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Development Management
London Borough of Hillingdon
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01 June 2021
PP Reference: PP - 09878942

Dear Sir / Madam,

APPLICATION FOR PRIOR APPROVAL FOR A CHANGE OF USE UNDER SCHEDULE 2, PART 3, CLASS O - CHANGE OF USE FROM OFFICES (B1A) TO RESIDENTIAL (C3)

HAYES PARK NORTH, HAYES PARK, HAYES END ROAD, HAYES, UB4 8EE

On behalf of our client, Universities Superannuation Scheme Limited (the Applicant), please find enclosed an application for prior approval for a change of use from office (Use Class B1(a)) to residential (Use Class C3) at Hayes Park North (HPN), made under Schedule 2, Part 3, Class O of the Town and Country Planning (GPD) (Amendment) (England) Order 2015.

Overview and Current Use

HPN is located as part of the Hayes Business Park, which is located just off Hayes End Road within the London Borough of Hillingdon (LBH). HPN is situated at the north of the business park and is currently occupied as a lawful office use. HPN is three storeys in height, with a basement level used for servicing and deliveries. The building is in good condition and has undergone little change since first constructed.

The wider Hayes Park Business Park is characterised by the agricultural land and buildings of Home Farm. The entirety of the site and the surrounding land is located within the Green Belt. To the south of HPN are two office buildings, Hayes Park Central and Hayes Park South. Both buildings were constructed in the 1960's and are Grade II* Listed. Both have now fallen vacant but were previously occupied by Heinz and Fujitsu.

The wider area surrounding Hayes Business Park comprises predominantly of open space and residential dwellings. There is a wide selection of parks and leisure facilities, including the Hayes End Recreation Ground, Park Road Green and the Belmore Playing Fields. The nearest town centres are located at Hillingdon Heath Local Centre, 1.6km to the south west (19-minutes' walk'), and at Uxbridge Road Hayes Minor Centre, 3.3km to the south east (43-minutes' walk).

Prior Approval

The Applicant is seeking Prior Approval to convert the office use on all three floors into a total of 64 residential units comprising 6 x studios, 33 x one-bedroom, 19 x two-bedroom and 6 x three-bedroom apartments.

The new apartments will also be accompanied by 68 cycle parking spaces located within the existing basement and 76 car parking spaces located in the existing area of car parking to the west of the building. Refuse and recycling storage is located at in the basement.

Prior Approval Considerations

The current lawful use comprises B1(a) accommodation (now Use Class E), meaning the change of use to residential can be implemented under Class O of the General Permitted Development Order (GPDO), subject to confirmation of Prior Notification by the Local Planning Authority (LPA). The GPDO confirms the LPA can only consider:

- a) transport and highways impacts of the development,
- b) contamination risks on the site,
- c) flooding risks on the site,
- d) impacts of noise from commercial premises on the intended occupiers of the development, and
- e) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) apply in relation to that application.

Transport and Highways Impact

The Transport Note prepared by Iceni Projects assesses the transport and highways impacts of the proposed change of use. This concludes that the proposed change of use to residential would generate a lower number of vehicle trips compared to the existing office use and as such the proposed development would have a lower impact than the existing use of the Site on the surrounding transport infrastructure and existing highway network.

The note states that the Site is conveniently located for residents of the proposed scheme to take advantage of public transport facilities and local amenities, whilst providing an appropriate level of car parking, cycle parking and EVCPs, relative to Hillingdon's standards. As such, the Transport note concludes that the change of use from office to residential will be compatible with and supportive of regional and local transport policies and would not give rise to any adverse transport impact.

Further details can be found within the submitted Transport Note as prepared by Iceni Projects.

Contamination Risks

Avison Young have prepared a Phase 1 Environmental Due Diligence report in respect of the whole Hayes Park Business Park, including of HPN. This report concludes that there was no visual evidence of significant ground contamination and / or hazardous processes on any part of the site. The proposed change of use under permitted development rights is therefore compliant with regards to contamination risks.

Further details can be found within the Phase 1 Environmental Report as prepared by Avison Young.

Flooding Risk on the Site

A review of the Environment Agency (EA) flood mapping has found that the site is located in Flood Zone 1, indicating that it is at very low risk from tidal and fluvial flooding. The Phase 1 Environmental Report prepared by Avison Young verifies this low risk of flooding, and also notes that there are no known issues with surface water flooding. The proposed change of use under permitted development rights is therefore compliant with regards to flood risks.

Further details can be found within the Phase 1 Environmental Report prepared by Avison Young.

Impacts of Noise from Commercial Premises

Finch Consulting have prepared a Noise Impact Assessment in respect of HPN. Following a site visit and noise survey, the report concludes that whilst the other office buildings at Hayes Park Central and South are currently unoccupied, it is more likely than not that the conversion of the HON building to residential will not impose unreasonable restrictions on the operation of the other office buildings. The

proposed change of use under permitted development rights is therefore compliant with regards to noise.

Further details can be found within the submitted Noise Report as prepared by Finch Consulting.

Provision of Adequate Natural Light in all Habitable Rooms

A Daylight, Sunlight and Overshadowing Assessment has been prepared by Icen Projects. This concludes that the habitable rooms of the proposed conversion of HPN will achieve good levels of daylight and sunlight in line with BRE guidance and as such meet the relevant local authority planning policy. The proposed change of use under permitted development rights is therefore compliant with regards to provision of adequate natural light in all habitable rooms.

Further details can be found within the submitted Daylight, Sunlight and Overshadowing Assessment prepared by Icen Projects.

Contents of Application and Summary

In summary, based on the above, this prior notification satisfies the following requirements as listed within Class O:

- The building was in B1(a) (offices) use on 29th May 2013 and is currently in B1(a) use.
- The building is not listed or within the curtilage of a listed building (see Heritage Note at Appendix A1).
- The building is not and does not contain a scheduled monument.
- The site is not part of or within a safety hazard area.
- The site is not part of or within a military explosives storage area.

Further, as noted above, there are no impacts on highways, noise, contaminated land, flood risk or light within the habitable rooms.

In support of the application, please find enclosed the following documents:

- the relevant application form;
- Site Location Plan at 1:1250 scale, showing the development area outlined in red;
- Payment of £96.00 as the fee for the application;
- Drawings:
 - Existing Floor Plans
 - Proposed Floor Plans
- Reports:
 - Contamination and Flood Risk Report
 - Transport Report
 - Noise Report
 - Daylight & Sunlight Report – Internals

- Heritage Note – Appendix A1

I trust you have all the information you require to register the application. If in the interim you have any questions, then please do not hesitate to contact me at acook@iceniprojects.com or 07741656453 or my colleague Nick Grant (ngrant@iceniprojects.com / 07772099960).

We look forward to hearing from you in due course.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Ashleigh Cook', written in a cursive style.

Ashleigh Cook
Associate

APPENDIX A1 – HERITAGE NOTE ON BUILDING CURTILAGE

Legislation

Where any development may have a direct or indirect effect on designated heritage assets, there is a legislative framework to ensure the proposals are considered with due regard for their impact on the historic environment. In this case the Planning (Listed Buildings and Conservation Areas) Act 1990 (“P(LBCA)A”) applies.

Of relevance to this note are Section 1 (3) and (5) of the P(LBCA)A concerning listing by virtue of curtilage; Section 1 in the Act sets out the listing of buildings of special architectural or historic interest with section 3 allowing for consideration of not only “the building itself but also ... the desirability of preserving, on the ground of its architectural or historical interest, any feature...forming part of the land and comprised within the curtilage of the building”; and, section 1 (5) determining that the meaning of “listed building” is that building that is identified within the statutory list and for the purposes of the act, “(b) and object or structure within the curtilage of the building, which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948”.

Case Law

Recent case law in *Hampshire County Council v Secretary of State for Environment, Food and Rural Affairs & Ors* [2020] EWHC 959 (Admin) (para. 101.- 114, 125) has usefully summarised the factors which may inform the existence and extent of curtilage. The case re-affirms the approach in *Calderdale [Attorney General ex rel. Sutcliffe v Calderdale Borough Council (1982) 46 P & CR 399]* of the three-part test set out by *Stephenson LJ*; and the qualification of this in *Debenhams [Debenhams plc v Westminster City Council [1987] AC 396]* through the addition of the test which requires the structures or objects to be ancillary to the building in the statutory list.

The *Stephenson* tests (also referenced in the current Historic England Guidance on curtilage Listed Buildings and Curtilage HEAN 10, (February 2018)) are as follows:

- 1) The physical “layout” of the listed building and the structure
- 2) Their ownership, past and present
- 3) Their use or function, past and present

In addition, in *Calderdale* and re-affirmed by recent case law in *HCC v SoS & Ors*, the extended definition of listed building through structures falling in the curtilage of the listed asset, is that “a structure or object which is so clearly related to a listed building that its removal would adversely affect the interest of that building, should be treated as falling within the extended definition of “listed building”, even if that item would not otherwise be regarded as part of, or one of the features for that building”. This places the curtilage test in the context of section 1 (3)(b) of the P(LBCA)A 1990, in that it is ultimately whether the object or structure, or part of that object or structure, within the legal curtilage makes any contribution to the special historical or architectural interest of the statutorily listed asset.

Historic England Guidance

The key guidance in this respect is Historic England Guidance on curtilage Listed Buildings and Curtilage HEAN 10, (February 2018). This document sets out how the statutory body considers how listing by virtue of curtilage ought to be assessed. It makes reference to the *Stephenson* tests in *Calderdale* and uses these as a process in which a series of case study examples are assessed.

The case studies do not include any examples similar to the situation applicable in this particular context. Nevertheless, the following paragraphs have used the *Stephenson* tests to understand whether the HPN building could be considered curtilage.

Analysis of Curtilage

The physical “layout” of the listed building and the structure

The physical layout of the listed building and the structures is a particularly pertinent and interesting question on this Site and surroundings. It is clear from the architectural review and the listing description that the listed Heinz buildings were purpose built by a renowned architectural firm within very specifically designed landscape, responding to the Green Belt constraints of the Site. The HPN building, on the other hand, was erected much later with no reference to the Heinz buildings. Its scale and massing are in clear response to the existing listed buildings rather than the purposeful expansion of the original landscape and architectural principles. As such, the HPN building cannot be considered to be part of the physical layout of the listed buildings. This test, therefore, is not met.

Their ownership, past and present

The original Site was under one ownership and the new building was constructed in early 20th Century within the same ‘red line’ boundary. At the time of listing (24th Nov, 1995), the HPN building had not been constructed. The detailed description does not mention any other structures apart from a tunnel connecting the north and south buildings. This description was later reviewed in 2013 and still did not mention any other structures within the precincts. However, the test for ownership is met given that the HPN building continues to be within the same land ownership. This circumstance, however, has no effect on the outcome of the other two tests.

Their use or function, past and present (with the qualifying test of ‘Ancillariness’)

The use and function directly relate to planning use and whether the building has or had any ancillary function to the listed building. The question here is whether the HPN building can ever be considered ancillary to the Heinz buildings. The HPN building, self-evidently is in the same use as the listed buildings, but is not dependent on them to function. It is a new building, independent of the original two buildings with independent access and resources such as parking and basement spaces. It is a new building of the same use rather than ancillary to the listed buildings. Therefore, in terms of use and function, these can be recognised as separate planning units with their own separate curtilage. This test, therefore, is not met.

Summary

It is clear from the analysis and evidence in the above paragraphs that the HPN building, whilst forming part of the Site, cannot be considered listed by virtue of curtilage to the Heinz buildings. The building fails on two of the three Stephenson tests, that of the physical layout of the listed building and the structure, and that of their use and function past and present.

Nairita Chakraborty
Associate
Iceni Built Heritage and Townscape