

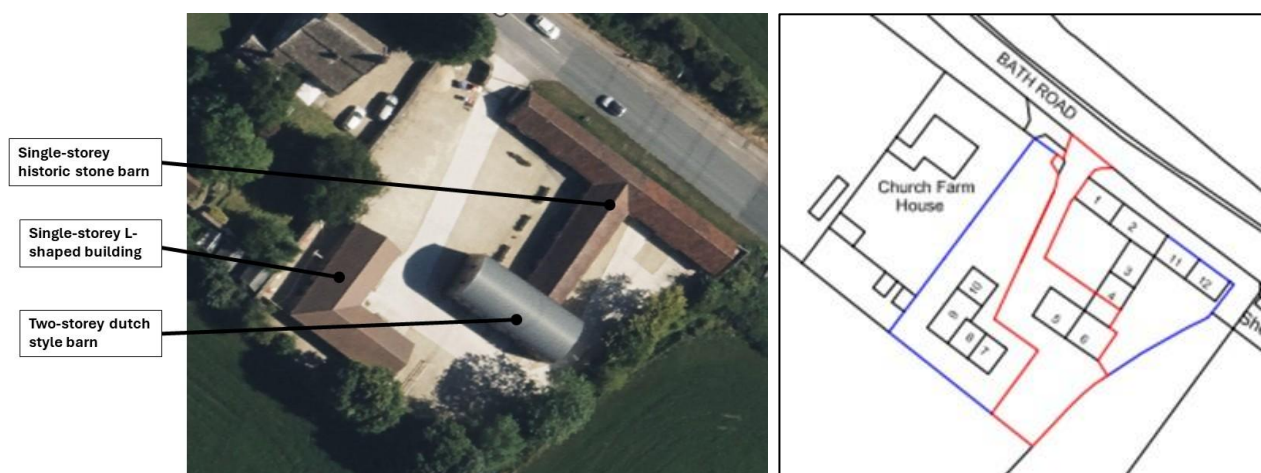
APPLICATION FOR PRIOR NOTIFICATION – PART 3 CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/02520
APPLICATION TYPE:	Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses
SITE ADDRESS:	Unit 5 & 6 Church Farm, Bath Road Shaw, Melksham, SN12 8EF
DEVELOPMENT DESCRIPTION:	Proposed change of use to create 2 No dwellings
RECOMMENDATION:	That Prior Approval is required and REFUSED

SITE DESCRIPTION/CONTEXT

The site forms part of small collection of commercial buildings located to the immediate western side of the classified A365 'Bath Road' some 170m south of the edge of the settlement of Shaw. Together with Whitley, which is set to the north of Shaw, these settlements form a 'Large Village' within the Melksham Community Area.

The wider site includes the following buildings:



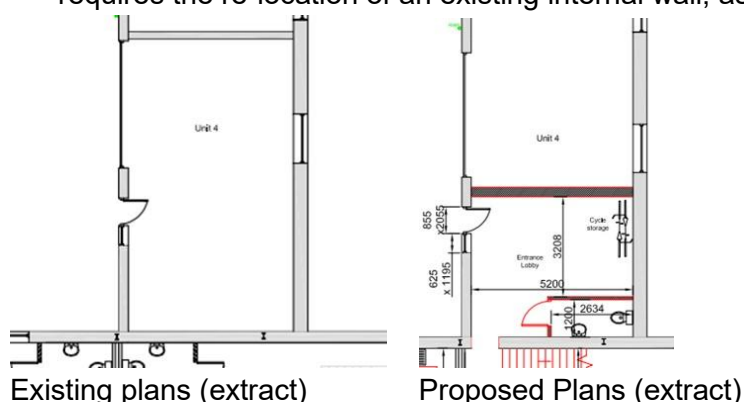
This application relates to the two-storey Dutch style barn and the ground floor element of the adjacent single-storey stone barn, as shown on the adjacent extract from the Site Location Plan. This application has been submitted alongside a separate application, currently being determined under PL/2026/02519, for the conversion of the single-storey L-shaped building.

The wider site is bound to the north-east by the highway, from where access is taken to the site; to the north-west by the residential dwelling of Church Farm House – which is listed at Grade II; and to the south-east and south-west by generally open agricultural land.

PROPOSAL

The proposal involves the change of use of the buildings referenced as 'Units 5 and 6' into residential use, to form 2no. residential units. These units will be formed as follows:

- Unit 5 into 1no. 4-bed dwelling, set over 2 floors;
- Unit 6 into 1no. 4-bed dwelling, set over 2 floors and with an entrance lobby at ground floor level formed through a part of Unit 4. Based on the submitted plans, this created entrance lobby requires the re-location of an existing internal wall, as follows:



For clarity, the historic single-storey barn located adjacent to the highway to the north of this specific application site, does not form part of this application 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
PL/2026/02519 - Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses – Proposed Change of Use to Create 2no. Dwellings – Awaiting determination
PL/2025/09841 - Prior Approval Part 3, Class MA: Commercial, business and service uses to dwellinghouses Decision - Prior Approval Refused Date: 28/1/2026 – Proposed Change of Use to Create 6 Dwellings
20/04949/FUL - Full planning permission Decision - Approve with Conditions Date: 5/8/2020 – Erection of extension to commercial premises
W/13/00253/FUL - Full planning permission Decision - Approve with Conditions Date: 5/4/2013 – Application to replace extant planning permission reference W/10/02320/FUL (Replacement garage workshop and associated works) in order to extend time limit for implementation
W/10/02320/FUL - Full planning permission Decision - Approve with Conditions Date: 15/9/2010 – Replacement garage workshop and associated works

W/10/02298/FUL - Full planning permission Decision - Date: – Replacement garage workshop and associated works
W/08/00145/USE_L - car breaking/repairs - Church Farm Motors, Bath Road, Shaw, Wiltshire, SN12 8EF –
W/07/01004/EUD - Lawful development: Existing use Decision - Refused Date: 25/7/2007 – Certificate of lawfulness for existing use as servicing, repairs and sales of vehicles including land rovers
W/05/02331/EUD - Lawful development: Existing use Decision - Refused Date: 25/5/2006 – Repair of motor vehicles and ancillary sales
W/97/00395/FUL - Full planning permission Decision - Approve with Conditions Date: 19/6/1997 – Convert existing building and rebuild adjoining building to form four industrial units
W/91/00827/FUL - Full planning permission Decision - Approve with Conditions Date: 7/1/1992 – Change of Condition No 2 on W88/00207
W/88/00207/FUL - Full planning permission Decision - Refused Date: 24/5/1988 – Use of land to repair vehicles (renewal)
W/88/00206/OUT - Outline Planning Decision - Refused Date: 24/5/1988 – Erection of buildings for business use B1 and ancillary parking, landscaping etc
W/85/00928/FUL - Full planning permission Decision - Withdrawn Date: 1/11/1985 – Change of use of existing buildings to residential use (2 residential units providing ancillary accommodation)
W/81/00735/HIS - Historic apps 1974 to 1983 Decision - Approve with Conditions Date: 4/9/1981 – Repair of vehicles

This application follows the refusal of an application made under Class MA for the conversion of the units the subject of: (i) this application (Units 5 & 6); (ii) related application PL/2026/02519 (Units 7 – 10); and additionally (iii) Units 1 – 4, for the creation of 6no. dwellings. That application, which was dealt with under PL/2025/09841, was refused 05/02/2026 for 3no. reasons, these relating to the Use Class of the buildings, flooding and contamination matters.

CONSULTATIONS

Wiltshire Council Highways Officer: No objection; comment regarding refuse collection.

Wiltshire Council Drainage Officer: No objection, subject to Condition.

Melksham Without Parish Council: Objection, for the following reasons (summarised):

- Loss of employment land – contrary to policy
- Flood risk and surface water drainage
- Impact on the setting and significance of the nearby listed Church Farm House – contrary to policy
- Urbanising impact of the proposal and impact on rural character and separation of settlements – contrary to policy
- Concern regarding precedent

Wiltshire Council Public Protection Officer: Comments regarding necessary extent of remediation.

Wiltshire Council Conservation Officer: No response received

Environment Agency: No comment

Public Consultation: 1no. objection received, from the immediate neighbour at Church Farm House, raising the following points (summarised):

- Concern regarding capacity of the sewer system, and how drainage will be managed (including Party Wall issues)
- Concern regarding adequacy of water supply
- Potential noise impacts
- Overlooking and privacy (from the Dutch barn)
- Concern regarding adequate provision of services, such as internet access, gas and electric supply
- Concern regarding mix of commercial and residential uses on the site: private amenity space / waste storage and collection / parking and turning space.

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.

In part following Reason for Refusal no.1 on the previous application PL/2025/09841, the supporting information with this current application includes a range of lease agreements, which together confirm the following occupancies:

Unit 5

End of 2019 to 2021: Attain Interiors (Oakhill Engineering & Surveying Ltd)

September 2021 till October 2022: Richard Darcy Ltd

December 2022 – Present: Poolman Plumbing and Ultra Warm

Unit 6

October 2019 – June 2022: Countryside Pursuits.

July 2022 – February 2026: Radcliffe Fire Protection

Unit 4

January 2019 – Present: Felicity Aylieff : Storage and pottery

Based on the information provided in the lease agreements, it is acknowledged that certain occupiers have undertaken activities which are capable of falling within use class E; however, the presence of such activities does not confirm or establish that the use of the building had lawfully

changed to use class E. When assessing whether the lawful use of the building has changed, regard should not only be given to recent activities at the site, but also to the intensity and nature of the activity, historic planning permissions, and enforcement history.

As set out in the previous Officer's Report, these buildings have historically included a mix of B1 and B2 uses and it is clear from historic enforcement action at the site that historically the site has been used for car storage and maintenance. W/97/0395 granted permission for: 'Convert existing building and re-build adjoining building to form 4 Industrial Units' – the 'conversion' works related to Units 1 to 4, and the 'adjoining building' related to Units 5 and 6.

Later application W/10/02320/FUL – which relates to Unit 5 – then granted planning permission for: 'Replacement garage workshop and associated works'. Paragraph 9.1 of the Officer Report for this application confirms that: *"The applicant has stated that this site has an industrial use at present and there does not appear to be any variation to this in the planning history."* Subsequent application W/13/00253/FUL sought to extend the time period of implementation of W/10/02320/FUL.

The submission made under 20/04949/FUL for the extension to the stone barn confirms in the Planning Statement that: *"The site historically has included a mix of B2 and B1 uses although the recent investment made to improve the buildings has focused on a dominant B1 usage."* Thus, although the extension element of that building is restricted to a B1 use, that restriction is not understood to extend to existing buildings.

Furthermore, it is of relevance that the building erected to accommodate Units 7 – 10 was erected under Schedule 2, Part 7, Class H of the Order, which grants permission for: *'The erection, extension or alteration of an industrial building or a warehouse.'* Condition H.2(a) of Class H requires that: *"(a) the development is within the curtilage of an existing industrial building or warehouse,"* which indicates that the use of this application site was either industrial or warehouse use at the time of that application – otherwise that building itself could not benefit from permitted development rights.

As also set out in the previous Officer's Report, publicly available marketing from 2019¹ references the site as accommodating 'offices and industrial units.' More recent marketing of 2023² states that:

"PROPERTY OVERVIEW

Church Farm is made up of a range of units suitable for a variety of uses. This former farmyard and buildings have been converted and constructed to a high standard with insulation throughout, double glazing and timber clad elevations. Units benefit from an electrically operated roller shutter door. The site also benefits from CCTV, shared WC facilities, allocated and visitor parking, and a secure gated entrance.

PROPERTY FACTS

<i>Property Type</i>	<i>Industrial</i>
<i>Property Subtype</i>	<i>Warehouse</i>

¹ www.hunterfrench.co.uk/

² www.loopnet.co.uk/listing/bath-rd-shaw/28152381/ - Church Farm, Bath Rd, Shaw, SN12 8EF | LoopNet

<i>Net Internal Area (NIA)</i>	<i>6,081 sq.ft.</i>
<i>Year Built/Renovated</i>	<i>1960/1990"</i>

In this marketing, the site is explicitly referenced as being in 'Industrial' use.

Overall, whilst the nature of how the site has been occupied may have altered over time, a change of planning use of the application building from industrial to Class E has not been consented, nor has the Local Planning Authority been provided with sufficient evidence to otherwise demonstrate that a material change of use to Class E has lawfully occurred. In the absence of such evidence, taking fully into account the planning history and the lawful industrial use which could be resumed, it is not understood that the building was lawfully in Class E use at the time this application was made.

Having completed the detailed checklist at Appendix 1, it is concluded that the proposed development does not qualify as permitted development under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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.

Notwithstanding the above, 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 issued by the Ministry of Housing, Communities and Local Government in February 2019 July 2021, 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.

In terms of locational sustainability, the Local Planning Authority (LPA) is not able to assess whether the site's location in open countryside is sustainable in relation to access to services, employment, or facilities. This is not a consideration under the relevant prior approval provisions. Accordingly, the key matter for assessment is the impact of the proposal on highway safety, particularly in relation to the site access and the surrounding local highway network.

Assessment

As is identified above, the site is situated in the countryside, outside of the defined settlement boundary for Shaw and Whitley and is thus in an unsustainable location. However as is also identified above, the Development Plan policies are not relevant to the determination of this application and it is clear that Class MA adds a presumption that the change of use from vacant offices / commercial units, regardless of their location, into a residential use is permitted development subject to the detail. The fact that the existing building(s) is in a countryside location is not therefore relevant to the acceptability (or not) of this proposal.

The proposed access to the site off Bath Road has served the industrial / commercial estate since the original conversion of the buildings and having been consulted the Highway Officer raised no objection in terms of site access or transport and highway impacts.

The Highway Officer did however respond requesting further detail regarding the proposed parking, both quantum and arrangement, as well as details regarding refuse storage. It is noted that a refuse collection point is shown at the access to the highway and it is considered that the application site boundary provides sufficient space for the parking of 6no. vehicles – although as noted previously, this would result in a visually cramped form of development with a dominance of space for parking of vehicles (although not a relevant consideration for this application).

Conclusion

Prior approval in relation to transport and highways impacts matters is required and sufficient information has been provided with the submission to enable this matter to be assessed fully. No condition on this matter would be necessary should prior approval be granted, and refusal of prior approval on this matter alone would not be justified.

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

In light of the former approved industrial use of the site, and in the context of the Reason for Refusal no.2 on the previously refused application, this application is supported by a Contaminated Land Assessment report, which provides the following details:

- A Phase II intrusive investigation
- A human-health risk assessment
- A clear conclusion on risk
- A remediation recommendation
- Confirmation that controlled waters are not at risk
- Consideration of water supply pipe risk

The Council's Public Protection Officer has been consulted on the application and has provided the following comments:

"I have reviewed the submitted contaminated land reports in support of the above applications. The reports identify that remedial works are required within the proposed soft landscaping areas of the site. This is expected to comprise the excavation of approximately 600mm of impacted soils, the installation of a geotextile membrane, and the importation of clean capping soils. The reports indicate that these works would be undertaken following completion of the change of use construction works, in order to prevent cross-contamination of imported materials.

While the submitted assessment concludes that the buildings subject to these applications are suitable for their proposed use from a contamination perspective, it is stated that the surrounding soft landscaping areas are not strictly within the scope of the current applications. Notwithstanding this position, it is noted that the areas requiring remediation form part of the broader site within which the proposed residential receptors will be located, and currently present a potential risk to human health due to identified contaminant exceedances associated with the site's historic use.

In order to ensure that the site is suitable for its proposed end use, I would recommend that consideration be given to the use of appropriately worded planning conditions to secure the remediation of these areas. In particular, there may be scope to require that the agreed remedial works are completed across the relevant parts of the wider site prior to first occupation of any of the new residential units.

Given that the affected 'yard' areas and proposed remediation span multiple planning applications, any such condition would ideally ensure a coordinated approach across the site, so that all areas accessible to future residents are brought up to an appropriate standard for residential use.

This approach would help to formalise the applicant's commitment to remediation and ensure that a suitable level of protection for human health is achieved in practice."

As set out above, the relevant Regulations clearly seek to ensure that contamination issues are appropriately and duly considered as part of this application made under Class MA. Furthermore, there is acknowledged history of activity of car maintenance and repairs on the site.

However, it is to be recognised that the application proposes the change of use of an existing building only, and no building works are expressly permitted by any approval of this application. The submitted land contamination reports acknowledge this, and in the main deal with necessary mitigation measures for the curtilage / garden land – as reflected in the comments from the Public Protection Officer.

Accordingly, and based on the provided information, it is on balance considered that the proposal in terms of the change of use of the building would not itself result in any unacceptable risk, and the curtilage / garden land could be suitably dealt with by way of Condition to ensure compliance with the submitted technical documents.

Conclusion

Prior approval in relation to contamination matters is required and can be adequately addressed by the inclusion of condition(s) ensuring compliance in accordance with the submitted technical documents and associated recommendations – including site wide mitigation prior to any occupation – should prior approval be granted.

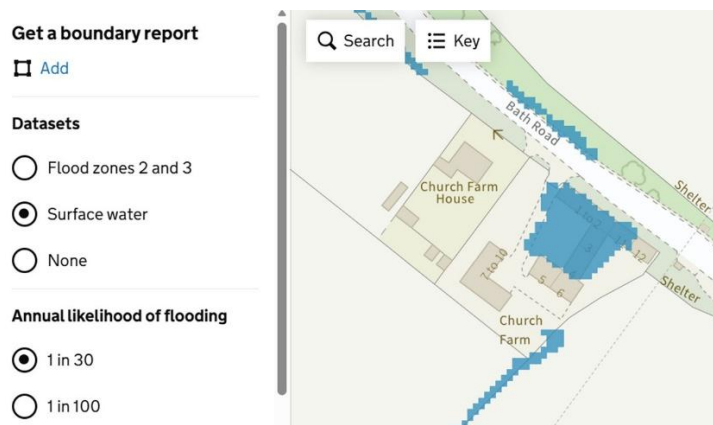
Flooding risks

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 site falls entirely within flood zone1. However, part of the site is recorded on the Environment Agency flood risk maps as being at risk of surface water flooding, as per the extracts below:



This is also confirmed in the Council's SFRA mapping which shows the site to be at risk from surface water flooding. Furthermore, the site falls within the South Brook catchment area and as such Policy 3 of The Joint Melksham Neighbourhood Plan is relevant in this regard. This states that:

"... Development proposals in locations with known flooding issues should include appropriate mitigation and construction methods, and, where appropriate, contributions towards wider catchment projects. As appropriate to their scale, nature and location, development proposals should demonstrate how flood risk is mitigated. This approach should include measures to reduce the amount of rainwater run-off and incorporate Sustainable Drainage Systems."

The supporting text which explains the context of the South Brook catchment area, states that this: *“... has been identified as a priority flood risk area by both the Environment Agency and Wiltshire Council. Bristol Avon Rivers Trust (BART) have been working in the South Brook catchment area for the delivery of the Natural Flood Management (NFM) works.”*

NPPF is clear in terms of requiring consideration of flooding from all sources, with paragraph 173 stating: *“A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding, by following the steps set out below.”* Paragraph 176 does explain that certain changes of use application should not be subject to the sequential test, but they: *“... should still meet the requirements for site-specific flood risk assessments set out in footnote 63.”*

Thus, following the Reason for Refusal no.2 on the previously refused application, this application is supported by a Flood Risk Assessment (FRA). This concludes that: *“The development proposals do not exacerbate existing site conditions or restrict existing conditions and as such the proposed development would not increase flood risk elsewhere.”*

Both the Drainage Engineer and Environment Agency have been consulted on this application and each has responded with no objection. The Drainage Officer has recommended a Condition relating to the need for a surface water drainage strategy.

Conclusion

Prior approval in relation to flood risk matters is required and can be adequately addressed by the inclusion of recommended condition(s) to ensure implementation in compliance with the submitted FRA, and to require a surface water drainage strategy, should prior approval be granted.

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

The concerns raised in the representation are noted, and any decision needs to be cognisant of the retained use and activity in Units 1 to 4.

Based on the planning history and lawful use, units 1-4 could resume an industrial use without need for further planning permission; given the close physical relationship between all units at the wider site, the proposed residential use of units 5 and 7 represents an incompatible use. A dwelling in the proposed location, where the scheme does not control/restrict the use of adjacent buildings outside of the application site, would place future residents at risk of unacceptable noise and disturbance. In this regard, the scheme is contrary to the aims of paragraph 135 of the NPPF.

It is, however, not considered that the application proposal itself would result in adverse noise impacts external to the site.

Conclusion

Prior approval in relation to noise matters is required and the proposal would result in a risk of unacceptable impact on neighbouring amenity. Based on the information available, this matter cannot be adequately addressed by the inclusion of conditions and consequently represents grounds that warrant refusal of prior approval.

Conservation Area

The site does not fall within, or near, any designated Conservation Area.

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 submitted plans show that all habitable rooms will be served by at least 1no. window in each of the proposed residential units. Whilst the window openings to some of the first floor bedrooms in particular are narrow, and there are no openings at all on the northern elevation at first floor level, the level of natural light penetration is not considered to be below an acceptable level.

Conclusion

The prior approval of the Local Planning Authority is required in respect of adequate natural light provision; however, sufficient information has been provided to allow for assessment of natural light provisions and there are no significant concerns on that matter which would warrant refusal of prior approval.

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 and the issues raised by potential unneighbourly uses and activities (industrial and / or commercial) being undertaken immediately adjacent to the proposed residential use has been considered above in terms of noise impact. Although the area is not considered to be: 'important for general or heavy industry, waste management, storage and distribution, or a mix of such uses', it nevertheless remains the case that an industrial use of the site would be lawful. The arrangement and layout of these uses with such close proximity is considered to be undesirable in terms of amenity impacts, conflicting with Core Policy 57(vii) and paragraph 135 of the NPPF.

Conclusion

Prior approval in relation to compatibility with neighbouring uses is required and the existing commercial and / or industrial use is considered to be incompatible. Based on the information available, this matter cannot be adequately addressed by the inclusion of conditions and consequently represents grounds that warrant refusal of prior approval.

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 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 does not comply with the criteria for permitted development, and therefore does not fall within the scope of Class MA.

RECOMMENDATION:

That prior approval be REFUSED for the following reasons:

1. The application does not meet the requirements of Class MA of Part 3 of Schedule 2 to the GPDO as it has not been demonstrated that the building the subject of this application falls lawfully within Use Class E.
2. The proposed development fails to provide an acceptable living environment for future occupiers, having regard to the close proximity of the site to units with a lawful industrial use and the inherent risk of noise and disturbance that could arise from activities associated with industrial operations.

INFORMATIVE

List of considered plans and documents:

AH2018102 Sheet 1 of 4 Location Plan and Elevations
AH2018102 Sheet 2 of 4 Proposed Floor Plans
AH2018102 Sheet 3 of 4 Existing Floor Plans
AH2018102 Sheet 4 of 4 Proposed Block Plan
Phase IIA Contaminated Land Investigation
Food Risk Assessment

On its website Wiltshire Council has made available statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance. The Council also offer a full suite of pre-application advice services; however, on this occasion, the application was unfortunately submitted without any meaningful pre-application discussions.

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)?	No
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