

9th April 2026

Our Ref: SWLC.LPC4430

Development Services – North
Wiltshire Council
Monkton Park
Chippenham
Wiltshire
SN15 1ER

Dear Mr Crozier

**Application to determine if Prior Approval is required for the proposed
Change of Use from Commercial and Service use (Use Class E) to
Dwellinghouses (Use Class C3) – Converting units 7-10 at Church Farm,
Shaw, Melksham, SN2 8EF from Class E to 2No dwellings under Schedule 2,
Part 3, Class MA of the Town and Country Planning (General Permitted
Development) (England) Order 2015 (as amended)**

As you will be aware the above units were part of my client's recent application to convert the majority of the overall site to provide 6No new dwellings (LPA Reference PL/2025/09841). That was of course refused, and I understand that you have since discussed the issues arising with Mr R Harlow.

The reasons for refusal are inserted below for ease of reference;

1

The application does not meet the requirements of Class MA of Part 3 of Schedule 2 to the GPDO as that permits a change of use of 'a building' and any land within its curtilage, whereas this application proposal relates to 3no. separate buildings, including a part of 1no. of these buildings, which is not proposed to be converted in its entirety. Furthermore, insufficient evidence has been provided to demonstrate that the building(s) the subject of this application all fall lawfully within Use Class E.

2

The site lies in an area shown to be subject to surface water flooding, and within the South Brook catchment area, to which Policy 3 of the Joint Melksham Neighbourhood Plan 2 refers. Coupled with the requirements of the NPPF, the application was not supported by any Flood Risk Assessment and as such would represent a reason for refusal of this Prior Approval application.

3

No information has been submitted regarding site contamination which, given the former industrial use of at least part of the site, which included garage repairs, is considered necessary in the interests of public safety.

In light of the comments made and the reasons for refusal I have pleasure to enclose a new Class MA application for the single building to the rear of the site, comprising

units 7-10. This of course addresses the first reason for refusal to application PL/2025/09841.

For clarity though, the reasoning also appears to suggest that applying the Class MA permitted tolerance to part of a building is not possible. That would of course rule out the change of use of offices over retail premise for instance (which is a common stance position) and denies the evidence of numerous applications nationally, previously limited by the floor area restriction to Class MA only, before that limitation was removed.

More specifically though, I would draw your attention of the definition of 'building' at Article 2 to the above referenced Order, which is inserted below.

"building"—

(a) includes any structure or erection and, except in Class F of Part 2, Classes P and PA of Part 3, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16, Class T of Part 19 and Class ZA of Part 20, of Schedule 2, **includes any part of a building**; and

(b) does not include plant or machinery and, in Schedule 2, except in Class F of Part 2 and Class C of Part 11, does not include any gate, fence, wall or other means of enclosure;(my emphasis).

It is quite clear that the term building, whether singular by application, includes part of that building within the formal and relevant definition. This perhaps moot in this case given the enclosed application clearly refers to a single building.

The second part to the previous reasons for refusal indicates that insufficient evidence was provided to demonstrate that the application buildings lawfully fall within Use Class E, although I can see no indication that such evidence/clarification was requested.

It was of course explained in the supporting correspondence that by reference to the historic single-storey barn located adjacent to the road frontage, and pursuant to application 20/04949/FUL that its extension was restricted in terms of use by condition (No 5) for B1 use only. The delegated report at that time stated that, 'The building is proposed to be B1 use, **which would accord with the use of the adjacent units.**' Class B1 use is now of course captured within the broader Class E use class, but regardless, the officer's assessment in 2020 undoubtedly recognised both the need for a consistency of use and concluded that the use evident was B1 (now Class E). The previous Class MA submission was made on the basis the prevailing use had remained self-evident, and there is no evidence that suggests otherwise.

It is noted that your delegated report refers to your site visit and confirmed, 'that the building(s) are either vacant or is a formerly B1 use (now Class E)'. Based on the continued self-evident nature of the site's use since the 2020 application and similar officer's assessment it is therefore maintained that the use on the balance of probability is clear. However, the potential ambiguity outlined in your report is noted, and therefore for the avoidance of doubt, and so as to demonstrate that the two year

period of use referenced at MA.1 (b) has been satisfied I have expanded on the recognised previous use of the application building as outlined below.

Attached to the statement at Appendix A is a copy of the tenancy agreement for units 7 and 8 which shows the first occupation from May 2019 for [REDACTED] and the heads of terms confirms the sanctioned B1 use. A related copy email dated 29th February 2020 refers to the lease termination. The second lease particulars refer to the occupation of units 7 and 8 thereafter by [REDACTED] trading as Orchardleigh Cosmetics from March 2020. I am advised that she had a second company, OC Medical Southwest, who also paid the rent. The use is described 'Health and Beautician' which although the lease considered this to be a sui generis use I believe that was in error as in the same way your delegated report describes the nearby dog grooming business as a Class E operations it is commonly accepted that hairdressers, beauticians and nail bars for instance also fall within the same use class, being a professional service to visiting members of the public. It is understood that [REDACTED] vacated the premises in September 2022.

In order to reinforce the satisfaction of MA 1 (b) Appendix B includes a set of redacted statements showing the rent payments periodically from 2019 for the above tenancies and thus confirming when payments began and finished. The related chronology for this unit and those attached, and referred to below, are generally referenced by unit number or the name of the lessee within the statements attached at Appendix B.

At Appendix C I have included the lease document for [REDACTED] who took over from [REDACTED] starting from October 2022. The office and dog care business in question was again described at that time as a sui generis use, and I would restate that that was in error, and as agreed in your recent delegated report. That business traded as Charlie Paws and expanded in 2022 having previously rented the adjacent units in March 2020 in the name of [REDACTED] and vacated the premises as a whole in November 2025, since when it has remained vacant

The adjacent unit, comprising what has been labelled as units 9 and 10, was previously first leased as unit 10 to [REDACTED] in October 2019 although he had moved in earlier as shown by the payments received (see Appendix B) from June 2019. He traded as Modish Installations. The office and workshop use permitted is said to fall within Use class B1. [REDACTED] [REDACTED]

[REDACTED] He vacated the premises early in 2021 after his last rent payment was received in September 2020.

By reference to the relevant criteria at Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which permits development for the following, I believe the above comments address the stated concerns regarding item MA 1 (b), showing, on the balance of probability the two year period of use for the application premises, falling within Class E.:

“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 (dwelling houses) of Schedule 1 to that Order.”

It follows therefore that the proposal is permitted under Class MA subject to the submission of an application to the Local Planning Authority to determine whether prior approval is required in relation to the following matters:

- (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 dwelling houses;

In this regard the previous application was resisted, as shown by the reasons for refusal inserted earlier, in respect of possible concerns about land contamination and flooding risks. It of course follows therefore as Article 35 to The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires all reasons for refusal to be complete and precise there is no conflict on any other matters.

Accordingly, for the avoidance of doubt I therefore have pleasure to enclose with this new application a Flood Risk Assessment and Phase II A Contaminated Land Investigation.

As you will see the attached reports demonstrate that the application building is not affected by any identified flood risks. In conclusion it is said to be development which would be appropriately safe for its lifetime taking account of the flood risk vulnerability of the site and its users and the development would not increase flood risk elsewhere.

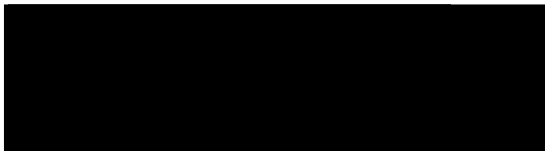
With regard to the potential for contamination the survey carried out indicates the presence of a pollution linkage comprising two separate hotspots in areas where soft landscaping is planned. Remediation should therefore involve the removal of shallow soils to a minimum depth of 600mm in areas where the two hotspots are present and replaced with clean materials. This will typically comprise a mixture of subsoil and topsoil and both should be suitable for the intended use. It is also recommended that the base of this is compacted with a hard dig layer and geotextile put in place. The sides should also employ a geotextile membrane to prevent the mixing of clean materials with potential contaminated soils. The remediation can be conditionally controlled and is indicated that it should be carried out post

construction as if carried out earlier there is the likelihood of clean materials becoming contaminated due to movement of materials on site and they will also potentially become compacted making them unsuitable for use. It is of course common practice to condition too that in the unlikely event of further contamination being revealed during works then a remediation methodology should be conditionally approved. There is no suggestion that the environment is unsuitable for the new residential use proposed.

The contamination report highlights there is no risk to use of the building as residential use, and that the Class MA application of course focuses on the change and use of the "building" rather than the site. The remediation of the curtilage as a matter of conditional control forces the conclusion in the round there is no basis to undermine the exercise of those rights.

I trust the enclosed submission is sufficient for this application to be validated and determined positively, and without delay having addressed the relevant points previously raised. Should you have any questions though please do not hesitate to contact me.

Yours sincerely



Simon Chambers
Director

Enc.

Cc Mr and Mrs Hillier