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FAO: Mr Sean Ernsting

2nd May 2024

Application No:	PL/2023/09224
Appeal Ref:	APP/Y3940/W/24/3337566
Proposal:	Change of use of vacant office to 6 bed dwelling. (Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses)
Site Address:	Prestex House, 7-8 Edison Road, Salisbury, SP2 7NU
On Behalf of:	Mr D Glanville

Dear Mr Ernsting,

With regard to the appeal that has been lodged concerning the proposed change of use of a first floor office to a 6 bedroom dwelling (submitted under the provisions of Class MA, Part 3 or Schedule 2 of the Town & Country Planning (General Permitted Development)(England) Order 2015, as amended) (GDPO), at Prestex House, 7-8 Edison Road, Salisbury; please accept this letter and the officer report attached at **APPENDIX A**, as the Local Planning Authority's statement in defence of the decision to refuse the prior approval.

APPELLANT'S STATEMENT OF CASE (ASOC):
The majority of the points raised by the Appellant in their ASOC have already been addressed in the Officer Report attached as Appendix A. However, since the appeal application was considered by the Local Planning Authority, the Council has adopted a new Wiltshire Design Guide. This was adopted on 25th March 2024 and is considered to be relevant to the consideration of this appeal, especially concerning the first reason for refusal regarding noise and amenity. An extract of this newly adopted document is therefore provided as **APPENDIX B** for the Inspector's information.

It is also considered to be necessary to respond to some of the specific points made by the Appellant in their ASOC. The Local Planning Authority's response to the submitted ASOC and how the new Wiltshire Design Guide is relevant to this appeal, is therefore outlined below. Where applicable, references to the paragraph numbers used in the ASOC are identified.

REASON 1:
The Council's first reason for refusal was as follows:

1 *The proposal will introduce a residential use into a very noisy location which will result in the amenities of any future occupants being adversely impacted by significant levels of noise, vibrations and disturbance from not only the surrounding uses (which would also share a building with this proposal); but also by the type of traffic and associated heavy vehicle movements generated by such uses at all times of the day/night. The proposals are therefore considered to fail the requirements of criterion (d) of Class MA of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (As amended); and is contrary*

to the provisions of the National Planning Policy Framework; National Design Guide; Wiltshire Core Strategy policy CP57 (Ensuring High Quality Design & Place Shaping); and the Council's Consultation Guidance Note: Noise and Vibration.

3.6 This paragraph of the ASOC states that a Noise Impact Assessment is provided at Appendix C of the ASOC. This document did not form part of the supporting documents that were submitted with the original application for prior approval; and it was received too late to be considered as part of the Council's original prior approval assessment. It is not clear if the Inspector is therefore accepting this document as part of the submission in support of the appeal and at this late stage.

At the original assessment stage, the Council's Public Protection Team did however raise an objection to the proposals as it was considered to be very unlikely that the internal and external noise levels would be appropriate for a residential use; or that a good standard of residential amenity could be created for the future occupants of this 6 bed flat in this noisy and busy environment. The mitigation that was identified at application stage to overcome any potential noise impact involved a reliance on closed windows and the installation of a mechanical ventilation system. This however is not considered to represent a good design solution and such mitigation measures do not meet best practice, so these too were rejected.

The Council's Public Protection Team has now read the Noise Impact Assessment that has been submitted with this appeal and has provided a response in case this document is accepted at this stage. Their response is provided at **APPENDIX C** of this statement. The Inspector will note that the Council does not consider that the Noise Impact Assessment has adequately addressed the concerns raised in terms of noise and disturbance. The report confirms that the internal ambient noise levels can only satisfy the WHO and BS8233 recommended levels of 30dB in bedrooms at night, and 35dB in living rooms or bedrooms during the day time *if* all windows are kept shut. This is not realistic, reasonable or enforceable and cannot therefore be secured by condition. It also does not represent good design or create a good quality of living accommodation.

Indeed Section H1 of the National Design Guide states that:

> *124 Good design promotes quality of life for the occupants and users of buildings. This includes function – **buildings should be easy to use**. It also includes comfort, safety, security, amenity, privacy, accessibility and adaptability.*
>
> *125 Well designed homes and buildings are efficient and cost effective to run. They help to reduce greenhouse gas emissions by incorporating features that encourage sustainable lifestyles. **They have good ventilation, avoid overheating, minimise sound pollution and have good air quality, while providing comfort and personal control for their users**.*
>
> *126 **Well-designed homes and communal areas within buildings provide a good standard and quality of internal space. This includes room sizes, floor-to-ceiling heights, internal and external storage, sunlight, daylight and ventilation**. The quality of internal space needs careful consideration in higher density developments, particularly for family accommodation, where access, privacy, daylight and external amenity space are also important* (my emphasis)

This ethos is continued, in Section 9.1 of the Council's newly adopted Design Guide, attached as Appendix B, which confirms the following:

> *9.1.3 The principles of good acoustic design within Professional Practice Guidance on Planning & Noise (ProPG May2017) should be followed to ensure that suitable internal and external noise levels from transport sources can be achieved. **Noise levels within internal***

habitable rooms (bedrooms and living rooms) should always be assessed on the assumption that windows are open for natural ventilation purposes*. Noise impacts from commercial and industrial noise should always be assessed in accordance with BS4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound. The rating level of commercial noise sources should not exceed the prevailing background level at residential dwellings'. For further detail, developers should consult Wiltshire Council's Planning Consultation Guidance Note for Noise and Vibration* (My emphasis)

The appellant's argument against the first reason for refusal all focusses on the internal noise levels when windows are shut. However as can be seen from the table in Figure 1 of the ASOC, the external noise levels around the site are much higher:

MONITORING LOCATION	MONITORING PERIOD	TYPICAL LOWEST* $L_{A90,5MIN}$	AVERAGE $L_{Aeq,T}$	TYPICAL HIGHEST* L_{AFmax}
External	Daytime 07:00-23:00 Hours	35 dB	61 dB	-
	Night-time 23:00-07:00 Hours	30 dB	53 dB	73 dB
Internal	Daytime 07:00-23:00 Hours	-	32 dB	-
	Night-time 23:00-07:00 Hours	-	24 dB	42 dB

Table 5.1 – Typical measured background and average noise levels [dB ref. 20μPa]

*Typical lowest background derived from 10th percentile of relevant dataset

*Typical highest background derived from 90th percentile of relevant dataset

Figure 1 - NIA recorded noise levels

Taking into account best practice; and the requirements of the Council's adopted Design Guide, the Public Protection Officer has confirmed in Appendix C that even allowing for only a partially opened window, the actual internal noise levels will be well above the required acceptable standards. The Council therefore considers that this reason for refusal still stands as the impacts of noise, vibration and disturbance from the adjacent and nearby commercial premises on the intended occupiers of the development will be significant and cannot be adequately addressed.

3.11 The suggestion that as there have been no noise complaints received from the existing residents of the properties on the corner of, but outside of the industrial estate, somehow justifies a new residential unit within the estate, is ludicrous. Firstly the existing properties on the edge of the estate are a historic situation with a historic relationship with the industrial uses that operate here. This however, in no way represents good planning principles for considering or directing where *new* residential units should be located.

The whole point of the Town & Country Planning system is to contribute to the achievement of sustainable development by managing land uses. As paragraph 8 of the NPPF confirms, this is achieved by building a strong, responsive and competitive economy; by ensuring that sufficient land of the right type is available in the right place and at the right time; and fostering well-designed, beautiful and safe places to live in, in order to create strong, vibrant and healthy communities. Creating potential conflict and putting the wrong development in the wrong place, just because that is how historically development has occurred, does not achieve this aim and actually just perpetuates a potential issue.

In addition, as is seen in Figure 7 of the ASOC, the property identified immediately adjacent to the estate is a wholly detached house that is situated in a generous plot with gardens and amenity provision separating the residential use from the immediate effects of the adjacent industrial uses. Conversely, the proposed dwelling, identified as part of this appeal scheme, would physically share a building with existing industrial uses/businesses that already operate both directly underneath the proposed flat; and immediately attached to it. The proposed dwelling is to have no outside amenity; and its intended occupants are not even going to be able to open their windows due to this potential conflict and relationship.

Overall The Council therefore remains of the view that the introduction of a residential use into this existing building and in the middle of this established industrial estate, would represent a contrived and inappropriate form of development that will be detrimental for the amenities of the future occupants of the dwelling. It is therefore considered that criterion (d) of Class MA of Part 3, Schedule 2 of the GDPO cannot be satisfied; and that prior approval should be refused accordingly.

REASON 2:
The Council's second reason for refusal was as follows:

2 The piecemeal introduction of a residential use into the established Churchfields Industrial Estate will undermine and adversely affect the long term future of this important employment site for the County. The proposals are therefore considered to fail criterion (d) of Class MA of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (As amended); and are contrary to the provisions of Wiltshire Core Strategy policies CP2 (Delivery Strategy); CP20 (Salisbury Community Area) and the Churchfields and The Engine Sheds Site Allocation. The proposals are also considered to undermine the Council's intentions to designate Churchfields as a Principal Employment Site and the provisions of the Emerging Wiltshire Local Plan policies 22, 31, 34 and 65

In response to the arguments put forward against the second reason for refusal, the Council can only reiterate that this represents a piecemeal approach to the redevelopment of the existing Churchfields Industrial Estate which would not be appropriate. Whilst the current Wiltshire Core Strategy (WCS) does have an allocation proposing the redevelopment of Churchfields with up to 1,100 houses, this policy is very clear that it will *only* come forward in a planned and comprehensive way, not one house at a time.

The WCS is now of some age and the redevelopment of Churchfields has not occurred since its adoption in 2015; no Masterplan for this estate has been produced, as is envisaged by the policy; and it is becoming increasingly clear that the wholesale redevelopment of this industrial estate to enable 1,100 houses to be developed on this site, will never happen. The reasons for this are numerous but the main barrier to Churchfield's redevelopment is a lack of alternative large scale sites on which to accommodate the important relocated employment uses.

The emerging Local Plan, which is currently at Regulation 19 stage, is therefore seeking an alternative solution to meeting the County's housing needs and the allocation of Churchfields for housing is no longer being pursued. The industrial estate is instead to be allocated as a Principal Employment Site and protected for its future growth and redevelopment for employment uses.

Either way, whether assessed against current policy of some age; or emerging policy and the Council's intended direction of future travel, the piecemeal, unplanned replacement of existing industrial buildings, and in this case only part of an existing industrial building, the remainder of which is to otherwise continue to be used for industrial E, B2, B8 or sui generis uses, is not considered to be an appropriate way to undertake a comprehensive redevelopment of this estate. Even a 'phased' redevelopment does not involve the change of use of one house at a time.

3.16 The proposed use is considered to be incompatible with the existing uses that are operating from the rest of the building and surrounding area. It is well established that anything other than a B1 use (now E (g)(i)) is incompatible with a residential use and usually industrial uses of a B2 or B8 nature are resisted in residential areas, which is presumably why this criterion is even a consideration for the Class MA process. The incompatibility of this proposed residential use in this first floor unit is demonstrated by the continued objection to the proposals in terms of noise, vibration and disturbance by the Council's Public Protection Team and the Council in its defence of the first reason for refusal. It is demonstrated by the fact that the future residents of the proposed family sized, 6 bed unit would not be able to enjoy any outside space or garden. It is demonstrated by the fact that the future occupants of the proposed flat will not be able to open any windows due to the excessive noise and disturbance that will be caused by surrounding uses, including the comings and goings of heavy good vehicles and refuse vehicles servicing the City's nearby waste and refuse centre. It is also demonstrated by the fact that the use of this unit as a dwelling, could result in undefendable noise complaints that will ultimately undermine the long term future of the surrounding industrial uses and businesses and thus the ultimate future of this important employment site as a whole.

3.19 It is confirmed that Churchfields is not currently allocated as a Principal Employment Site in the current local plan. It is however identified as important employment land that can *only* be released for housing if/when an alternative site is identified on to which the 33 hectares of existing employment uses at Churchfields can relocate. Thereby it is considered that the adopted WCS *does* acknowledge the importance of this employment site for the County/area. It is not proposing the estate's redevelopment because the employment land is unwanted or unnecessary for the economic prosperity of the County; but rather it is encouraging a comprehensive relocation of the existing employment uses so that the edge of City centre site can be released for housing.

3.20 The conversion of *one* first floor office above and in the same building as other industrial uses that are to be retained, is not an 'incremental adaption'. It does not represent a planned or even phased approach for the comprehensive redevelopment of Churchfields as a whole. It does not form part of a Masterplan or ensure that either the housing numbers or long term future of the industrial uses are secured. As is suggested by the Council's Public Protection Officer in their response in Appendix C, the change of use of this one first floor office unit could actually adversely affect the ability of the existing below and adjacent industrial uses to continue to operate, making their long term future also uncertain and potentially unviable. The change of this one unit could therefore incrementally undermine the long term future of this Industrial Estate and the Council's plans to protect it as a Principal Employment Site.

3.21 It is acknowledged that the floor area of this vacant office unit is modest compared to what will remain in employment use in the rest of the estate as a whole. However given that such a use is incompatible with the remaining uses operating within this building and nearby, this proposed change of use is likely to represent the thin end of the wedge for a piecemeal and incremental change to the nature of the estate in the future. As is identified above, the proposed use is likely to result in pressure for the existing businesses operating in the remainder of the building to change their processes or cease trading. The operations; types of vehicles; hours of operation and processes associated with the adjacent surrounding B2, B8 and sui generis uses could all be put under pressure to change if noise complaints are made by the residents of this new residential unit in the centre of the estate.

The Council therefore continues to assert that the change of use of this one unit could significantly undermine the future of Churchfields and thus the proposed change of use and introduction of a residential use into this established industrial estate, should be resisted.

CONCLUSIONS
Whilst the proposed development is considered to comply with all of the criteria set out in paragraph MA.1 of Class MA of the GPDO, the Local Planning Authority maintains the view that the detailed development would result in an appropriate form of development in this existing industrial estate and is likely to result in unacceptable noise and disturbance from surrounding industrial uses as well as traffic noise, for the future occupants of the new dwelling, thus adversely affecting their residential amenities. The conversion of part of this industrial building to a residential use will also introduce an incompatible use into the established industrial estate, which is considered to be an important employment site for the County. This piecemeal, ad hoc proposal is therefore likely to undermine the Council's future plans for Churchfields as a whole.

In view of the above observations and those contained within the attached report; and the obvious harm that these proposals would have to the objectives of the adopted and emerging Development Plan policies and the NPPF, the Inspector is respectfully requested to dismiss this appeal and refuse to grant prior approval for the proposed change of use.

CONDITIONS:
However, and without prejudice to the Local Planning Authority's case, should the Inspector be minded to allow the appeal, the Council would wish to see the following conditions imposed on any decision:

1. The scheme hereby assessed must be completed in full within a period of 3 years starting with the date of this prior approval.

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

   Application Form
   OS Location Plan
   Ref: 0824/Pr/01 Rev A – Proposed Floor Plans

3. No part of the development hereby permitted shall be first occupied until the 5 parking spaces have been completed and set aside for use by the dwelling hereby approved, in accordance with the details shown on the approved plans (Ref: 0824/Pr/01 Rev A – Proposed Floor Plans). The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.

4. No development hereby approved shall commence on site until a scheme for an alternative means of increased ventilation and cooling, such as a mechanical ventilation system and/or a comfort cooling system has been submitted to and approved in writing by the Local Planning Authority. The alternative ventilation and cooling system shall be installed in accordance with the agreed details prior to the dwelling hereby approved being first occupied and shall be maintained in accordance with the manufacturer guidance and retained for the lifetime of the development.

5. No development hereby approved shall commence on site until full details of internal insulation to prevent sound transfer between the attached/adjacent industrial units and the new dwelling have been submitted to and approved in writing by the Local Planning Authority. The internal insulation shall be installed in accordance with the agreed details prior to the dwelling hereby approved being first occupied and shall be retained for the lifetime of the development.

INFORMATIVES
1) The applicant is reminded that the development hereby agreed is subject to a number of conditions regarding commencement; any subsequent operational development; and future uses, as set out in the supporting paragraphs of Class MA and W of Part 3 of Schedule 2 of the

Town & Country Planning (General Permitted Development) (England) Order 2015 (As amended).

2) The applicant is reminded that this approval involves the conversion of the former office space into a single residential unit which falls within the C3 (Dwellinghouses) Use Class. It cannot be used as a House in Multiple Occupation (falling within either the C4 (Houses in Multiple Occupation) Use Class or sui generis uses) under this permitted development right and any such proposed change of use of this unit will require the submission of a planning application for the consideration by the Local Planning Authority.

3) The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy

4) The Applicant is reminded that the site is situated within the catchment of the River Avon Special Area for Conservation and Salisbury Plain Special Protection Area and has potential to have an adverse effect upon the integrity of these European sites. This means that the development hereby assessed as being permitted development cannot be lawfully commenced until the local planning authority, along with the appropriate nature conservation body, has made an Appropriate Assessment of the implications for the European site(s) under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations) and has confirmed that the proposals will not adversely affect the integrity of the site(s). It is therefore advised that the Applicant should consult with Natural England about the scheme and following their agreement, submit an application under Regulation 77 of the Habitat Regulations to the local planning authority for consideration and approval.

APPENDICES

APPENDIX A	The Case Officer's Report
APPENDIX B	Relevant Extract from the Recently Adopted Wiltshire Design Code
APPENDIX C	Comments Received From The Council's Public Protection Officer in Response to the Appeal Documents

APPENDIX A

CASE OFFICER'S REPORT

Application Reference:	PL/2023/09224
Site:	Prestex House, 7-8 Edison Road, Salisbury, SP2 7NU
Date site notice posted:	10.11.2023
Publicity Expired:	01.12.2023
Extended Target Date:	28.12.2023

SITE DESCRIPTION:
The site is situated within the defined settlement boundary of Salisbury, which is designated as a Principle Settlement by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP20 (Salisbury Community Area). It is surrounded on all sides by other industrial units and roads leading through the wider, established Industrial Estate known as Churchfields. The wider Churchfields Estate is defined on its northern boundary by the railway line feeding Salisbury Train Station to the north east of the site. All other peripheral boundaries of the wider estate are contained by the River Avon.

This site is situated on the corner of Edison Road and Stevenson Road. It currently consists of a two storey industrial unit with commercial uses (currently EuroParts, a B8 use with ancillary retail trade counter) operating at ground floor; and offices at first floor. It is of functional design, predominantly of brick construction with an interesting curved and pitched roof line. This application involves the southern part of the first floor of the building, which the supporting documentation confirms was, until October 2022, in use as an office (Use Class E(g)(i)). A ground floor pedestrian entrance to the first floor offices is gained on the southern elevation. The eastern, southern and western elevations of the first floor offices are fully glazed. Parking for the building is situated along the southern elevation of the building and served off Edison Road. The supporting documentation confirms that 5 of these are available for this part of the building.

The site is situated within the catchment of the River Avon Special Area for Conservation (SAC); and within the 13.8 kilometre recreational buffer for the New Forest SAC, Special Protection Area (SPA) and RAMSAR site. Whilst the site is situated in FZ1, despite what the supporting documentation suggests, it is in an area at high risk of ground water flooding as determined by the Council's Strategic Flood Risk Assessment (SFRA).

PROPOSAL:
This is a prior notification application proposing the change of use of the existing first floor accommodation in this part of Prestex House, from offices (Use Class E(g)(i)) into a single residential unit. The application is put forward in line with the provisions of Class MA of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), which allows the change of use of commercial, business and service uses to dwellinghouses.

The plans identify that the new residential use will have 6 bedrooms, a small kitchen and living room and bathroom facilities. It is to benefit from 5 parking spaces but no garden provision. The layout and proposals are more akin to that of a House in Multiple Occupation (HMO) (which is in Use Class C4) rather than as a family dwelling (Use Class C3). However in order to benefit

from this prior approval provisions of Class MA, the new use must fall within the C3: Dwelling House use class and therefore the change of use to a HMO would not be allowed under this Class MA route. Despite the layout the application form does suggest that the intended use is as a 6 bed residential dwelling (Use Class C3) and so the application will be considered as such accordingly, as even if this is deemed acceptable by the Local Planning Authority, its subsequent use as an HMO would need planning permission.

A Covering Letter accompanies the application, setting out how it is believed that the proposals comply with the criteria in Class MA of the GPDO. This suggests that a Noise Assessment has been carried out but this did not accompany the application and was submitted too late to be considered as part of this Class MA assessment.

RELEVANT PLANNING HISTORY:

S/1996/0143	From light industrial to B2 (general industrial). Permission – 20.03.1996
S/2012/1411	Erection of 1 x non illuminated fascia sign to front and 1 x illuminated sign to side retrospective. Consent – 06.11.2012
S/2012/1422	Change of use from B2 general industrial to B8 storage and distribution with ancillary trade counter and ancillary offices. Permission – 05.12.2023

POLICIES:

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Town & Country Planning (Permitted Development) (England) Order 2015 (as Amended) (GPDO)

PRIOR NOTIFICATION PROCESS:

Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. Permitted development rights are subject to conditions and limitations. In some cases the permitted development right will require the Local Planning Authority to approve certain matters (a process generally referred to as 'prior approval').

Class MA of Part 3 of Schedule 2 to the GPDO permits the change of use of a building and any land within its curtilage from a use falling within Use Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a use falling within Use Class C3 (dwellinghouses) of Schedule 1 of the Order. As is stated above, this application thus seeks the change of use of the former offices (Use Class E) into a 6 bed dwelling (Use Class C3) and the application for prior approval has been submitted on that basis to be considered against the provisions of Class MA of the GPDO.

In accordance with Class MA condition MA.2, before beginning the development the applicant is required to 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 200657 , 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 provisions of Paragraph W of Part 3 of the GPDO are also relevant to this process as it sets out the procedure for applying for prior approval. It states that the Local Planning Authority must have regard to the National Planning Policy Framework in so far as it is relevant to the subject matter of the prior approval, although there is no requirement to have regard to the development plan in the consideration of such an application.

REPRESENTATIONS:

Highways – No Objection

- The location is the site is in the middle of Churchfields Industrial Estate and I know you will assess the suitability of the location for a residential dwelling.
- As far as parking is concerned, adequate off street parking is proposed for the development
- it is considered that the proposal would not be detrimental to highway safety.
- I wish to raise no highway objection.

Public Protection – Objection

- The development site is in the middle of the busy Churchfields Industrial Estate, and is in close proximity to some very noisy industrial businesses and plant.
- In addition the development site is likely to be impacted by noise and vibration from significant heavy goods vehicle movements on the industrial estate.
- A noise impact assessment has not been submitted with the application.
- I am of the firm belief that an acoustic report would not adequately demonstrate internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 (table 4) of BS8233:2014, or that maximum noise levels in bedrooms will not normally exceed 45dB LAmax between the hours of 23:00 and 07:00.
- The development should not rely on closed windows to mitigate noise from nearby industrial processes or road traffic noise, and the principles of good acoustic design should be followed (see chapter 5 of the attached Planning Consultation Guidance Note: Noise and Vibration).
- On these grounds I recommend refusal of this application.

- With regards to Contaminated Land, a ground investigation report has not been submitted.
- The report should be secured by condition on any allowed decision

Salisbury City Council – Objection
- Salisbury City Council objects in support of the comments made by the public protection officer regarding noise and contaminated Land
- Also the plans are not in keeping with the areas design code

Letters – 1 letter of objection received. The following comments made:
- Edison Road, on Churchfields INDUSTRIAL Estate, services over 12 trade and commercial business.
- Every day, the road is extremely busy with cars, vans, HGV's and fork trucks, and is not a suitable environment for residential tenants.
- Although the plans show some allocated parking spaces, if this is exceeded, where would they park, as parking is already at a premium on the estate.

Letters – 1 letter of comment received. The following comments made:
- I support the possible redevelopment of this site for residential purposes however Churchfields Road is in no way bike friendly.
- The whole of the road should be become a segregated bike line for safe use to and from the railway station.
- Until this is completed bike and walking is not a good experience particularly towards the railway station.

ISSUES:
The main considerations which are material to the determination of this application are listed below:
- Whether the proposal constitutes permitted development
- Whether the prior approval of the Local Planning Authority is required

If the proposals are considered to satisfy the provisions of Class MA, this effectively confirms that the proposed conversion of these redundant offices into residential units is permitted development and does not need planning permission. The principle of the proposed change of use is therefore established. The Local Planning Authority can only consider the acceptability of the detailed scheme against the very limited criteria set out in the Class (above).

PLANNING ASSESSMENT:
As is identified above, Class MA of the GPDO confirms that *'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. Whilst currently vacant, the existing building's last use was as offices and this part of the GPDO is therefore applicable to its proposed conversion into residential units.

There are also a number of caveats to this general acceptability set out in paragraphs MA.1, MA.2 and MA.3 of this Class. These will also therefore be assessed in more detail below.

Paragraph MA.1 Permitted Development Criteria:
Paragraph MA.1 of this Class confirms that Development is not permitted by Class MA unless the following criteria are met.

(a) 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;

As is identified above, the supporting documentation confirms that the last user of the offices vacated the building in October 2022 and that the offices have since been vacant ever since. During a site visit it was noted that the offices are currently being marketed The building has therefore been vacant for a continuous period of at least 3 months prior to the submission of this application and thus this criterion is satisfied.

(b) the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

Subparagraph (2) confirms the classes mentioned in sub-paragraph (1)(b) are -

(a) 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)

The supporting documentation confirms that the building was used as office space prior to 2022 (which previously constituted a use falling within Use Class B1, but now constitutes Use Class E (g)(i)). The proposals therefore satisfy the requirements of this criterion.

(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

The first floor office space that is the subject of this prior approval application consists of 180 square metres of floor space. This is well within this footprint allowance set out in this criterion.

(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;

The site does not form part of a Site of Special Scientific Interest (SSSI). The building is not listed and does not sit within the curtilage of a listed building. The site is not a scheduled ancient monument (SAM) or with the curtilage of a SAM. The site is not within a safety hazard area and does not form part of a military explosive storage area. The proposals therefore comply with the restrictions set out in this criterion.

(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;

The site and building that is the subject of this application are not in an Area of Outstanding Natural Beauty (AONB); are not in an area specified by the Secretary of State as part of the Wildlife & Countryside Act 1981; and are not in the Broads; a national park; or World Heritage Site (WHS). The proposals therefore also comply with the restrictions set out in this criterion.

(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

The supporting documentation has confirmed that the site is not occupied under an agricultural tenancy and therefore the proposals satisfy this criterion

(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.

No applications under Class O of the GPDO have ever been submitted for this site/building and no Article 4 directive has been issued that concerns this site or building. This criterion is also therefore satisfied.

The proposals therefore satisfy the permitted development criteria.

Paragraph MA.2 Prior Approval criteria:

Paragraph MA.2 of the Class confirms that before any such development occurs the developer must apply to the Local Planning Authority for a determination as to the potential impacts of the development on transport; contamination; flooding; noise; and conservation areas. It also confirms that such development must be assessed with regard the amount of natural light that is afforded to the new unit/s; any potential conflict between uses if the new residential development is to be introduced into a wider industrial site; if the proposals involve the loss of

important services; and whether it meets fire safety requirements. This paragraph also confirms that such a prior notification application must not be submitted prior to 1st August 2021 and states that Class W of the GPDO is relevant to the Local Planning Authority's prior approval considerations.

Paragraph MA.2 finally confirms that any such successful prior notification development must be completed within a period of 3 years starting with the prior approval date; and that any building permitted to be used as a dwellinghouse under this Class must remain in use as a dwellinghouse within the meaning of 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 – hence the statement above about the potential future use as a C4: HMO use.

In considering whether prior approval is required, the Local Planning Authority must have regard as to whether the development would result in an adverse impact for the following matters:

(a) transport impacts of the development, particularly to ensure safe site access:

As is identified above, the site is situated within the middle of an existing industrial estate and is completely surrounded by other industrial uses. It is defined on two boundaries by roads leading through the estate. The site is within walking distance to the Salisbury Train Station and is a short walk to the City Centre. It is therefore considered to be in a sustainable location.

The site already benefits from 5 onsite parking spaces but no turning provision. However Edison Road, which serves these parking spaces, is a no through road. The Highway Authority has therefore confirmed that the level of parking proposed is sufficient to serve the intended use and the proposals will not result in any implications for highway safety. No objections have been raised in this regard accordingly.

(b) contamination risks in relation to the building:

Local concern has been raised about the potential contamination of the site, given its position within an established industrial estate. However the Council's Public Protection Team considers that any potential contamination of the site could be controlled by condition and so has raised no objection in this regard.

(c) flooding risks in relation to the building:

The site is situated in Flood Zone 1 and is under 1 hectare in size. Despite what is alleged by the supporting documentation, the site is however situated within an area at high risk of ground water flooding, as identified by the Strategic Flood Risk Assessment (SFRA) for the area.

The proposals however involve a straight conversion of the building with no extensions. It also involves the conversion of a first floor accommodation only. No habitable accommodation, other than a shared lobby and stairwell, is to be provided at ground floor.

As the site is in Flood Zone 1, it is not a flood risk zone that requires consultation with the Environment Agency or submission of a Flood Risk Assessment (FRA) under paragraph W (Procedure for applications for prior approval under Part 3). It is therefore considered that the prior approval of the Local Planning Authority is not required in respect of Flooding risks. If this scheme were heading for approval, an informative could however be included on the decision advising the applicant of the risk of groundwater flooding and that they may wish to incorporate flood mitigation measures (which may require separate planning approval) accordingly.

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

The proposals involve the conversion of first floor office accommodation into a residential use. The northern elevation of the existing offices however abuts the remainder of the upper level of the larger building known as Prestex House; and the ground floor (and this residual upper level) of the building is in lawful use as a B2: General Industry use. B2 uses are not generally considered to be compatible in terms of potential noise and disturbance with a residential use.

The site is also situated in the middle of an established Industrial Estate with a mix of B2, B8 and E uses operating, with associated plant and vehicle movements, in the immediate vicinity of the site. It is also bounded on two sides by a road, one of which (Stevenson Road) is one of the main roads leading through the Industrial Estate to the City's Council Tip. Overall it is therefore considered that the former offices are situated in a very noisy location and are surrounded, not just adjacent to but above and sharing a building with, incompatible uses which is thus likely to result in significant implications for the future residential amenities of the unit. The Council's Public Protection Team has therefore raised concern that any future occupants of the dwelling are likely to be significantly impacted by noise and vibration from both the surrounding industrial uses; as well as the significant heavy goods vehicle movements around the industrial estate in the vicinity of the site.

Whilst it is clear that a noise assessment has been undertaken by the applicant, this was not submitted in support of the application and could not be accepted at such a late stage in the process. The Council's Public Protection Team are however of the firm belief that any such acoustic report would not be able to adequately demonstrate internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 (table 4) of BS8233:2014; or that maximum noise levels in bedrooms will not normally exceed 45dB LAmax between the hours of 23:00 and 07:00.

In addition, the supporting documentation suggests that any impact can be addressed by the installation of mechanical ventilation, which the applicant is happy to have conditioned so that windows etc do not need to be opened in order to ventilate the new habitable rooms. This is not however considered to be an acceptable solution to overcome serious concerns with regards to noise; or to mitigate noise/vibration from nearby industrial processes and heavy road traffic; and does not follow the principles of good acoustic design set out in the Council's Consultation Guidance Note: Noise and Vibration. It will also result in a very contrived form of development that would not represent a good standard of residential living accommodation advocated by the National Design Guide, as

future residents of the proposed 6 bed family home would have no access to a garden or fresh air within the unit.

The proposals are therefore considered to be unacceptable in terms of the potential for significant impacts of noise and vibration for the amenities of the future occupants of the proposed family dwelling, and thus the proposals fail this criterion.

(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;

The site is not situated in a conservation area. This criterion is not therefore applicable to the consideration of this application.

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

As is identified above, the eastern, southern and western elevations of the first floor of this existing building are fully glazed. The proposed layout puts all habitable rooms along the southern and western elevations of the building and all will therefore have good access to natural, predominantly south facing light. It is therefore considered that this criterion would be satisfied.

(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

As is identified above, the site is situated in the middle of an established industrial estate. The supporting documentation suggest that as Churchfields is allocated as part of the adopted Wiltshire Core Strategy (WCS) policy CP2 (Delivery Strategy) for its redevelopment with a mixed employment (5 Hectares) and 1,100 house use, the Local Planning Authority cannot argue that it is an important industrial site that needs to be retained for such a purpose.

However the WCS makes it clear that the redevelopment of Churchfields will only come forward as part of a comprehensive redevelopment of the whole estate through a detailed masterplan. It also states that this will not be supported until an appropriate site/s have been identified for the existing employment uses operating out of Churchfields to relocate to.

Since the WCS was adopted in 2015 this has not occurred, there is still no masterplan for the industrial estate; there is no dedicated employment sites onto which the 33 hectares of existing employment uses at Churchfields can relocate; and the industrial estate continues to thrive. Furthermore, the new draft Local Plan that is currently at Reg 19 stage and has recently been out for public consultation, allocates Churchfields as a Principal Employment Site (under draft policies 22, 31, 34 and 65). Therefore it is clear that the Council *does* consider this to be an important employment site that has thus far failed to

be relocated elsewhere and so the future direction of travel is to safeguard its long term future at Churchfields, as one of the County's main employment sites. It is not considered that the piecemeal redevelopment of Churchfields with one off, ad hoc residential proposals would be appropriate and is likely to undermine its future longevity as an employment site.

It is therefore considered that this scheme would adversely impact the use of Churchfields for industrial/employment purposes and thus this application therefore also fails this criterion.

(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 200657 , the impact on the local provision of the type of services lost; and

As is identified above, this site was last used in 2022 as offices. The current site is vacant. The proposals will not thus result in the loss of nursery or health care services.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The proposed change of use is not likely to result in an additional fire safety impact for the future occupants of the building.

Other Matters:
The procedural notes for permitted development, in clause 3 of the GPDO raises a few other matters that are also relevant to this prior notification application:

(1) **Subject to the provisions of this Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.**

As is identified above, this site falls within the catchment of the River Avon SAC and thus has potential to cause adverse effects, alone or in combination with other developments, through discharge of phosphorus in wastewater. The site is also within the recreational buffer of the New Forest SAC, SPA and RAMSAR sites and thus the creation of a new household in this area has potential to increase pressure on these designations. The provisions of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regulations) are therefore relevant to the development, regardless of the outcome of this application.

However as is identified above, the matters of ecology and protected species are not issues that are identified in the Class MA criteria for consideration as part of the prior notification process. It is also not appropriate to insist that the applicant instead applies for planning permission on this matter.

However this part of the overall GPDO makes it clear that permitted development rights do not override the requirements of the Conservation of Habitats and Species Regulations (the Habitats Regs) and that Regulations 75-78 still apply. The Habitats Regs address the requirements for protecting sites that are internationally important for threatened habitats and species (for example, as is relevant in this instance, SACs and SPAs (often referred to as European Sites). This includes a requirement for assessment of 'plans and projects' by 'the competent authority' (e.g., the local planning authority) which are likely to have a significant effect on the sites.

Regulation 75 of the Habitats Regs states that it is a condition of any planning permission granted by the GPDO made on or after 30 November 2017 for development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and which is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77. Essentially the purpose of Regulation 75 is to, therefore, ensure that, when necessary, permitted development is subject to Appropriate Assessment in the same way as development requiring a planning application.

Regulation 77 sets out the process for applying for the written approval of the local planning authority as to whether the development is likely to have an adverse effect upon the integrity of a European Site. It states that an application to the local planning authority for approval, must be made with a relevant fee paid. This process is outside of the Class MA considerations and is undertaken separately to the Class MA Prior Notification Procedure.

This part of the GPDO however confirms that the approved permitted development cannot be lawfully commenced until the application under Regulation 77 of the Habitats Regs has been made and approved by the local planning authority. Therefore, and although a Prior Notification application can be approved without the Appropriate Assessment taking place, the commencement of the development cannot lawfully happen until the separate application under Regulation 77 is approved. If the application were heading towards an approval, an informative would be attached to the decision to draw this to the applicant's attention.

(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 35 S.I. 2010/490. Commented [S19]: Replaced by 2017 No. 1012 (Page 12 of 266) Department for Communities and Local Government on 27th March 201536 .

(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.

In this instance, the existing building is to be converted into 1 family sized dwelling. The 6 bed family home is to measure approximately 180 square metres in footprint. The National Described Space Standards (NDSS) require 6 bed, single storey dwellings to

have at least 125 square metres of floor space. The proposals therefore meet the size standards for such a size of unit and is acceptable in this regard.

CONCLUSION:
The proposed development is considered to comply with all of the criteria set out in paragraph MA.1 of Class MA of the GPDO, thereby making it development that *could* benefit from this permitted development provision.

However it is not considered that the detailed development would result in an appropriate form of development in this existing industrial estate and is likely to result in unacceptable noise and disturbance from surrounding industrial uses as well as traffic noise, for the future occupants of the new dwelling, thus adversely affecting their residential amenities.

The conversion of this commercial office to a residential use will also introduce an incompatible use into the established industrial estate, which is considered to be an important employment site for the County. This piecemeal, ad hoc proposal is therefore likely to undermine the Council's plans for Churchfields and it is therefore considered that prior approval is required and that the approval should be refused for these proposals.

RECOMMENDATION:
Prior Approval Required and Refused

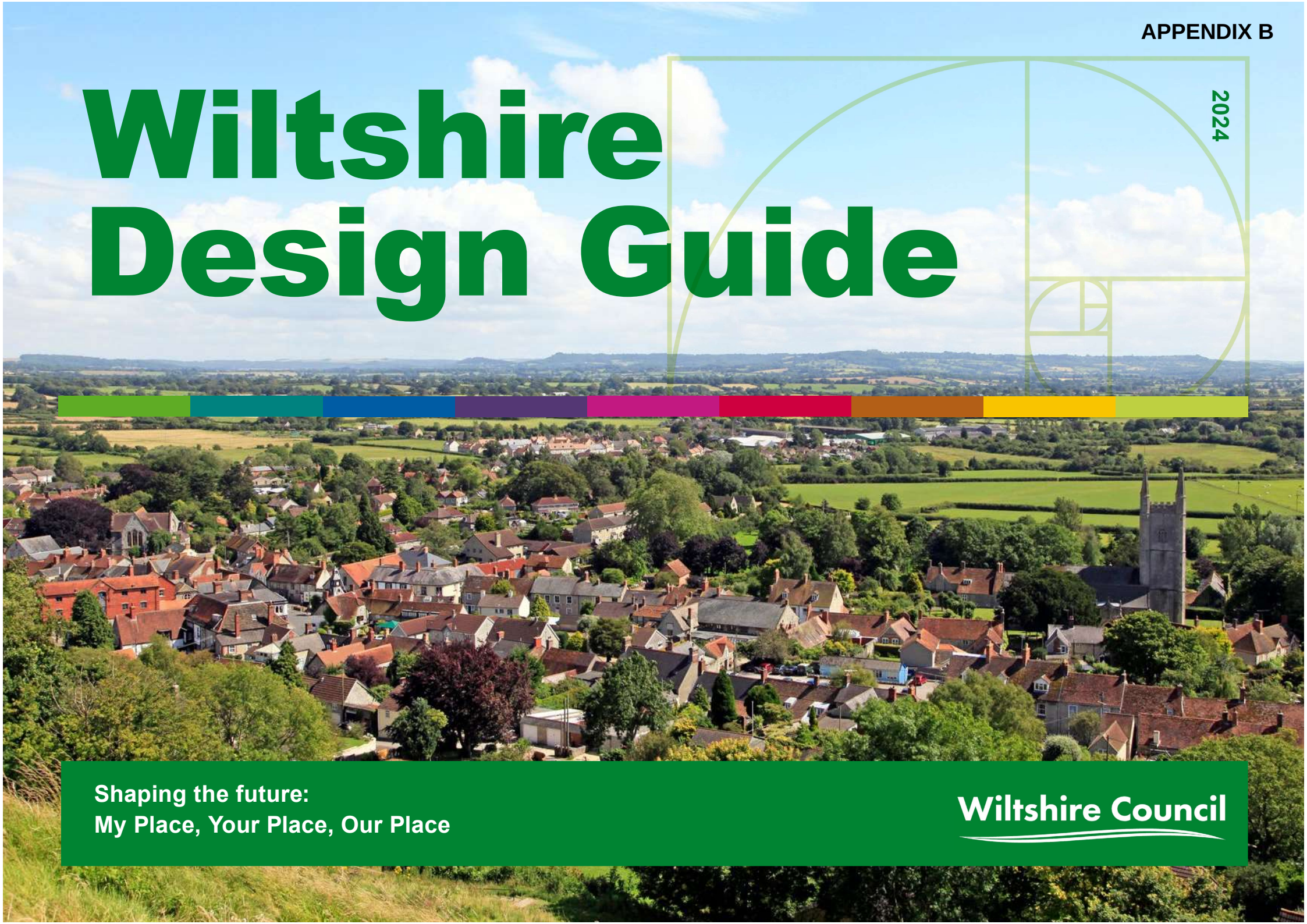
1) **The proposal will introduce a residential use into a very noisy location which will result in the amenities of any future occupants being adversely impacted by significant levels of noise, vibrations and disturbance from not only the surrounding uses (which would also share a building with this proposal); but also by the type of traffic and associated heavy vehicle movements generated by such uses at all times of the day/night. The proposals are therefore considered to fail the requirements of criterion (d) of Class MA of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (As amended); and is contrary to the provisions of the National Planning Policy Framework; National Design Guide; Wiltshire Core Strategy policy CP57 (Ensuring High Quality Design & Place Shaping); and the Council's Consultation Guidance Note: Noise and Vibration.**

2) **The piecemeal introduction of a residential use into the established Churchfields Industrial Estate will undermine and adversely affect the long term future of this important employment site for the County. The proposals are therefore considered to fail criterion (d) of Class MA of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (As amended); and are contrary to the provisions of Wiltshire Core Strategy policies CP2 (Delivery Strategy); CP20 (Salisbury Community Area) and the Churchfields and The Engine Sheds Site Allocation. The proposals are also considered to undermine the Council's intentions to designate Churchfields as a Principal Employment Site and the provisions of the Emerging Wiltshire Local Plan policies 22, 31, 34 and 65**

APPENDIX B

Wiltshire Design Guide

2024



Shaping the future:
My Place, Your Place, Our Place

Wiltshire Council

9.0 Homes and buildings

Well-designed homes and buildings are functional, accessible and sustainable.

They provide internal environments and associated external spaces that support the health and wellbeing of their users and all who experience them.

9. Homes and buildings

Homes and communal areas within buildings need to provide a good standard and quality of internal space. This includes room sizes, floor-to-ceiling heights, internal and external storage, sunlight, daylight and ventilation and air quality as well as sound, intrusive artificial light and odour levels. The quality of internal space needs careful consideration in order to protect amenity.

The National Design Guide References H1, H2 and H3 provide further information on what is expected at a national level.



Newland Place, Trowbridge

9.1 Expectation: Healthy, comfortable and safe internal and external environment

9.1.1 New Homes should comply with Nationally Described Space Standards to ensure that they are fit for purpose. Technical housing standards nationally described space standard

9.1.2 Applicants are encouraged to provide additional built in storage space for the ancillary features of new technologies such as inverters, battery storage and water tanks.

9.1.3 The principles of good acoustic design within Professional Practice Guidance on Planning & Noise (ProPG May2017) should be followed to ensure that suitable internal and external noise levels from transport sources can be achieved. Noise levels within internal habitable rooms (bedrooms and living rooms) should always be assessed on the assumption that windows are open for natural ventilation purposes. Noise impacts from commercial and industrial noise should always be assessed in accordance with BS4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound. The rating level of commercial noise sources should not exceed the prevailing background level at residential dwellings'. For further detail, developers should consult Wiltshire Council's Planning Consultation Guidance Note for Noise and Vibration.

9.1.4 Indicative, realistic furniture layouts should be included on domestic room plans to demonstrate that rooms are adequately sized/shaped, without conflicts between furniture and windows, radiators or doors etc.) and also to ensure that the external appearance of the fenestration also considers internal functions.

9.1.5 There should be readily accessible internal storage for day-to-day needs, including cupboards for storage for household cleaning items, spare towels and sheets etc and space to store everyday coats, shoes and bags etc. downstairs (e.g. porch, cloakroom, under stairs cupboard and/ or generous hallway – plus utility space). Where garages are provided, they should allow for the parking of a family sized car and storage space, potentially for multiple bicycles too.

9.1.6 Where there is any doubt as to how indicative designs or planning drawings might comply with Building Regulations, the matter should be raised and addressed as soon as possible, to avoid needless changes or problems later. **(See also 11.2 Expectation: Adaptable to changing needs and evolving technologies)**

9.1.7 All new development should give careful consideration to creating safe places and conform with Wiltshire Council adopted policies and Local Plan requirements.

9.1.8 The main pedestrian entrance to apartment buildings, both new builds and building conversions, should be direct and clearly visible from the public realm. The entrance should be an attractive high-profile feature of the building. Consider emphaising the entrance by using different external building materials, lighting and canopies etc.

9.1.9 The main entrance to apartment buildings should not involve pedestrians having to walk around the side of buildings or through undercrofts meant for vehicle access to concealed low key and poorly overlooked access doors at the side or rear of apartment building.

9.1.10 Dedicated stores for bins and cycles need their own external entrance doors, which can be located at the front, side or rear of apartment buildings.

9.1.11 Undercroft parking grilles could be designed to incorporate art and generally should not exceed more than 50% of the ground floor elevation to the public realm.

9.1.12 The ground floor of apartment buildings should present an active frontage to the public realm. One effective way of achieving this without compromising the privacy of the residents, is to incorporate maisonettes or duplex dwellings to the ground and first floors. Lounge, kitchen and dining areas are accommodated on the ground floor, with bedrooms and bathrooms on the first floor. Each duplex or maisonette can have its own front door and possibly a small front garden area. Conventional single storey apartments can then resume from the second floor and above.

9.1.13 Hallways and bathrooms should wherever possible receive natural light and ventilation. Mechanical ventilation should only be considered when all other possibilities of providing natural ventilation have been exhausted.

9.1.14 In apartments stairways should be designed to reduce noise and receive high levels of natural light and ventilation. Communal access corridors should not be long dark narrow spaces. They should be wide enough for two adults to walk comfortably passed each other, be well lit and ventilated, especially by natural light and ventilation wherever possible. For communal access corridors longer than 10 metres in length, consider introducing break-out spaces with natural light and seating.

9.1.15 If residential façades are facing each other across a short distance, e.g. either side of a rural lane or an urban courtyard, the placement of windows should be designed to reduce direct sightlines between windows.

9.1.16 The principles of good acoustic design within Professional Practice Guidance on Planning & Noise should be followed to ensure that suitable internal and external noise levels can be achieved. Noise levels within internal habitable rooms (bedrooms and living rooms) should be assessed where windows are open for ventilation. Commercial and industrial noise must be assessed in accordance with BS4142:2014+A1:2019.






From: Morse, Trish <Trish.Morse@wiltshire.gov.uk>
Sent: Wednesday, February 14, 2024 2:27 PM
To: Wright, Georgina <Georgina.Wright@wiltshire.gov.uk>
Subject: APPEAL PL/2023/09224 - Prestex House Edison Road SP2 7NU

Dear Georgina,

Thank you for forwarding details in respect of the above appeal. This application relates to conversion of first floor office space to a 6 bed residential dwelling with no allocated outside amenity space. The application site is located on the corner of Edison Road and Stephenson Road, on the busy Churchfields Industrial Estate. The majority of industrial buildings on the industrial estate have class B, E and suis generis planning use.

I have now reviewed the Noise Impact Assessment completed by Clarke Saunders submitted at Appendix C of the Statement of Case (dated October 2023), which was not shared with this department during the consultation process, and have the following comments to make:

At 3.8 of the report, the external average noise level is recorded as 61dB and 53dB day and night respectively. A partially open window will provide a maximum of approx. 15dB attenuation, therefore the internal ambient noise levels would be approximately 46dB and 38dB day and night respectively with windows open.

WHO and BS8233 recommends internal ambient noise levels do not exceed 30dB in bedrooms at night, and 35dB in living rooms or bedrooms during the day time.

At 6.5 it states: *The external sound levels are at a range that indicates a possible risk of adverse effect when windows are open during an overheating scenario, meaning small behaviour changes and some sleep disturbance may occur. Given the industrial nature of the sound during the day, a greater likelihood of adverse impact may be expected.* At 6.6 it states: *To control internal sound levels to alleviate or prevent an overheating scenario, it would be prudent to provide an alternative means of increased ventilation rates or cooling, such as a mechanical ventilation system or comfort cooling.*

The future occupiers are under no obligation to close their windows. If they wish to leave them open and complain noise levels from neighbouring industrial processes are unacceptable, there is nothing legally that can prevent this. In statutory nuisance this is specifically dealt with under what is termed “coming to the nuisance”. The House of Lord has long held, just because someone moved into an area recently, does not mean they are prevented from making a complaint against a pre-existing activity. If it transpires that activity now amounts to a statutory nuisance then the responsible person for the source of the noise must abate the nuisance. With any approval of this application, the ‘nature of the locality’ will have changed and this is why the ‘Agent of Change principle’ is fundamental in protecting existing businesses. There are examples where businesses have been threatened with closure, and some have closed, as a result of this House of Lords precedent.

The Environmental Protection Act places a legal duty on us to investigate complaints of alleged statutory nuisance and there is a general duty to survey the area for matters amounting to a statutory nuisance and to cause them to be abated. There are no specific decibel levels, time, durations etc given in the legislation defining what a statutory nuisance is. However, there is a huge body of upper court precedents that guide us. The broad requirements are, very much in the same

vein as amenity; the 'right to the quiet enjoyment of property & land' (quiet enjoyment means an expectation being able to have reasonable use, it does not solely reference noise). It is judged in the context of what expectations the 'ordinary reasonable person' should have of their environment. This will vary with setting. In this instance. the developer is changing the "nature and character of the Locality" from one of office space to more sensitive residential receptors. 'Nature and character of a locality' is a factor that was long ago defined by the House Of Lords. It means what is acceptable in one area may not be acceptable in another. So what is acceptable in an industrial area may not be acceptable in residential suburbia etc.

If, following complaint by future occupiers of the proposed dwelling a statutory nuisance is observed, this department would have a duty to serve a Noise Abatement Notice. The business(es) may choose to attempt to abate the nuisance in a number of ways. Closure is one potential outcome. However, a business may be able to respond to complaints by providing additional acoustic insulation. It may be difficult and expensive to attenuate noise associated with industrial processes. There is statutory defence available to commercial operations in relation to statutory nuisance, known as Best Practical means (BPM). This allows a company to argue that it has taken all reasonable steps to prevent nuisance being commissioned, and where BPM can be proved and is accepted by a court, then a nuisance can be permitted to continue. In examining this the economics of abatement and the company's financial position are examined. The test is in relation to what the company can afford, and if it can show the cost for them in mitigating any further than they have is unreasonable, the nuisance can be allowed to continue.

The development site is adjacent to the access road to the HRC and council depot where the refuse lorries are kept. The refuse lorries commence their collections from 7am, therefore noise from workers arriving at work, and the refuse lorries leaving the estate will occur before 7am. There is therefore significant HGV and vehicular movement along this route and we also have concerns that future occupiers will be adversely impacted by vibrations caused by HGV's passing in close proximity to the development site, and any existing or future industrial processes which would give rise to vibration.

This department is therefore still of the strong opinion this application should be refused.

If you have any queries on this, please do not hesitate to contact me.

Kind regards,

Trish Morse
Senior Public Protection Officer (Environmental Control & Protection)

Please note that I work very limited hours each week and therefore, there may be a delay in responding to emails received.

My planned working days over the coming weeks are (but may be subject to last minute change):

Wednesday 14th Feb
Monday 19th Feb

We are Recruiting – click here Jobs at Wiltshire for further details

Direct Phone number: 01380 826373
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E-mail: trish.morse@wiltshire.gov.uk or publicprotectionsouth@wiltshire.gov.uk
Address: The Council House, Bourne Hill, Salisbury, Wiltshire. SP1 3UZ

For current COVID-19 business and community advice please go to:
Business Support - http://www.wiltshire.gov.uk/news/articles/covid-business
Community Support - http://www.wiltshire.gov.uk/news/articles/covid19-community-pack
Government Advice - https://www.gov.uk/government/topical-events/coronavirus-covid-19-uk-government-response
NHS - https://www.nhs.uk/conditions/coronavirus-covid-19/

website: www.wiltshire.gov.uk



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