

Unrestricted Report

ITEM NO: 08

Application No.
24/00141/PAE
Site Address:

Ward:
Bullbrook

Date Registered:
7 March 2024

Target Decision Date:
2 May 2024

**One The Braccans London Road Bracknell Berkshire
RG12 2XH**

Proposal: **Application for determination if prior approval required for change of use of commercial (Use Class E) to 47 residential units (Use Class C3).**

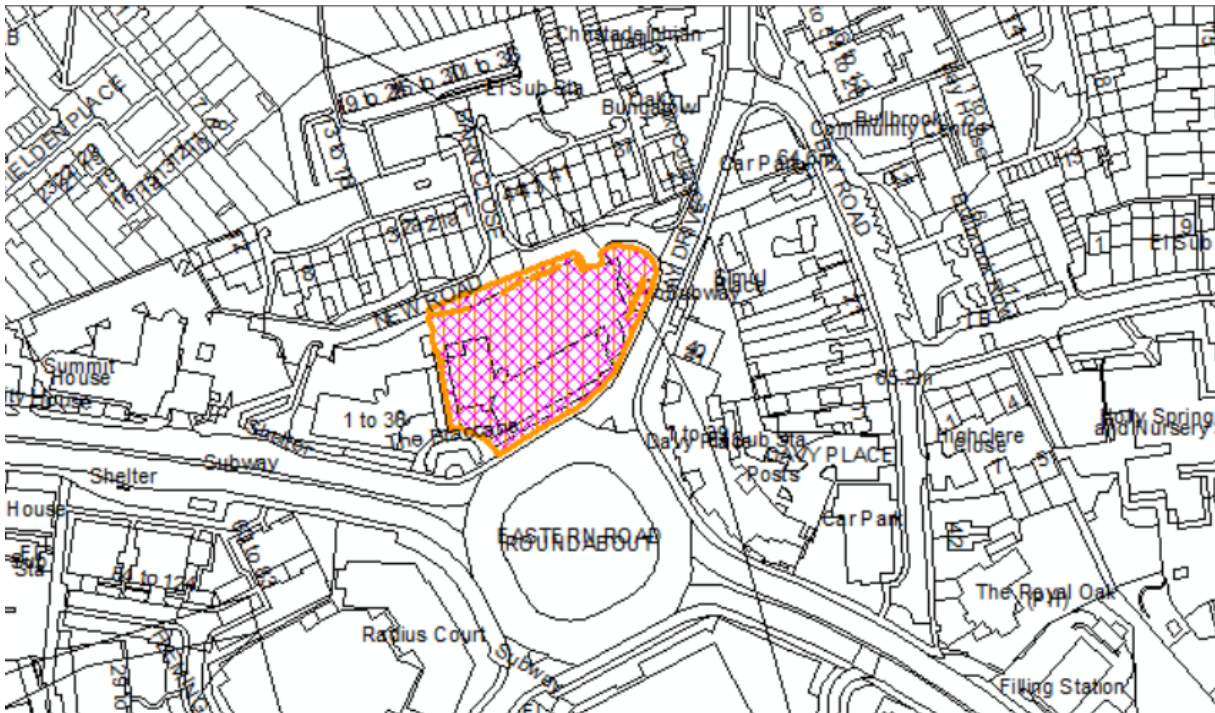
Applicant: BMR Edgware

Agent: Miss Emily Ingall-Tombs

Case Officer: Olivia Jones, 01344 352000

Development.control@bracknell-forest.gov.uk

Site Location Plan (for identification purposes only, not to scale)



1. SUMMARY

1.1 Prior approval is sought for the change of use of a building from commercial use (Class E) to residential use (Class C3) in accordance with Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

1.2 The development would consist of 47 flats with associated ancillary space.

1.3 The proposal complies with the criteria set out in Class MA, Part 3 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Subject to no adverse impact on highway safety and the conditions set out in Section 11 of this report prior approval can be granted.

RECOMMENDATION

Prior Approval be granted subject to the conditions set out in Section 11 of this report.

2. REASON FOR REPORTING TO PLANNING COMMITTEE

2.1 The application has been submitted under the prior approval procedure and therefore requires determination within 56 days.

3. PLANNING STATUS AND SITE DESCRIPTION

PLANNING STATUS

Within Settlement Boundary

Within 5km of SPA

3.1 One The Braccans, London Road, is a three storey office building located in a mixed use area due east of the town centre. The site is supported by car parking areas to the rear (north), and a basement car parking section below the building.

3.2 The application site previously formed part of a pair of commercial buildings 1 & 2 The Braccans. Building 2 has previously been converted to residential use.

4. SITE HISTORY

4.1 The site history can be summarised as follows:

613355

Erection of a 4650 sq. metre office building (Use Class B1 business use) with 205 car parking spaces.

Approved 31.08.1989

08/00739/FUL

External works comprising alteration to existing vehicle entrance from New Road, formation of new rear entrance and steps to existing rear car park, formation of 4no. additional parking bays, installation of new cycle racks, new planting to site boundaries and installation of solar shading to south facade.

Approved 09.10.2008

4.2 A prior approval application for two additional storeys of residential dwellings is currently being considered under application reference 24/00163/PARC.

5. REPRESENTATIONS

5.1 The public consultation ended on 05.04.2024.

5.2 At the time of writing one letter of objection had been received, raising the following concerns:

- Impact of construction disturbance on neighbouring residents
- Loss of privacy to neighbouring residents

- Loss of light to neighbouring residents (this concern relates to a separate application to extend One The Braccans, submitted under reference 24/00163/PARC).

6. SUMMARY OF CONSULTATIONS

6.1 The Highway Authority has been consulted on this application, and their comments are expected by 09.04.2024.

6.2 The Environmental Health Officer has reviewed this application and raises no objection.

7. PRINCIPLE OF DEVELOPMENT

7.1 In assessing this type of prior approval application, the Council can only assess whether the proposal is likely to result in transport and highway implications; contamination issues; flooding issues; any impacts of noise from commercial premises on the intended occupiers of the development; impact on a Conservation Area (where applicable); the adequacy of natural light provided to all habitable rooms; impact on intended occupiers through introducing a residential use in an area important for industry; waste management or storage and distribution; loss of a registered nursery or health centre (where applicable); and fire safety (where applicable).

8. RELEVANT LEGISLATION

8.1 Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) relates to changes of use of commercial, business and service uses to dwellinghouses. It states:

Permitted development

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.

Development not permitted is set out at MA.1. (1) and has the following relevant exclusions:

Development is not permitted by Class MA—

[(a)] – omitted by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024

(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

[(c)] omitted by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024

(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;

(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;

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

(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.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

(i) Class A1 (shops);

(ii) Class A2 (financial and professional services);

(iii) Class A3 (food and drink);

(iv) Class B1 (business);

(v) Class D1(a) (non-residential institutions - medical or health services);

(vi) Class D1(b) (non-residential institutions - crèche, day nursery or day centre);

(vii) Class D2(e) (assembly and leisure - indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2

Conditions MA.2.

1) Development under Class MA is permitted subject to the following conditions.

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

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.

Interpretation of Class MA

MA.3. Development meets the fire risk condition referred to in paragraph MA.2(2)(i) 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

Paras. (3) and (7) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO 2015) state:

Fire Statements

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.

(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 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) also sets out provisions for permitted development at Article 3, with one of the provisions relating to nationally described space standards.

(9A) states:

Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(a) where the gross internal floor area is less than 37 square metres in size; or

(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.

9. ASSESSEMENT

9.1 Compliance with paragraph MA.1

[(a)] – omitted by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024

(b) The use of the building fell within Class E uses (or the precursors to Class E) for a continuous period of at least 2 years prior to the date of this prior approval application. The Planning Statement submitted with the application states that the building has been used as an office since 1989.

[(c)] omitted by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024

(d) None of the criteria in (i) – (v) apply. The land is not covered by and is not within the curtilage of;

(i) part of a site of special scientific interest;

(ii) part of a listed building or land within its curtilage;

(iii) part of a scheduled monument or land within its curtilage;

(iv) part of a safety hazard area; or

(v) part of a military explosives storage area;

(e) The building is not within any of the following:

(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;

(f) The site is not occupied under an agricultural tenancy

All proposed dwellings will have gross internal floor areas of at least 68sqm and therefore complies with the nationally described space standards.

9.2 Compliance with paragraph MA.2

(a) Transport impacts of the development, particularly to ensure safe site access;

The comments from the Highway Authority are expected by 09.04.2024.

(b) Contamination risks in relation to the building;

There are no contamination risks in relation to the proposed development

(c) Flooding risks in relation to the building.

The site is not located in Flood Zones 2 or 3, or within an area identified as at risk of surface water flooding.

(d) Impacts of noise from commercial premises on the intended occupiers of the development;

Whilst there are commercial premises in the surrounding area, it is not anticipated there would be significant adverse noise impacts on the intended occupiers of the development.

(e) The building is not located in a conservation area.

(f) Provision of adequate natural light in all habitable rooms

An Internal Daylight Assessment has been submitted with the application. The assessment has been made based on the recommendations of the British Standards EN 17037: Daylight in buildings (BS EN 17037). This document has been accepted as providing reasonable guidelines for calculating and ensuring adequate levels of natural light.

The UK National Annex to BS EN 17037 gives specific minimum recommendations for habitable rooms in dwellings in the United Kingdom. These are intended for 'hard to light' dwellings, for example in basements or with significant external obstructions or with tall trees outside, or for existing buildings being refurbished or converted into dwellings.

When assessed against the minimum recommendations, every room meets the requirements of the BS EN 17037. As such, it is considered that adequate natural light would be provided to all habitable rooms.

(g) The area is not important for general or heavy industry, waste management, storage and distribution, or a mix of such uses. The surrounding area consists of a mix of commercial uses but there are existing residential flats/dwellings within the immediate area, including the neighbouring building 2 The Braccans.

(h) The change of use does not involve the loss of services provided by either

(i) a registered nursery, or

(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006.

(i) The change of use does not meet the fire risk condition (the building is not 18m or more in height or does not contain 7 or more storeys) and therefore there is no requirement for fire safety impacts to be assessed

9.3 Other Matters

The site is located within 5km of the Thames Basin Heaths Special Protection Area. It is a condition of any planning permission granted by a general development order that any development which is likely to have a significant effect upon a Special Protection Area cannot proceed unless the Local Planning Authority has given written approval under the Habitats Regulations 2010. The prior approval process does not in itself constitute approval under these Regulations.

This proposal would create additional dwellings and is located within an area where additional dwellings would lead to a significant impact on the SPA, if not mitigated. The decision notice should therefore include an informative advising the applicant how to apply for approval under the Habitats Regulations 2010 and that a Section 106 Agreement must be entered into in the event of prior approval being granted.

Further, this prior approval relates only to the use of the building. Any external alterations would require the submission of a full planning application.

10. CONCLUSIONS

10.1 Subject to no adverse impact on highway safety, it is not considered that the proposal would result in adverse contamination and flooding implications, in addition to not resulting in an adverse impact in respect of noise from surrounding commercial premises on the future

occupiers of the proposed flats and sufficient daylight provision. Therefore, it is recommended that Prior Approval is required and should be granted.

11. RECOMMENDATION

11.1 That Prior Approval be GRANTED subject to the following conditions:

1. Development under Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), must be completed within a period of 3 years starting from the date of the prior approval.

REASON: To accord with the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. This development must be carried out in accordance with the following plans received by the Local Planning Authority, received 07.03.2024:

- Site Plan (039)
- Proposed Block Plan (011)
- Proposed Basement Floor Plan (012)
- Proposed Ground Floor Plan (013)
- Proposed First Floor Plan (014)
- Proposed Second Floor Plan (015)
- Proposed Third Floor Plan (016)
- Proposed Roof Plan (017)
- Proposed Front and Rear Elevations (018)
- Proposed Left and Right Elevations (019)
- Proposed Section (020)

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority

3. No development shall take place until details of a scheme (Construction Method Statement) to control the environmental effects of the demolition and/or construction work has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:-

- (i) the control of noise
- (ii) the control of dust, smell and other effluvia
- (iii) the control of rats and other vermin
- (iii) the control of surface water run-off
- (iv) the proposed method of piling for foundations (if any)
- (v) proposed construction and demolition working hours
- (vi) hours during the construction and demolition phase when delivery vehicles, or vehicles taking materials, are permitted to enter or leave the site.

The development shall be carried out in accordance with the approved scheme.

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority

4. No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 and 18:00 Monday to Friday and 08:30 to 13:00 Saturdays and at no time on Sundays or Bank or National Holidays.

REASON: To protect the amenities of the occupiers of the neighbouring dwellings.

Informative(s):

1. Consent is not granted for the bin store shown on the approved plans. Separate consent would be required for the erection of an outbuilding in association with this development.
2. It is a condition of the consent given by the General Permitted Development Order that any development which is likely to have a significant effect upon a Special Protection Area cannot proceed unless the Local Planning Authority (the Council) has given written approval under the Habitats Regulations 2010. This Prior Approval Notice does NOT constitute approval under the Habitats Regulations. The Council and Natural England are of the view that any residential development between 400 metres and 5 kilometres of the boundary of the Thames Basin Heaths Special Protection Area or residential development of 50 or more dwellings between 5 kilometres and 7 kilometres of such boundary cannot be approved under the Habitats Regulations unless a planning obligation is entered into under Section 106 of the Town & Country Planning Act 1990 to ensure that the development has no adverse impact upon the Special Protection Area. Your development falls within one of the two types of development referred to in the heading above.
3. Any external alterations proposed would require the submission of a full planning application.
4. The applicant will need to investigate bin collection arrangements for the proposed residential use.
5. The layout and size of the dwellings created must be sufficient for the safe use of the amenities and must not result in over occupation, otherwise a Hazard under part 1 of the Housing Act 2004 may be created and as such could be subject to formal action under that legislation.
6. There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. Thames Water will need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read their guide working near or diverting our pipes. <https://www.thameswater.co.uk/developers/larger-scale-developments/planning-your-development/working-near-our-pipes>

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

Thames Water would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: "A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Thames Water would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing trade.effluent@thameswater.co.uk . Application forms should be completed on line via <http://www.thameswater.co.uk/>. Please refer to the Wholesale; Business customers; Groundwater discharges section.

7. With regard to water supply, this comes within the area covered by the South East Water Company. For your information the address to write to is - South East Water Company, Rocfort Road, Snodland, Kent, ME6 5AH, Tel: 01444-448200.

8. Notwithstanding the wording of Bracknell Forest Council's Parking Standards SPD, the Building Regulations part S "Infrastructure for the charging of electric vehicles" 2021 edition took effect on 15 June 2022 for use in England. The applicant should familiarise themselves with, and comply with, the requirements of this document with regard to provision of electric vehicle charging infrastructure.