

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 5 and 6 (and part of unit
4) 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 building forming a T shaped footprint at the

southern end of the main site grouping, comprising units 5 and 6 (and part of unit 4).

For clarity with regard to the first reason for refusal, the reasoning appears to suggest that applying the Class MA permitted tolerances 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 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. The T shaped built footprint herein applicable is therefore an acceptable building within the definition above as applied to Class MA.

The second 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 clearly 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 units 5 and 6 as below.

Attached to the statement at Appendix A is an email exchange from July 2019 regarding signage and which helpfully refers to the occupiers of Unit 5 as Attain Interiors Ltd. The next item attached is a letter from West Property Consultants to [REDACTED], whose earlier email confirmed the name of the operating company. West Property Consultant's letter though notes the lease was entered into in the name of Oakhill Engineering and Surveying Ltd and in 2020 they wished to surrender that lease. The subsequent documents attached confirm the release and notes the original heads of terms stated the use was 'B1-Buisness'..

Appendix B shows the next lease for unit 5 [REDACTED] (who traded as Richard Darcy Ltd). The lease's stated use was for Class B1 purposes. It is understood that this lease finished in October 2022.

Appendix C contains the lease for Poolman Plumbing and Ultra Warm dated December 2022. Theses tenants are understood to still be in occupation. The premises as you have seen on site are in use as offices, thus falling within Use class E.

In order to reinforce the satisfaction of MA 1 (b) Appendix D includes a periodic set of redacted statements showing the rent payments from the end of 2019 to 2021 for Attain Interiors, then from September 2021 till October 2022 for Richard Darcy Ltd and from December 2022 for the current tenants. The related chronology for unit 6 is also highlighted within the attached statements. Furthermore, although unit 4 is only being contracted as a consequence of the enclosed application it is also evident from the statements that rent was specifically attributed to unit 4 in the name of Burry B A in April 2019 and onwards. I understand that this relates to the use by Felicity Ceramics Pottery. This part of the building is part of the original structure on site and the use is unchanged.

With regard to Unit 6 Appendix E includes the lease for [REDACTED] from October 2019 who [REDACTED] traded as Countryside Pursuits. He [REDACTED] vacated the premises in June 2022. Thereafter Radcliffe Fire Protection can be seen to have signed a new lease in July 2022 and are still in occupation. Both tenancies specify the permitted and acceptable use for Class MA and the occupation is confirmed by the proof of payments referred to earlier.

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 the two year usage of the application premises 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 also resisted 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 firstly that the application building is affected by the risk of flooding from surface water. However, the mapping limitations are explained and moreover Unit 5-6 has a FFL of 42.5mAOD which is higher than that of the predicted flood depths and extents. The part of unit 4 in question would have a depth of water adjacent to the building should depths exceed 0.2m depth, but lower than the finished floor levels. Consequently, the risk of flooding from surface water is determined to be medium to low risk within the site. With out prejudice flood resilience measures are outlined and can of course be conditionally controlled. The overall conclusions drawn from the report is that the development 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 without delay. Should you have any questions though please do not hesitate to contact me.

Yours sincerely



Director

Enc.

cc Mr and Mrs Hillier