

APPLICATION FOR PRIOR NOTIFICATION – PART 3

CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/01061
APPLICATION TYPE:	Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses
SITE ADDRESS:	Avonside Enterprise Park, New Broughton Road, Melksham, SN12 8AD
DEVELOPMENT DESCRIPTION:	Application for prior approval under Class MA for the proposed change of use from Class E (commercial) to Class C3 (residential) to provide 17 units
RECOMMENDATION:	That Prior Approval is required and GRANTED

SITE DESCRIPTION/CONTEXT

The application site comprises the Avonside Enterprise Park which is a collection of buildings located on the northern bank of the River Avon. The “Avonside Chimney and distinctive roof-line” are Locally Valued Non-designated Heritage Assets based on the Melksham Joint Neighbourhood Plan 2. The site has a historic utilitarian character provided by the industrial buildings, modern non-descript additions including a single storey structure to the west of the site and the intervening spaces dominated by hard standing.

The site is designated as a Principal Employment Area but is located outside of the identified Town Centre.

The local context is characterised by a range of building styles, the River Avon and the dominating road network from the A350 leading to the bridge over the River Avon and back again. Historic buildings include residential properties fronting the streets, but there are notable commercial provisions including car sales, supermarket, pubs, the redundant Avon Tires site and then Avonside Enterprise Park. Immediately adjacent to the site is the Grade II listed “Bridge Over River Avon” and to the north-east the Grade II listed “Gate Piers, Gates and Railings to the front of Avon House”.

PROPOSAL

This is a prior approval application related to the change of use of Class E space on the upper floors of Block C and Block D at the Avonside Enterprise Park. The application proposes the creation of 17 units in total through this process. It is proposed to change the use of 1st, 2nd and 3rd floors of Block C to create 15 apartments and 2nd floor of Block D to create 2 apartments (1st floor of Block D to create 4 more apartments is subject to a full planning application).

Proposed accommodation schedule:

1-bedroom / 2-person (50m² – 53.2m²) x15 (inc. 2x M4(3) unit @ 61.5m²)
 2-bedroom / 3-person (60.3m²) x1
 2-bedroom / 4-person (78.4m²) x1

The application has been submitted concurrently with other applications to include prior notification for demolition, full planning permission for the change of use of Sui Generis space to create 4 apartments; full planning permission for associated operational development including demolition,

making good and landscaping; and an advertisement consent application for a range of advertisements throughout the site.

RELEVANT LEGISLATION, POLICY AND GUIDANCE

This application is assessed under Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which grants planning permission for certain types of development described in Schedule 2 of the Order. The grant of permission is subject to the limitations, conditions, and provisions set out within the relevant Classes of permitted development.

Under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), certain changes of use and associated operations may be permitted subject to prior approval from the Local Planning Authority.

RELEVANT PLANNING HISTORY

Proposal / Summary
W/84/00551/FUL - Full planning permission Decision - Approve with Conditions Date: 5/6/1984 – Change of use to offices units 8, 9, 10 and 11
W/92/00168/FUL - Full planning permission Decision - Approve with Conditions Date: 14/4/1992 – Use as B1 Units
W/90/00984/FUL - Full planning permission Decision - Approve with Conditions Date: 25/9/1990 – Change of use to light industrial units Class B business
W/92/00169/FUL - Full planning permission Decision - Approve with Conditions Date: 14/4/1992 – Use as B8 Units
W/90/00985/FUL - Full planning permission Decision - Approve with Conditions Date: 25/9/1990 – Provision of warehousing/storage facilities as defined under class B8
W/84/00548/FUL - Full planning permission Decision - Approve with Conditions Date: 5/6/1984 – Change of use to light industrial (ground and first floor only) units 1, 3 and 8-15
W/84/00549/FUL - Full planning permission Decision - Approve with Conditions Date: 5/6/1984 – Change of use to warehousing (ground, first, second and third floors) units 1 and 3
W/84/01303/FUL - Full planning permission Decision - Approved Date: 20/11/1984 – Change of use to light industrial (remainder of Unit 1 ground and first floor only)
W/84/01304/FUL - Full planning permission Decision - Approved Date: 20/11/1984 – Change of use to warehousing remainder of unit 1 ground and first floors only
W/90/00986/FUL - Full planning permission Decision - Withdrawn Date: 12/9/1990 – Change of use to offices class A2 financial and professional services
W/84/00550/FUL - Full planning permission Decision - Approve with Conditions Date: 5/6/1984 – Change of use to general industrial units 12-15

W/84/00928/FUL - Full planning permission Decision - Approved Date: 28/8/1984 – Change of use to light industrial
W/11/01835/FUL - Full planning permission Decision - Approve with Conditions Date: 31/8/2011 – Change of use to carry out motorcycle MOT's and repairs
14/09336/FUL - Full planning permission Decision - Approve with Conditions Date: 19/1/2015 – Retrospective application for the change of use of Units F6 and F7 from pole dancing studio (D2 use) to facilitate an extension of the existing permitted use of unit F8 as Angels Swingers Club (Sui Generis Use). This application also proposes an increase
15/08670/FUL - Full planning permission Decision - Approve with Conditions Date: 29/10/2015 – Change of use from Lighting Store to Dance Studios
18/07750/FUL - Full planning permission Decision - Approve with Conditions Date: 9/10/2018 – Proposed Conversion of Shop into Laundrette
PL/2024/03366 - Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses Decision - Prior Approval Not Required Date: 3/10/2024 – Prior Approval, Part 3, Class MA: Change of use of first floor office space to one self contained flat (No external changes to building)
W/00/01111/FUL - Full planning permission Decision - Approved Date: 7/8/2000 – Change of use from store room to Martial Arts centre
W/01/01979/FUL - Full planning permission Decision - Approve with Conditions Date: 7/1/2002 – On site canteen facility
W/04/01780/FUL - Full planning permission Decision - Approve with Conditions Date: 10/11/2004 – Change of use from B1 to A1 (Ground floor only)
W/07/03639/FUL - Full planning permission Decision - Approve with Conditions Date: 11/1/2008 – Change of use to gym/fitness centre
W/08/02280/FUL - Full planning permission Decision - Approve with Conditions Date: 2/9/2008 – Retrospective change of use of building to class D2 (leisure and assembly)
W/10/03524/FUL - Full planning permission Decision - Approve with Conditions Date: 30/12/2010 – Retrospective application for the change of use of Retail premises (A1 use) to a Gym(D2 use)
W/11/03275/FUL - Full planning permission Decision - Approve with Conditions Date: 7/3/2012 – Change of use to private members club
W/75/00443/HIS - Historic apps 1974 to 1983 Decision - Approve with Conditions Date: 23/6/1975 – Change of use - Dwelling to Offices
W/84/00747/FUL - Full planning permission Decision - Approved Date: 17/7/1984 – Change of use to health club
W/84/00979/FUL - Full planning permission Decision - Approved Date: 28/8/1984 – Change of use from office to residential (reversion to original use)
W/84/01169/FUL - Full planning permission Decision - Approve with Conditions Date: 23/10/1984 – Change of use to light industrial

W/85/00852/FUL - Full planning permission Decision - Approve with Conditions Date: 17/9/1985 – Change of use to light industrial of building fronting New Broughton Road
W/85/00853/FUL - Full planning permission Decision - Approve with Conditions Date: 17/9/1985 – Change of use to warehousing of building fronting New Broughton Road
W/85/00854/FUL - Full planning permission Decision - Approve with Conditions Date: 17/9/1985 – Change of use to offices (first floor only) of building fronting New Broughton Road
W/85/00954/FUL - Full planning permission Decision - Approve with Conditions Date: 17/9/1985 – Change of use from light industrial to leisure snooker club for private members
W/86/00628/FUL - Full planning permission Decision - Approved Date: 24/6/1986 – Change of use second floor of main building to office suite and ancillary flat and opening up blocked windows
W/86/01476/FUL - Full planning permission Decision - Approve with Conditions Date: 13/1/1987 – Change of use of ground floor from light industrial workshop to leisure and snooker hall
W/97/00969/OUT - Outline Planning Decision - Refused Date: 11/9/1997 – Rental flats development
W/97/01286/OUT - Outline Planning Decision - Approve with Conditions Date: 13/11/1997 – Rental flats development
W/99/00450/FUL - Full planning permission Decision - Refused Date: 21/7/1999 – Change of use of snooker room on first floor and whole of ground floor to licenced nightclub
W/99/01876/FUL - Full planning permission Decision - Approve with Conditions Date: 10/2/2000 – Convert single dwelling to two dwellings and extend to form four 1 bedroom flats
PL/2026/01033 - Site-wide installation of various signage for wayfinding and commercial purposes - Pending
PL/2026/01034 - CoU of units on the first floor of Block D from Use Class Sui Generis to Use Class C3 (4 dwellings) - Pending
PL/2026/01035 - External alterations, part demolition and landscaping - Pending
PL/2026/010326 - Demolition of Block G and an existing free-standing building known as Scouts Hut / Scotts Gym at Avonside Enterprise Park, Melksham – Prior Approval Not Required.

CONSULTATIONS

Wiltshire Council Ecology Officer: Comment – The ecology team do not comment on permitted development applications.

Wiltshire Council Highways Officer: No objection subject to condition to secure proposed details of access, turning and parking.

Wiltshire Council Public Protection Officer: No comments received.

Environment Agency: No objection but would like the local planning authority to consider safe access and egress in any flood event and appropriate consultation with emergency planners and services is carried out.

Melksham Town Council: No objection.

“Melksham Town Council has considered the applications en-bloc. On the understanding that existing businesses would not be affected and would continue to trade, Melksham Town Council feel the proposals would be of benefit to the development of the area.”

“Additionally to previous comments these applications aligns with the Melksham Town Centre Masterplan which includes

- *Section 3.3 – “Walkable Neighbourhoods”*
- *Section 5 - “To make the town of Melksham and the parish of Melksham Without great places to live, to work, to play and to visit*
- *Section 5.1 - “A connected town centre and healthy, active community”*
- *Section 5.2 - “A vibrant and diverse town centre.”*

Melksham Without Parish Council: Comment.

“Melksham Without Parish Council request that regard is taken of Priority Statement 4 (Progressing Town Centre Master Plan Area Regeneration) in the Melksham Neighbourhood Plan 2 and the Melksham Town Centre Master Plan Report as they include the Avonside Enterprise Park.”

Public Consultation: No comments received.

ASSESSMENT

This application seeks prior approval under Class MA, which allows for 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.

Does the Proposal Qualify as Permitted Development?

Development under Class MA is subject to a number of conditions and limitations. Development is not permitted by this class if any of the specified restrictions apply. These are set out at Appendix 1. Subject to compliance with these criteria and any limitations or conditions specified within the Order, the proposed development may be considered permitted development.

Having completed the detailed checklist at Appendix 1, it is concluded that the proposed development qualifies as permitted development under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and the assessment may now proceed to consider whether prior approval is required by the LPA.

Is Prior Approval Required?

Where a proposal complies with all the provisions limitations set out under Class MA of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the developer must apply to the Local Planning Authority (LPA) for a determination as to whether prior approval is required for the specified impacts and, if so, whether it should be granted.

In respect of this proposal, the following considerations must be assessed as part of the prior approval process as set out by MA.2.(2):

Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) transport impacts of the development, particularly to ensure safe site access;
- (b) contamination risks in relation to the building;
- (c) flooding risks in relation to the building;
- (d) impacts of noise from commercial premises on the intended occupiers of the development;
- (e) where—
 - (i) the building is located in a conservation area, and
 - (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; 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 2006, the impact on the local provision of the type of services lost; and
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

In addition Paragraph W sets out a number of requirements for both the developer (in terms of the application submission) and the LPA (relating to consultations and advertisement of the application). Para. W(10) states that:

The local planning authority must, when determining an application—

- (a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);
- (b) have regard to the National Planning Policy Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and
- (c) in relation to the contamination risks on the site—
 - (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990, and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012, and
 - (ii) if they determine that the site will be contaminated land, refuse to give prior approval.

Para. W(13) allows LPAs to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

Transport and highways impacts of the development

Policy Context

Paragraph 115 of the National Planning Policy Framework (NPPF) emphasises the importance of promoting sustainable transport modes, ensuring safe and suitable access for all users, and designing development in accordance with national guidance. It also requires that any significant impacts on the transport network—whether in terms of capacity, congestion, or highway safety—can be mitigated in a cost-effective manner.

Paragraph 116 of the NPPF further clarifies that development should only be refused on highways grounds where there would be an unacceptable impact on highway safety, or where the residual cumulative impacts on the road network, following mitigation, would be severe.

Assessment

The proposals seek the change of use of limited areas of the upper floors in Block C and Block D to create 17 residential units, consisting of 15 one bedroom and two 2 bedroom units. Highway officers advise that the wider site has allocated a total of 25 car parking spaces for residential use and in the context of this submission, this is sufficient to meet Wiltshire's Car Parking Standards, including when taking account for the proposed four units under application PL/2026/1034.

It must also be considered that this is a brownfield site with well-established access, parking, and turning. Whilst there are parallel proposals to amend this (which are subject to separate assessment) even if those did not occur there is no reason to consider that the change of use would result in a highway safety issue and certainly not a severe impact. There is a fallback position where the floorspace is used for commercial purposes and generates a level of transport that might be comparable to the proposed conditions. Additionally, it is also noted that this is a highly accessible site with convenient walking and cycling options, bus stops immediately outside the site and a train station within a relatively short walk.

Therefore, given the extant and historical use of the site; the technical expert highway advice being that there are no concerns in terms of highway safety or highway capacity impacts from the proposed development then this is not a matter of significant concern. Highway officers raise no objection subject to condition to require the wider changes to access and parking to be provided prior to occupation. However, whilst it is most likely that those changes would occur, even if they did not, there remain ample facilities for access, parking and turning anyway. As such, conditions are not considered necessary.

Conclusion

Prior approval in relation to traffic matters is not required.

Contamination risks

Policy Context

Paragraph 196 of the National Planning Policy Framework (NPPF) sets out the expectations for planning decisions in relation to land quality and safety. It states that:

- a) Sites must be suitable for their proposed use, taking into account ground conditions and any risks arising from land instability or contamination. This includes risks from natural hazards or former activities such as mining, and any proposed mitigation measures, including land remediation and its potential environmental impacts.
- b) Following any necessary remediation, land should not be capable of being determined as contaminated under Part IIA of the Environmental Protection Act 1990.
- c) Adequate site investigation information, prepared by a competent person, must be available to inform the assessment of these risks.

In the context of this proposal, the Local Planning Authority must be satisfied that the site is not subject to contamination or instability that would render it unsuitable for the proposed use, and that any necessary investigations or mitigation measures have been appropriately considered.

Assessment

No comments have been received from public protection officers and from the planning history it is clear that a wide range of activities have been accommodated at the wider site since the late twentieth century and the decline of the site as a dairy processing facility. The Environment Agency have raised no objections and they have coverage of pollution matters including contaminated land.

The application has been submitted with a desk-based contaminated risk assessment by tec. This sets out that *“should any new structures, areas of soft landscaping/gardens and/or significant ground works be proposed as part of the development works, additional assessment would be required to fully investigate the potential Significant Pollutant Linkages identified in order to fully define the geoenvironmental issues associated with the site in relation to the proposed development.”*

This proposal is for prior approval associated with change of use only and it impacts the upper floors of the development. No operational development can be agreed within the scope of this specific application. In light of this and based on the recommendations within the applicant's submission it is not considered necessary to seek further information within the limited scope of this application.

Conclusion

Prior approval in relation to contamination matters is not required.

Flooding risks

Policy Context

The NPPF makes clear that inappropriate development in areas at risk of flooding should be avoided by steering development towards areas with the lowest risk, whether that risk is current or future. Where development is necessary in areas at risk, it must be demonstrated that the development can be made safe for its lifetime without increasing flood risk elsewhere.

Assessment

The proposed development relates only to the change of use of upper floors of a site that is known to have elevated flood risks being adjacent to the River Avon. The application has been submitted with a site-specific flood risk assessment which identifies the risks.

Given that the proposals relate to the upper floors of the site, even though this would introduce a more vulnerable use, the proposals do not pose any significant concerns given it's a brownfield site. The development would be safe for its lifetime without increasing flood risk elsewhere.

Safe access and egress in the event of a flood event has been considered noting that it is a matter that is raised by the Environment Agency. The applicant has stated that appropriate mitigation and design measures will be incorporated to manage residual risk. In the circumstances this might most appropriately include future residents signing up to flood warnings from the Environment Agency. This can be secured through a condition to require a Flood Warning and Evacuation Plan. On balance, given this is a prior notification impacting upper floors only this is considered reasonable in the circumstances of this particular application.

Conclusion

Prior approval in relation to flood matters is required and is granted subject to the recommended condition(s):

Noise impacts

Policy Context

Paragraph 187(e) of the National Planning Policy Framework (NPPF) requires that planning decisions contribute to and enhance the natural and local environment by ensuring that new and existing development does not contribute to, or is not exposed to, unacceptable levels of noise pollution. This includes preventing development from being put at risk or adversely affected by such impacts.

Further to this, Paragraph 198(a) advises that new development should be appropriate for its location, taking into account the likely effects, including cumulative impacts, of pollution on health, living conditions, and the natural environment. It emphasises the need to mitigate potential adverse impacts arising from noise and to avoid noise that could result in significant harm to health or quality of life.

In the context of this proposal, the key consideration is whether the development would result in, or be exposed to, unacceptable levels of noise, and whether any such impacts can be appropriately mitigated to ensure a suitable living environment.

Assessment

No comments have been received from public protection officers and from the planning history it is clear that a wide range of activities have been accommodated at the wider site since the late twentieth century and the decline of the site as a dairy processing facility.

The application has been submitted with a Noise Report by ion acoustics which considers the impacts to the proposed residential development from the existing commercial activity and from the road noise on the A3102.

In terms of noise from the commercial units the report sets out that there is potential conflict between the unrestricted operation of commercial activity at the site such as gyms and music studios. However, "in most cases, measured noise levels from the commercial units were not particularly high and would be compatible with residential uses above". Nonetheless, the applicant's own consultants have advised them that sound insulation of the first floor over and

above building regulations would be recommended, and design work is also required in relation to any commercial units with music and gyms. These measures are not detailed within the application. However, it is considered that they may be controlled through a noise management plan that can be conditioned.

Turning to potential issues of noise from the proximity of the road fronting the site it is acknowledged that the proposals are located in a mixed area on the fringes of the town centre. Immediately to the west of the site there are residential properties in similar proximity to the road as some of the units proposed in this application. Therefore, in principle there is no concern. However, the applicant's own consultants make recommendations for action in respect of fenestration and mechanical ventilation details. Mechanical ventilation could be provided through mechanical ventilation heat recovery, which would also address matters of overheating. They have located bedrooms away from noisier elevations where possible and indicate the use of openable windows to the rear only. 2 bedrooms remain at the frontage though and as such the proposal sets out the use of mechanical ventilation here. Alternative options are also explained in the report generating a degree of ambiguity on how noise from the road will be addressed. In light of the conclusions above it is considered that a conditional approach that allows for flexibility on the final details is appropriate here.

Conclusion

Prior approval in relation to noise matters is required and is granted subject to the recommended condition(s).

Conservation Area

Policy Context

NPPF sets out at chapter 16 how to address matters around conserving and enhancing the historic environment as a response to the statutory duties under Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 around preserving and enhancing the character and appearance of conservation areas and the settings and the settings of listed buildings.

Assessment

This is an application for change of use only whilst also noting the parallel applications for operational development around the site including demolition, making good surfaces and very minor development including associated hard and soft landscaping at the site. The site is located some distance from the conservation area which is on the south side of the river and there is a Sainsburys store and car park in the intervening space.

Conclusion

Prior approval in relation to conservation area impact is not required.

Natural Light

Policy Context

The NPPF does not set numerical standards or methodologies for daylight or sunlight. It is intentionally high-level policy and leaves detailed assessment methods to other guidance (e.g. BRE guidance) and local plan policies. Local plan policies are not material on matters of prior notification.

Paragraph 130 sets out the need to make an efficient use of land balanced with design considerations. When considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

Assessment

The proposed development is considered to represent an efficient use of brownfield land and it has to be acknowledged that this is a form of development that the government generally seeks to expediate given its allowances for permitted development subject to a 'light touch' prior notification process.

The application has been submitted with an Internal Daylight and Sunlight report by DPR which is based on operational development occurring in order to facilitate the change of use. The operational development includes a notable level of demolition (which has approval but has yet to be carried out) and also some modifications to the location of fenestration. It is also noted that the document relates to other development beyond the scope of this proposal including the change of use of sui generis floor space to create 4 more flats.

Nonetheless, the report sets out that in housing, the main requirement for sunlight is in living rooms, where it is valued at any time of day but especially in the afternoon. It is viewed as less important in bedrooms and in kitchens. This is considered to be a reasonable approach and the report is afforded some weight in assessing whether the provision of adequate natural light in all habitable rooms of the dwellinghouses is being achieved.

It is noted that 100% of the proposal would have suitable access to natural daylight. Noting this, whilst a number of rooms would have deficiency in relation to natural sunlight this is not a significant concern and should be balanced against the fact that this is a change of use of an existing built form, would represent a suitable density in this location and the tests applied are guidance and not a requirement. Furthermore, the less positive results principally impact bedrooms.

Subject to the other works including demolition occurring it is considered that the proposals would be acceptable in design and light terms. A condition is considered reasonable and necessary though to ensure that the operational development is delivered prior to first occupation of any of the residential units.

Conclusion

Prior approval in relation to design matters is required and is granted subject to the recommended condition(s).

Neighbouring Uses

Policy Context

Paragraph 187(e) of the National Planning Policy Framework (NPPF) requires that planning decisions contribute to and enhance the natural and local environment by ensuring that new and existing development does not contribute to, or is not exposed to, unacceptable levels of noise pollution. This includes preventing development from being put at risk or adversely affected by such impacts.

Further to this, Paragraph 198(a) advises that new development should be appropriate for its location, taking into account the likely effects, including cumulative impacts, of pollution on health, living conditions, and the natural environment. It emphasises the need to mitigate potential adverse impacts arising from noise and to avoid noise that could result in significant harm to health or quality of life.

In the context of this proposal, the key consideration is whether the development would impact on intended occupiers of the development through 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.

Assessment

Neighbouring uses within the wider site are of a commercial nature. Beyond this the area has a wide variety of uses including residential.

The application site is allocated as a principal employment area and planning policies are designed to try to ensure that the loss of employment uses in these locations is strictly controlled. However, change of use to dwellings is permitted development (albeit subject to 'light touch' prior approval processes) and that undermines these policies. This is regrettable and is important context.

It is clear from the planning history and a site inspection that a variety of uses have taken place at the site in the past 4 or more decades since the site was well used as a dairy processing activity. Indeed, there is now an under occupation of the site. Uses on site now include a variety of activities but none that might be considered waste management, intensive B8 storage and distribution or heavy industry. Moreover, the application has been submitted with a noise impact assessment that has indicated that the change of use to include residential uses at the site could be accommodated without detrimental impact to future occupiers subject to some building works to attenuate. As set out above this can be addressed through condition.

Subject to the detailed attenuation being secured it is considered vice-versa that existing commercial uses can continue to operate at the site without fear that they will have a harmful impact on future residents. In any event the site is not necessarily important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; rather it is important for offering other employment opportunities more akin to what is currently a mixed-use area on the fringes of the town centre.

Conclusion

Prior approval in relation to compatibility with commercial uses is required and is granted subject to the previously recommended condition regarding securing noise mitigation.

Loss of registered nursery or health services

The development would not involve the loss of services provided by—

- (i) a registered nursery, or
 - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006,
- the impact on the local provision of the type of services lost.

Conclusion

Prior approval in relation to Loss of registered nursery or health services is not required.

Fire Risk

The development does not meet the fire risk condition and as such there is no requirement to assess the fire safety impacts on the intended occupants of the building.

Conclusion

Prior approval in relation to fire risk is not required.

CONCLUSION

The proposed development is considered to meet the requirement of permitted development regulations to be a form of development that is approved subject to assessment of prior approval matters. These matters have been considered and addressed above and in a number of regards it is considered that sufficient detail is provided and that the terms of the regulations will secure the development in accordance with the details provided.

However, in a number of ways there is some concern that further clarification or additional information is necessary and as such it is concluded that prior approval is required. But, the concerns are limited and there is enough information available to feel confident that any residual issues can be reasonably and appropriately addressed through conditions.

RECOMMENDATION:

The proposed development has been assessed against the provisions, limitations, and conditions set out in Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Based on the submitted plans, supporting information, and the findings of this report, it is concluded that the proposal complies with the criteria for permitted development, and therefore falls within the scope of Class MA.

Following assessment, it is determined that prior approval is not required in relation to the transport and highways; contamination; conservation area; loss of registered nursery or health services; and fire risk impacts of the development but that prior approval is required in relation to the flood risks; noise; natural light; and neighbouring use impacts.

Having considered the relevant matters that require prior approval, it is further concluded that: Prior approval is granted, subject to the development being carried out in accordance with the submitted details and any conditions set out in this report.

Conditions:

1.

Flood Warning and Evacuation Plan:

Prior to first occupation of the development a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the local planning authority. The development shall subsequently be implemented in accordance with the approved details.

REASON: In the interests of managing flood risks.

2.

Noise Management Plan:

No development shall commence until a Noise Management Plan has been submitted to and approved in writing addressing the matters raised within the Noise Report for Planning (Acoustic

Report A2327 R01 dated November 2025). This shall address matters of noise from commercial units and road noise. The development shall be implemented in accordance with the approved details.

REASON: In the interests of providing suitable living conditions within the development.

3.

Grampian Condition to require implementation of other operational development:

Prior to the first occupation of the development the operational development (including demolition) required to bring the proposed units into alignment with the conditions evaluated in the Internal Daylight & Sunlight Report dated 4 June 2025 by dpr and the Addendum Internal Daylight and Sunlight Report dated 23 April 2026 by dpr shall have been carried out. This shall include demolition, making good of surfaces, and installation of fenestration.

REASON: In the interests of providing suitable living conditions within the development.

BATS INFORMATIVE:

There is a low risk that bats may occur at the development site. Many species of bat depend on buildings for roosting, with each having its own preferred type of roost. Most species roost in crevices such as under ridge tiles, behind roofing felt or in cavity walls and are therefore not often seen in the roof space. Bat roosts are protected all times by the Conservation of Habitats and Species 2017 (as amended) even when bats are temporarily absent because, being creatures of habit, they usually return to the same roost site every year. Planning permission for development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a bat licence if an offence is likely. If bats or evidence of bats is found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or the applicant is advised to follow the advice of a professional ecologist or to contact Natural England's Batline through the internet.

APPENDIX 1 – PERMITTED DEVELOPMENT CHECKLIST CLASS MA

Class MA – commercial, business and service uses to dwellinghouses

		Yes / No
MA.	Permitted Development Note: <i>If the answer is "Yes" to any, proceed to assessment under MA.1. If the answer is "No" to all, the proposal does not qualify as permitted development under this class.</i>	
(a)	Does the proposed development involve a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses)?	Yes
MA.1	Development is not permitted by Class MA if - Note: <i>If the answer to any of the questions below is "Yes", the proposed development would not constitute permitted development under this class</i>	
(b)	Has the building been in use for less than 2 continuous years as one of the specified use classes before the prior approval application?	No
(d)(i)	Is the land or curtilage part of a Site of Special Scientific Interest (SSSI)?	No
(d)(ii)	Is the building or land part of a listed building or its curtilage?	No
(d)(iii)	Is the building or land part of a scheduled monument or its curtilage?	No
(d)(iv)	Is the building or land within a safety hazard area?	No
(d)(v)	Is the building or land within a military explosives storage area?	No
(e)	Is the building located within any of the following designated areas? (i) Area of Outstanding Natural Beauty (AONB) (ii) Area specified under section 41(3) of the Wildlife and Countryside Act 1981 (iii) The Broads (iv) A National Park (v) A World Heritage Site	No
(f)	Is the site occupied under an agricultural tenancy without the express consent of both the landlord and the tenant?	No
(g)	Was the application made before 1 August 2022 for development that would have fallen under Class O before 1 August 2021, and was restricted by an Article 4 direction still in force?	No