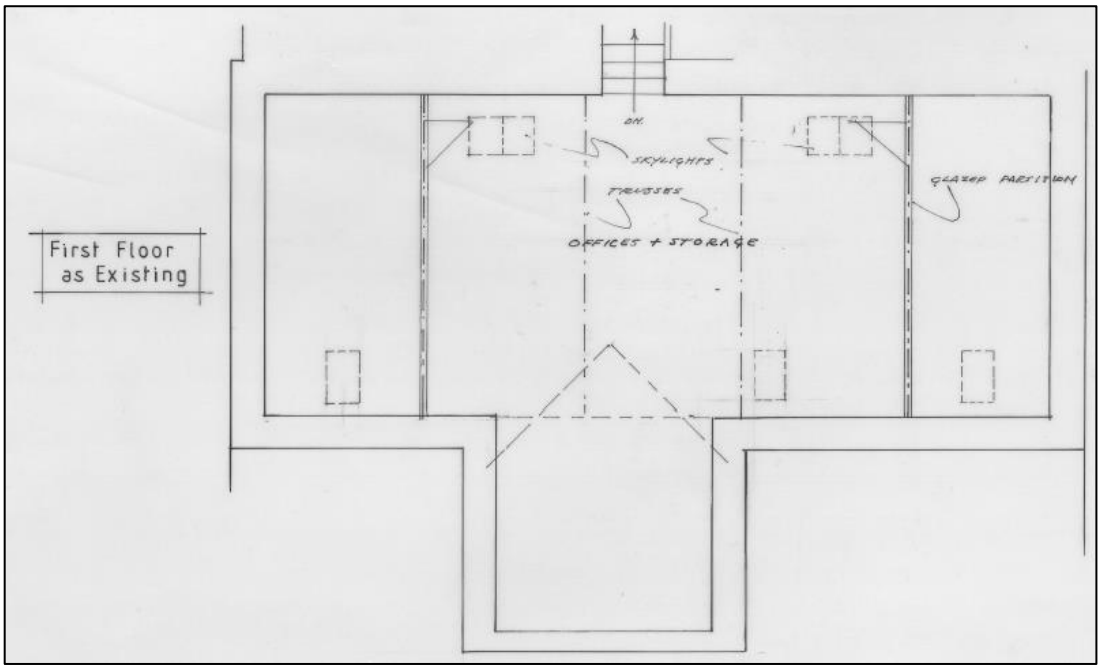

Figure 2- Existing First Floor Plan.

1.5. The proposed one-bedroom flat would occupy the first floor of the existing office/storage building and would feature a combined kitchen/living room space, and an en-suite bedroom. Figure 3 shows the proposed first-floor plan.

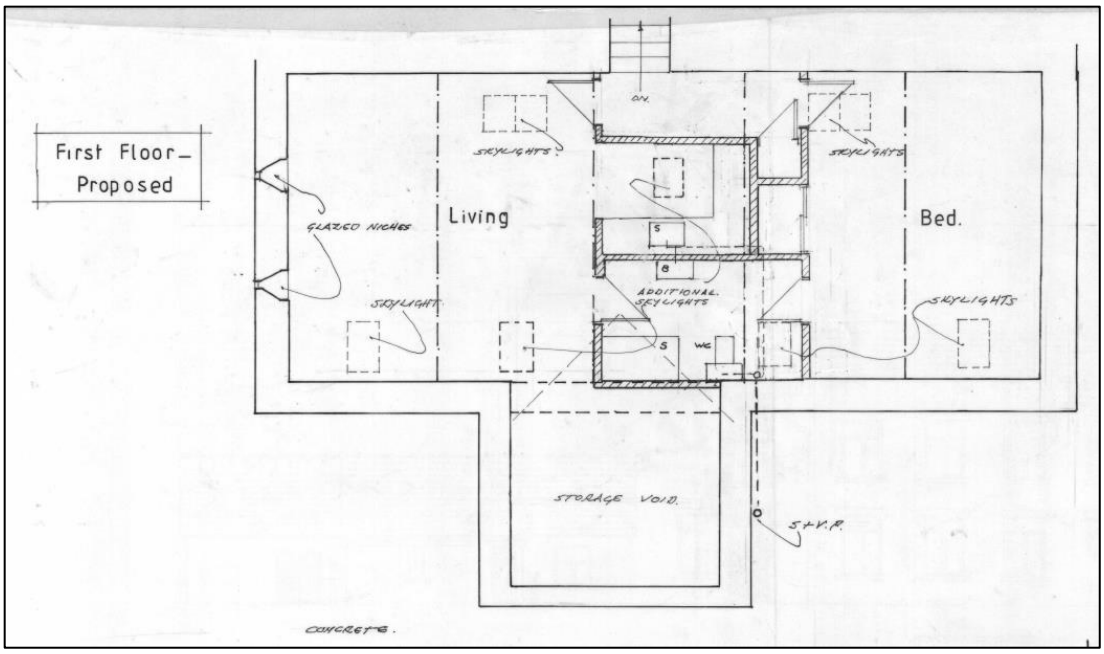

Figure 3- Proposed floor plan.

1.6. The existing office/storage space at first floor level above the office is capable of conversion to a small living unit. The space is accessed via an internal staircase. Currently the staircase can be accessed from the office on the ground floor, so as part of the conversion works this will be blocked off by filling in two doorways to create a separate internal entrance for the residential unit.

1.7. As the proposed development is a one-bedroom residential unit, one parking space will be allocated within the business park's substantial parking court and a waste collection point will also be provided.

1.8. The proposed change of use and conversion only involves minor external alterations to the building. These include the addition of one sky light on the front elevation and one on the rear elevation. Whilst prior approvals do not allow permission for external alterations, these changes are not development for the purposes of S55 of the Town and Country Planning Act 1990.

1.9. S55 (2a) of the Town and Country Planning Act 1990 advises that '*the carrying out for the maintenance, improvement or other alteration of any building of works which do not materially affect the external appearance of the building*' shall not be taken for the purposes of the Act to involve development of land.

1.10. The leading court case in terms of determining the materiality of effect on external appearance is *Burroughs Day v Bristol City Council* (1996), the court held that it is not just the 'exterior' of the building which must be affected but the 'external appearance' of the building as a whole. In this regard the court held the degree to which alterations are visible is very important in making this determination.

1.11. The court held that any change to external appearance must be visible from a number of normal vantage points and that visibility from the air or a single building would not suffice to materially affect the external appearance. In this instance it is a very minor alteration to the roof of a significantly sized building.

1.12. They would sit next to a total of five existing roof lights (across the front and rear elevations combined) and is the same size and design as these. Additionally, the front and rear elevations of the building are not visible from the public realm. Having regard to the tests outlined in *Burroughs Day v Bristol City Council 1996*, the addition of the skylights would not materially alter the external appearance of the building, which requires it to be a substantial or significant physical change.

1.13. In the previous prior approval application (PL/2022/00245) for a smaller sized flat on the first floor of unit 10, it was proposed to add an additional skylight on the front elevation. In the officer report of the approved application it was stated that *"the additional roof light panel would be "de minimus" and as such does not constitute development".*

1.14. The council officer in that application agreed with the planning arguments stated above, that the introduction of a skylight would not constitute development as it would not have a material effect on the external appearance of the building. The previous application sought to add one skylight (on the front elevation), the current proposal seeks the same but with another additional skylight on the rear. This is a minimal increase and the same argument would still apply.

1.15. These changes are not considered to be essential to allow the conversion of the building but they are included for completeness.

1.16. In terms of the wider site context, prior approval was previously not considered to be required by the Council for the residential conversion of units 8, 9 (under what was then Class J of the GPDO 1995), and from office to residential at part of ground floor of Unit 10 (under the former Class O of the GPDO 2015). Former Units 8 and 9 are now known as Ivy Cottage and Ginger Cottage. The part ground floor of Unit 10 has been converted into a house known as Dairy. Neighbouring buildings to the north are also in residential uses.

2. CLASS G CONDITIONS

2.1. Class G in Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 conveys a permitted development right subject to meeting certain conditions, of relevance here:

(a) some or all of the parts of the building used for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to the Uses Classes Order is situated on a floor below the lowest part

of the building used as a flat;

2.2. The building has been in use since 2006 as one complete office by Pro-Active Broadcast, a television production company. By 2019, the company no longer required the full extent of the office space and as such reduced their office to half of the ground floor whilst retaining occupancy of the first floor of the building. The remaining ground floor areas continued to be used by Pro-Active Broadcast for offices/storage as well as ancillary kitchenette and cloakroom. The premises upstairs remained ancillary to the unit below; they are currently utilised by the same occupier for additional office space with some storage.

(b) Where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat;

2.3. The building does not have a display window as demonstrated on the photo below in Figure 4. As such this condition is not applicable to the proposed development.



Figure 4 - Principal elevation of the office building.

(c) a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)—

(i) by a single person or by people living together as a family, or
(ii) by not more than 6 residents living together as a single household (including a household where care is provided for residents);

2.4. The proposed development is for conversion of the entire first floor of unit 10 and would create a one-bed flat that most likely will be occupied either by a single individual or a couple due to its modest size.

3. MATTERS FOR PRIOR APPROVAL

3.1. The last condition (d) relates to matters subject to prior approval by the Local Planning Authority to confirm that specified elements of the development are acceptable before work can proceed:

(d) before beginning development, 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—

(i) contamination risks in relation to the building;
(ii) flooding risks in relation to the building;
(iii) impacts of noise from commercial premises on the intended occupiers of the development;
(iv) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

(v) arrangements required for the storage and management of domestic waste.

3.2. An application for prior approval is unlike a planning application. The National Planning Practice Guidance (PPG) describes the prior approval process as a 'light touch' planning process (Paragraph: 028 Reference ID: 13-028-20140306). Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires regard to be had to the development plan only applies to determinations made under the Planning Acts. The GPDO is a statutory instrument not an Act of Parliament so the Development Plan is not relevant to the determination.

3.3. The PPG advises (Paragraph: 107 Reference ID: 13-107-20150305) that the LPA may consider the NPPF to the extent that it is relevant to the matter on which prior approval is sought as discussed below:

(i) Contamination risk in relation to the building

3.4. There is no history of contaminative uses taking place from the site. The site has been occupied as an office since 2006. The building and surrounding land sits on a long established concrete hard standing. The site could not be described as contaminated having regard to the Part 2A of the Environmental Protection Act 1990 definition. It was concluded on previous prior approvals ref: 14/11368/PNCOU (in respect of units 8 & 9), 19/03212/PNCOU (for part of Unit 10) and PL/2022/00245 (for the first floor of unit 10) that the land was not contaminated.

(ii) Flood risk in relation to the building

3.5. Figure 5 below shows that Warren Business Park is located within flood zone 1. The definition of flood zone 1 is an area with a less than 0.1% chance of flooding

in any year (i.e less than a 1:1000 probability of a flood event). The flood risk at the site is therefore extremely low and poses no threat to the future occupants of the development. The prior approvals ref: 14/11368/PNCOU, 19/03212/PNCOU and PL/2022/00245 were granted on the basis that Warren Business Park is not in an area at risk of flooding.

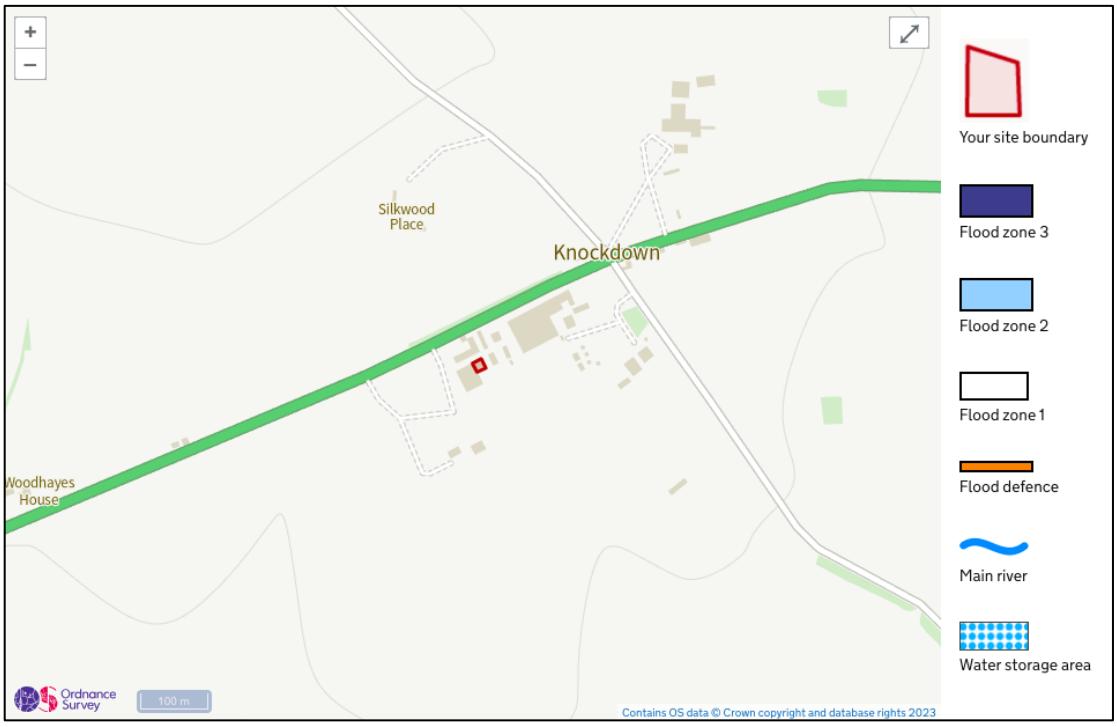

Figure 5 - Extract map of the site fully within Flood Risk Zone 1.

(iii) Noise impacts from commercial premises on the intended occupiers of the development

3.6. The submitted aerial plan below (Figure 6) identifies the broad nature of the uses of the buildings surrounding unit 10. The closest buildings to the east and north are already in residential use. Unit 10 itself has already been partially converted into residential use and the remaining part is retained as an office.



Figure 6 - Aerial view indicating existing uses surrounding application site.

3.7. The other commercial units on the estate to the west and the north east are also in Class E uses. The Town and Country Planning (Use Classes) Order 1987 (as amended) groups common uses of land and buildings into classes. The uses within each class are, for planning purposes, considered to be broadly similar to one another. The Commercial, Business and Service use class (E) includes a broad and diverse range of uses which principally serve the needs of visiting members of the public and allows for a mix of uses which recognises that a building may be in several different uses concurrently or be used for different uses at different times of the day.

3.8. The former B1 (office uses) was defined as '*in all cases being a use which can be carried out in any residential area without detriment to the amenity of that*

area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'.

3.9. Class E uses are those which can take place in combination with flats without causing a nuisance, they are compatible with the proposed residential conversion. The retained use of part of the building for Proactive TV as an office will not be harmful to the living conditions of the future occupiers of the flat because this is not a noisy use.

3.10. T H White Agricultural store lies some 66m to the west and there are a number of existing residential properties situated much closer to it. This is in Use Class E which is again, compatible with the proposed residential use.

(iv) provision of adequate natural light in all habitable rooms of the dwellinghouse

3.11. The proposed flat would be created within the roof space of the building, which already has a number of skylights and gable slit windows (at the end) to ensure that adequate natural light and ventilation is provided. Figure 7 and 8 shows the existing elevations of the building.



Figure 7- Existing rear elevation.

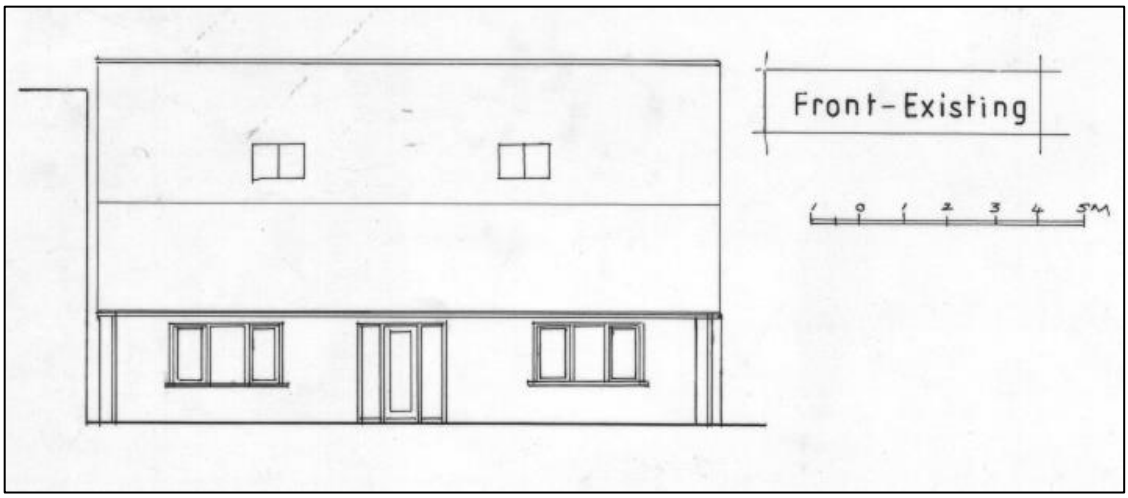

Figure 8- Existing front elevation.

3.12. As part of the conversion it also proposed to add two additional skylights, one each on the front and rear elevation (Figures 9 and 10).



Figure 9- Proposed rear elevations with the additional skylights.

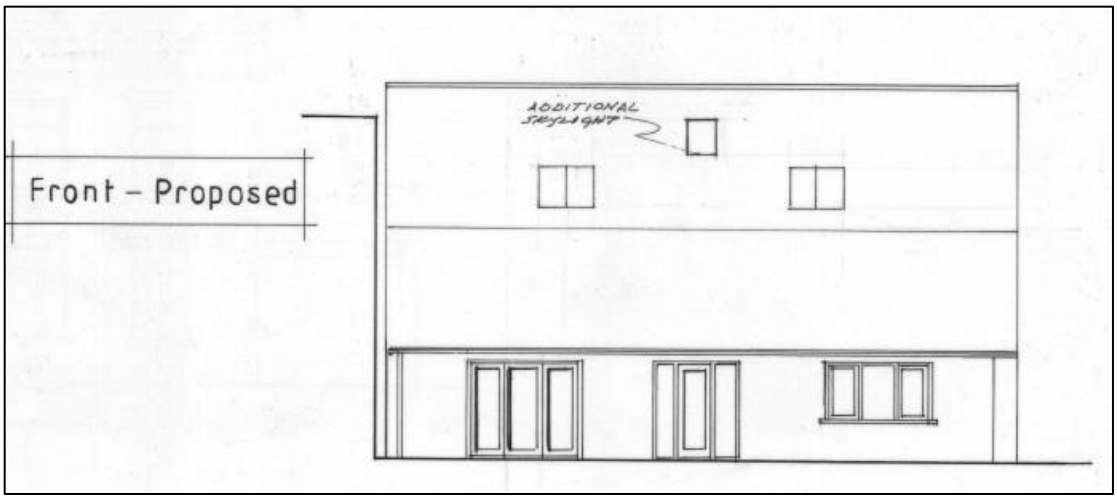

Figure 10- Proposed elevations with the additional skylights.

3.13. The future living room, the kitchen and the bedroom will be therefore served by opening roof lights. As such, adequate facilities exist to ensure provision of natural light into all habitable rooms of the new flat.

3.14. As part of the earlier prior approval application (PL/2022/00245), a daylight assessment was carried out by Herrington Consulting Limited. This report found that for all rooms in the proposed flat, there would be sufficient lighting that would exceed the minimum required threshold for BRE guidelines. Additionally, it was found that the main living area would receive well in excess of 'all year' and 'winter' target levels of direct lighting.

3.15. At the time the daylight assessment report was prepared the first floor had a total of one double roof light and two single roof lights (one located in the bedroom and one in the kitchen) and one proposed roof light to be situated next to the double rooflight.

3.16. Since this earlier approval, additional skylights have been added, the office space now has two double skylights, three single skylights and a further two single skylights are proposed. Given the increase in the number of existing skylights, the levels of lighting within the first floor of the building has already

been improved further than would have been the case under the previous approval.

3.17. Even without the proposed two additional skylights, the daylight into the flat would exceed the recommended guidelines as confirmed by the previous lighting assessment. It is also worth noting that should the council take issue with the proposed skylights; the two additional skylights would be situated in the living room and kitchen. In the living room currently, there is one double and one single skylight which provide sufficient lighting into the space. Additionally, as the kitchen classes as a non-habitable room there is no specific requirement for levels of natural light under the prior approval guidance. The additional rooflights are not therefore strictly considered necessary, they would however further improve the living conditions of the future occupants of the flat.

3.18. Therefore, based on the evidence presented above and the previous lighting assessment, the proposed flat would provide adequate lighting in line with this requirement.

(v) Arrangements for the storage and management of domestic waste.

3.19. The proposed flat will have sufficient space to allow for adequate and appropriate means of everyday storing of refuse and recyclable materials.

3.20. The existing outside bin storage/collection point (Figure 11) is located close to the building and is shared between the surrounding dwellings. It already provides sufficient storage space for large communal containers that are able to hold all waste produced over a 7/15-day period by multiple flats within Warren Business Park.



Figure 11 - Existing bin storage area.

4. CONCLUSION

4.1. Unit 10 is occupied as an office that falls within Use Class E, which, subject to prior approval, can be converted to create mixed use with up to 2 flats. The permitted development conditions are demonstrably met as explained above. The proposed change of use is therefore granted planning permission through the implementation of the permitted development right conveyed under Schedule 2, Part 3, Class G of the GPDO (2015) subject to the condition that prior approval may be required by the LPA of the contamination risk, flooding risk, the impact of noise from commercial premises, provision of natural light and arrangements for storage of waste.

4.2. The development is compliant with policy guidance on the issues for which prior

approval may be sought. There have been no historical uses of the site which could have led to ground contamination. The site is located in flood zone 1 and the use of neighbouring buildings within the business park does not pose a risk of noise nuisance. The new flat will have adequate provisions of natural light and waste storage. In conclusion, if the LPA considers that prior approval is necessary, the case for granting such approval is compelling.

4.3. The Council are therefore respectfully urged to approve this application, which is compliant with the terms of the GPDO, development plan and national planning guidance.

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