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CHARTERED TOWN PLANNERS

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Planning Department
Hart District Council
Civic Offices
Harlington Way
Fleet
Hampshire
GU51 4AE

Our ref: 3345

05 March 2024

Dear Sir/ Madam

Application for Prior Approval – Part 3 Class MA Town and Country Planning (General Permitted Development) (England) Order 2015 – Atrium House, 89 Fleet Road, Fleet, Hampshire, GU51 3PJ

On behalf of our client, Glen House Estates, we apply for the prior approval of the Local Planning authority for the change of use of a building from Class E (business) (formerly B1) to Class C3 (residential dwellings), pursuant to Part 3 Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”).

The following plans are submitted with the application:

- Location and Block Plan (Ref. Plan 23.003.L (PA) 101 Rev PA1)
- Existing Floor Plans (Ref. Plan 23.003.L (PA) 105 Rev PA1)
- Proposed Floor Plans (Ref. Plan 23.003.L (PA) 106 Rev PA1)
- Existing Elevations (Ref. Plan 23.003.L (PA) 107 Rev PA1)

Site Description

Atrium House is a two-storey office building, constructed around the 1980/90s, located within the settlement boundary of Fleet. It is likely that the building was initially a single storey building, but at some point, a mezzanine floor was inserted internally. The building provides approximately 431sqm of usable floor space and has car parking for up to 21 vehicles.

The site measures 0.13 ha and has a frontage to Fleet Road (A3013). The site lies to the north of Fleet town centre, within 5 minutes walking distance of the centre of the town. It is also a 5 minutes’ walk from Fleet mainline rail station, which connects to London Waterloo and surrounding settlements of Basingstoke, Winchester, Woking and Guildford and smaller villages in between.



Either side of the site are two storey office buildings and to the rear of the site is Pinewood Hill, a residential road of detached dwellings, with long rear gardens of 30 metres approximately, backing onto the premises that front Fleet Road.

The image below shows the Fleet Road frontage of the two-storey premises.



As demonstrated by the planning history below, the site currently has a lawful use within Class E, having previously fallen within Use Class B1 (Office) prior to the introduction of the new Use Classes in September 2020.

Planning History of the Site

Based upon a review of Hart District Council's online planning register, the relevant planning history of Atrium House is as follows:

- 06/00211/FUL – Retention of two additional car parking spaces within the curtilage of the site.
Granted 27th March 2006.

For clarity, the Officer Report of application ref. 06/00211/FUL confirms that the lawful use of the building was as an office (Use Class B1(a)).

The whole building was let as one planning unit until January 2024. Since that time the building has been vacant.

Proposal

The proposal is to convert the ground and first floor of the building, to provide a single dwellinghouse. Car and cycle parking would be provided on site.

The application is made pursuant to Part 3 Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (SI2015/596) ("GPDO") which provides:



MA. 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.

In this case, the “building” which will change use is the ground and first floor of the two-storey premises.

As Class MA is a relatively new permitted development right there is limited guidance available as to the interpretation of this provision. However, it has long been established that the definition of ‘building’ in both the GPDO and TCPA 1990 is wider than common usage of the term, and that for the purposes of permitted development rules, reference to ‘the building’ may mean reference to ‘the whole building’ or to the ‘part of a building’ that is subject to an application.

The term “building” is defined, in Article 2(1) of the GPDO. For the purposes of the GPDO “building” can mean a whole building, or as is the case here, ‘part of a building’:

“building”—

- (a) includes any structure or erection and, except in Class F of Part 2, **[F5** 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 **[F6**, 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;

For completeness, the definition of ‘building’ in the parent legislation is equally broad, relating either to a whole building, or part of a building:

“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

It should also be noted that the conditions imposed on Class MA indirectly recognise this permitted development right could be used to convert part of a building rather than the entire premises – for example, MA.2(e) refers to development involving “change of use of the whole or part of the ground floor” of a building in a Conservation Area.

In this instance, the current prior approval application relates to the ground and first floor (the entire building) of premises at Atrium House, 89 Fleet Road, Fleet, Hampshire, GU51 3PJ.

Restrictions on the Application of Class MA

Having established the lawful use of the site, it is clear that the site qualifies for the change of use under the provisions of Class MA of the GPDO. We therefore need to assess the proposals against all the other relevant tests of that class and then the subjective considerations of the process.

Development is not permitted by Class MA unless certain requirements are met, as addressed in turn below. These are set out in MA.1 of the GPDO.

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 came into force on 5th March 2024. That provision amended the Order as follows:

‘In Class MA (commercial, business and service uses to dwellinghouses), in sub-paragraph (1) of paragraph MA.1—

(a) omit paragraph (a);

(b) omit paragraph (c).’



As a result, there is no longer a requirement for the building to be vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval (paragraph a). Furthermore, there is no longer a restriction of the floor space of the building (paragraph c).

“(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) [which include B1 Use] for a continuous period of at least 2 years prior to the date of the application for prior approval;”

The ground and first floor (the whole premises) has a lawful use currently falling within Class E and prior to the introduction of this Use Class, it was classified as a B1 premises since its construction and this was confirmed within the aforementioned application considered by the Council in 2006.

“(d) if land covered by, or within the curtilage of, the building—(i) is or forms part of a site of special scientific interest; (ii) is or forms part of a listed building or land within its curtilage; (iii) is or forms part of a scheduled monument or land within its curtilage; (iv) is or forms part of a safety hazard area; or (v) is or forms part of a military explosives storage area;”

Neither the land nor its curtilage falls within any of these exceptions.

“(e) if the building is within— (i) an area of outstanding natural beauty; (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981; (iii) the Broads; (iv) a National Park; or (v) a World Heritage Site”

None of these exceptions apply.

“(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained”

The site is not under an agricultural tenancy.

“(g) before 1 August 2022, if— (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.”

Class O of GPDO 2015 (prior to amendment in 2020) authorised change of use of B1(a) offices to C3 dwellinghouses in certain situations. This condition on the exercise of Class MA seeks to prevent conversion from office to residential where a previous Article 4 direction had been made to restrict such change (and where the direction remained in force). There is no Article 4 direction in place restricting the ability to exercise permitted development rights for change of use from office (B1a) to dwelling (C3) in this location.

Conditional requirements of Class MA

As set out in MA.2 of the GPDO there are also a number of additional conditions which apply to Class MA applications. The applicant is required to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to –

“(a) transport impacts of the development, particularly to ensure safe site access;”

The proposal would utilise an existing vehicular access that serves the existing office use. There would clearly be a material net reduction in vehicular movements as a result of the change of use from an office



to a single residential dwelling. As such, there would be no determinantal impact on highway safety of the surrounding highway network. Furthermore, car parking would be provided within the site. The proposal meets these requirements.

There is sufficient space available to ensure vehicles can turn within the site and so enter and leave in a forward gear. As this site is in a town centre location, there is a high level of accessibility to local services and facilities, and to public transport services.

Cycle storage can also be provided on site to support sustainable modes of transport by the occupants of the dwelling.

“(b) contamination risks in relation to the building”

As the building has always been in lawful use for office purposes the risk of historic contamination is considered to be extremely low.

“(c) flooding risks in relation to the building;”

The site is located within Flood Zone 1, considered to be at lowest risk of flooding.

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

The entire premises would be used as a single residential dwelling. The neighbouring building either side are in office use but are detached and set away from the application site boundaries. In any case, the application site is near to the town centre and the Council has previously accepted that residential uses are acceptable next door to office uses as evidenced in approving an application at Duchess Court (planning permission ref. 18/00086/FUL), a development between nos. 67 and 87 Fleet Road.

“(e) where – (i) the building is located in a conservation area, and (ii) the development involves changes of use of the whole or part of the ground floor, The impact of that change of use on the character or sustainability of the conservation area;”

The site is not located within a Conservation Area.

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

As demonstrated by the accompanying proposed floorplans (ref A16613.02.03D), all habitable rooms have access to natural light through the provision of windows. The dwelling have also been designed to ensure it far exceeds the nationally prescribed space standards.

“(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;”

The site is located near to a town centre location, designed as ‘Urban Area’. As such, it is not an area considered important for industrial, waste, or storage and distribution uses. The Council has previously accepted the immediate area is a suitable location for residential development, in approving applications for residential development (planning permission ref. 18/00086/FUL).

“(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



The proposal does not result in the loss of any such services – the building is currently vacant and its lawful use, as described above, is Class E (formerly B1 office).

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

MA.3. clarifies that development meets the fire risk condition if the development relates to a building which will—(a) contain two or more dwellinghouses; and (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

These requirements are as follows:

Article 9A (3): The height condition is that— (a) the building is 18 metres or more in height; or (b) the building contains 7 or more storeys.

Article 9A (7): (7) For the purpose of paragraph (3)— (a) the height of a building is to be measured from ground level to the top floor surface of the top storey of the building (ignoring any storey which is a roof-top machinery or plant area or consists exclusively of machinery or plant rooms); (b) when determining the number of storeys a building has— (i) any storey which is below ground level is to be ignored; and (ii) any mezzanine floor is a storey if its internal floor area is at least 50% of the internal floor area of the largest storey in the building which is not below ground level.

The two-storey building does not meet the height condition set out in Article 9A of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and therefore, fire safety impacts on the intended occupants do not require further detailed analysis as part of Class MA.2 (i).

The developer’s contact details are as follows:

Name: Foray Homes (Southern) Ltd

Address: 6 Cedar Business Park, Cedar Lane, Frimley, GU16 7AZ



A fee of £189 is required and this will be paid shortly via the Planning Portal.

This letter along with the accompanying plans addresses the criteria set out within Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 and paragraph W. If you have any questions following a review of this letter and the details of the prior notification, please contact the writer of this letter as soon as possible.

Yours faithfully,

BELL CORNWELL LLP

Ryan Snow

Associate

