



**Surrey Heath Borough Council**

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19 October 2016

**Process set out by condition O.2 of Schedule 2 Part 3 Class O of the Town and Country Planning (General Permitted Development)(England) Order 2015**

**In accordance with section 60 (2B) and (2C) of the Town and Country Planning Act 1990 (as amended by section 4(1) of the Growth and Infrastructure Act 2013)**

Surrey Heath Borough Council, as local planning authority, hereby confirm that **PRIOR APPROVAL IS GIVEN** for the proposed development at the address shown below, as described by the description shown below:

**Address of the proposed development:**

**THE ABSOLUTE BUILDING, LYON WAY, FRIMLEY, CAMBERLEY, GU16 7ER**

**Description of the proposed development:**

**Prior Notification for Change of Use of the ground, first, second and third floors from B1a (Office) to C3 (Residential) to create 91 apartments comprising of 31 studio units, 41 one bedroom units, 11 two bedroom units and 8 two bedroom duplex units. (Additional Plan Rec'd 07/09/2016) (Amended Plans Rec'd 29/09/2016).**

**Details approved by the local planning authority:**

36060/Drwg 01(H), Drwg 100, Drwg 13(J), Drwg 14(E), Drwg 15(E), Drwg 16(E), 15694cv01, 25/08/2016.

**REASON(S) FOR APPROVAL (IF ANY)**

1. The proposed development shall be built in accordance with the following approved plans: Amended Proposed First Floor Plan 36060-14-E, Amended Proposed Second Floor Plan 36060-15E, Amended Proposed Third Floor Plan 36060-16-E and Amended Proposed Ground Floor Plan 36060-13-J all received 29.09.16, unless the prior written

approval has been obtained from the Local Planning Authority.

Reason: For the avoidance of doubt and in the interest of proper planning and as advised in ID.17a of the Planning Practice Guidance.

2. The windows shall be constructed to the required glazing and vent specifications as set out in the submitted Noise Break-In Assessment by Cole Jarman Report 16/0256/R2 received 17.08.2016.

Reason: To ensure an acceptable standard of living for occupants such that they are not adversely affected by noise from surrounding commercial premises, in accordance with paragraph 109 of the National Planning Policy Framework.

3. The development hereby permitted shall not be commenced until such time as a scheme to ensure compensatory floodplain storage for loss of floodplain storage up to the 1% Annual Exceedence Probability plus an appropriate allowance for climate change flood extent will be implemented. This will include full details, including calculations and plans outlining where compensatory storage will be provided. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements to be embodied within the scheme, or within any other period as may be subsequently agreed in writing with the Local Planning Authority.

Reason: To reduce the risk of flooding on site and elsewhere in accordance with paragraph 103 of the National Planning Policy Framework.

4. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment received 17.08.16 and the drawing Proposed Ground Floor - 88 Flats Flood Mitigation Plan reference 36060 drawing 01 revision H dated 19 September 2016, and the following measures detailed in the email dated 7th September 2016 from George Kelly of ARK Ltd : - Finished floor levels are set no lower than 62.6m above Ordnance Datum (AOD)The mitigation measures shall be fully implemented prior to occupation of the development and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To reduce the risk of flooding to the proposed development and its future occupants, in accordance with paragraphs 102 and 103 of the National Planning Policy Framework.

**It is important that you read and understand all of the following informatives:**

- Please note that this decision solely represents the determination of the Local Planning Authority under Schedule 2, Part 3, Class O of the Town & Country Planning (General Permitted Development) Order 2015 as to whether its Prior Approval is required in respect of the change of use. The applicant is advised to investigate whether consents or permissions under any other regulatory regimes are required.
- In particular the applicant is advised that, the site is within 5km of the Thames Basin Heaths Special Protection Area (SPA). The SPA is internationally-important and designated for its interest as habitats for ground-nesting and other birds. Natural England has demonstrated that the new population arising from housing developments at a distance of up to 5km from this SPA can have a “significant effect” on the SPA by causing disturbance to the breeding of rare bird populations, due to the impact of residents

recreational activities, particularly walking and walking with dogs.

- Regulation 60 of the Conservation (Natural Habitats etc.) Regulations 1994 (as replaced by Regulation 73 of the Conservation of Habitats and Species Regulations 2010) states that it is a condition of any Planning Permission granted by the General Permitted Development Order that is likely to have a significant effect on a European site shall not be begun until the developer has received written notification of the approval by the Local Planning Authority under Regulation 62 of the Habitats Regulations. **This decision is therefore conditional on such an approval being received.**

Further information on this process for making a Regulation 60 application is available here:-

[http://www.ukmpas.org/pdf/practical\\_guidance/HRGN6.pdf](http://www.ukmpas.org/pdf/practical_guidance/HRGN6.pdf)

- In making an application under Regulation 60 of the Habitats Regulations, the applicant is likely to have to make a contribution in accordance with the tariff in the Thames Basin Heaths SPA Avoidance Strategy 2010-2015 in order to seek to demonstrate that there will be no significant effort on the SPA. Further information is available here:-

<http://www.woking.gov.uk/planning/policy/ldf/tbhspa>

- In the event that, having consulted Natural England, the Local Planning Authority does not approve the Regulation 60 application, the proposal will not meet the condition, will consequently not be Permitted Development and will require Planning Permission.
- Any material operations required to the exterior of the building to effect the change of use may require Planning Permission in their own right.

#### **Informatives:**

1. The permitted change from office to residential described in this decision notice is conditional as set out in Regulation 3.-(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015. Regulation 3.-(1) requires compliance with the regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2010 and failure to comply with this requirement will render the development unlawful and may ultimately mean that a planning application is required to regularise it.

In order to comply with regulations 73 to 75 of the Habitat Regulations you are required to (before implementation):

- Submit an application for approval, as required by regulation 73, containing:
  - (a) details of the development which is intended to be carried out; and
  - (b) provide the statutory fee (currently £30) for such an application
- Submit Community Infrastructure Levy Form 5: Notice of Chargeable Development so that the Council can ascertain whether your proposal is CIL liable (Monies towards Suitable Alternative Natural Green Space (SANG) is collected through the charging schedule of the CIL).
- Contribute toward the cost of the ongoing management and maintenance of SANG through a Unilateral Undertaking. The Council will levy a contribution of £112.50 per square metre for the new residential (Use Class C3) floorspace created.

- Contribute a payment towards Strategic Access Management and Monitoring (SAMM) monies.

Further information on methods of payment, template Unilateral Undertaking and CIL guidance is available on the Council's website.

2. The development hereby permitted may be a chargeable development liable to pay Community Infrastructure Levy (CIL) under Part 11 of the Planning Act 2008 and the CIL Regulations (as amended). Prior to the implementation of the above development, a completed CIL Form 5 will be required in addition to evidence of lawful use of the site for a continuous period of 6 months within the past 3 years, in accordance with CIL Regulation 40.

U Riccard

Executive Head - Regulatory  
Duly authorised in this behalf  
(ATTENTION IS DRAWN TO THE NOTES ATTACHED)

## NOTES TO APPLICANTS

### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
  - If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice (unless your decision relates to an enforcement notice of a minor commercial development – see below).
  - If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
  - If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.
  - If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at [www.gov.uk/appeal-planning-inspectorate](http://www.gov.uk/appeal-planning-inspectorate)
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
  - The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

### **Further advice**

- If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out any development which has been or would be permitted, the owner may serve a Purchase Notice on Surrey Heath Borough Council. This Notice will require the Council to purchase his interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.
- In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 120 of the Town and Country Planning Act 1990.
- This decision notice refers only to the application made and does not convey any other consent or permission. Applicants should satisfy themselves that any other relevant consent is obtained before any work commences. For example: approval under the Building Regulations; consent under the Environment Agency byelaws; the release of any restrictive covenants on the land or permission of any landowners.
- Attention is drawn to Section 20 of the Surrey Act 1985 which requires that when a building is erected or extended proper provision shall be made for the fire brigade to have means of access to the building and any neighbouring building.
- This decision notice is a legal document and therefore should be kept in a safe place as it may be required if or when selling your home. A replacement copy can be obtained at [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk). A paper copy can be obtained but there is a charge for this service.

