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savills

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Dear Sir/Madam,

**Helena House, 348-352 High Street, SM1 1PX**  
**Change of Use from Commercial to Residential via Permitted Development Rights**

On behalf of our client, Helena House Ltd, I write to submit details pursuant to the 'prior approval' of the authority for the following proposal under Class MA of Part 3, Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended). The proposal involves the change of use of the first floor of the existing building into 7no. residential units.

The application comprises the documents set out below:

- Application Form;
- Community Infrastructure Levy – Additional Questions Form;
- Planning Note (this document), prepared by Savills Planning;
- Daylight and Sunlight Assessment, prepared by T16;
- Preliminary Contamination Risk Assessment, prepared by Paddock Geo Engineering;
- Flood Risk Assessment, prepared by EAS;
- Fire Statement, prepared by Accendo; and
- Accommodation Schedule, prepared by Studio Becoming.

The following drawings prepared by Studio Becoming have also been submitted to support this application.

- Location Plan (drawing reference: HHS-SB-PR-AL-010 P1)
- Site Plan (drawing reference: HHS-SB-PR-AL-050 P3)
- Proposed First Floor Plan (drawing reference: HHS-SB-PR-AL-110 P2)

**Application Site**

The site constitutes a six-storey office building (Class E) which has been vacant for 3 years. The site is located on High Street in Sutton Town Centre in the London Borough of Sutton. To the west of the site is Sutton Green, an area of public open space. The area to the north of the site is predominately residential in character with commercial units interspersed at street level. Other local supporting uses within close proximity include All Saints Benhlilton Church of England School approximately 300m to the north and Westbourne Primary School approximately 700m to the west.

Sutton Local Plan (Adopted 2018) shows the site designated as the following: 'Area of Potential Intensification'; 'Area of Taller Building Potential'; 'Decentralised Energy Opportunity Area'; 'Sutton Town Centre Boundary' and 'Site Allocation – STC19'.

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The site has an overall Public Transport Accessibility Level (PTAL) rating of 5, where 0 is the worst and 6b the best, showing it is well-connected.

The existing building is not locally or statutorily listed. The Prince Regent Public House that sits directly adjacent to the site to the south was previously Grade II statutory listed until autumn 2016, when Historic England de-listed the property due to its lack of architectural interest, the significant alterations and loss of historic fabric, and lack of overall historical interest. This site is not located within a Conservation Area.

There are no trees that are subject to Tree Preservation Orders (TPOs) within or adjacent to the site.

The site is located within Flood Zone 1, meaning there is low risk of flooding.

## **Proposal**

The proposal comprises the change of use of the first floor of the building from office floorspace (Class E) to provide 399.8sqm of residential floorspace (Class C3). This proposal seeks to deliver an additional 7 self-contained units.

The proposed development will be car free other than one Blue Badge space which will be converted from the existing on-site parking. There will also be secure cycle parking for 9 bikes, including 8 long stay and 1 short stay spaces, all located to the rear of the building.

Waste and recycling provision is located to the rear of the building, adjacent to the car park and will comprise policy compliant storage for the office and residential uses.

No alterations will be made to the external appearance of the existing building.

## **Planning History**

Relevant recent planning history associated with the site is summarised below.

*SUT/26081* – Planning permission was granted 17<sup>th</sup> November 1961 for the erection of a six storey office block with water storage and lift housing over and parking for 52 cars.

*66/2141* – Planning permission was granted 27<sup>th</sup> January 1967 for the continued use of the land for car parking purposes.

*B2005/54757* – Planning permission was granted 19<sup>th</sup> October 2005 for the erection of a two storey staircase enclosure and alteration to elevation at the rear, alteration to the front entrance involving the provision of a new door and access ramp.

*B2005/55145* – Planning permission was granted 23<sup>rd</sup> January 2006 for the installation of new air handling units and condensing units at the rear.

*B2006/56493* – Planning permission was granted 8<sup>th</sup> December 2006 for the display of an illuminated fascia sign and a non-illuminated projecting sign.

*B2014/70711* – Planning permission was granted 14<sup>th</sup> January 2015 for the change of use from office to residential.

*B2016/74886* – Planning permission was refused 8<sup>th</sup> September 2016 for the change of use from an office to a residential use providing 38 residential units with 21 car parking spaces.

*B2017/1097* – Planning permission was granted 18<sup>th</sup> May 2017 for an application to clear conditions 1 and 2 of the approved application B2014/70711.

*DM2020/00476* – Planning permission was refused 4<sup>th</sup> September 2020 for the demolition of the existing building and erection of a part-5, part-8 storey building to provide mixed use on the ground floor with 41 residential dwellings above, cycle and bin storage, disabled parking and a secured communal courtyard. This application was later allowed at appeal by the Planning Inspectorate under reference APP/P5870/W/20/3264318.

*DM2020/01822* – Planning permission was refused 23<sup>rd</sup> December 2020 for the prior approval in relation to the erection of 2 new floors to provide 12 self-contained residential units.

*DM2021/00899* – Planning permission was refused 15<sup>th</sup> December 2021 for the change of use of the building from Class E (office) to C3 (residential) to provide 25 self-contained residential units and flexible Class E/F uses at ground floor, alterations to fenestrations, removal of unused plant equipment to roof, associated car/disabled parking spaces, cycle/refuse storage and landscaping.

*DM2021/02062* – Planning permission was refused 4<sup>th</sup> March 2022 for the prior approval in relation to the erection of 2 new floors to provide 12 self-contained residential units.

*DM2022/01530* – Prior Approval for the change of use from Class E (Office) to Class C3 (Dwellings) on the second to fifth floors providing 27 self contained units has been granted subject to completion of the S106 agreement. This application comprises a 'follow on' submission.

### **LB Sutton's Article 4 Position**

An existing Article 4 Direction was in place which removed permitted development rights for the change of use from B1(a) (offices) to C3 (dwellinghouses) permitted under Class O of Part 3 of schedule 2 of the General Permitted Development Order (GPDO).

The transitional period for this Article ended on the 31<sup>st</sup> July 2022, and a new non-immediate Article 4 Direction has been made to remove permitted development rights regarding the change of use from class E use to C3 use (dwellinghouses) under Class MA of Part 3, Schedule 2 of the GDPO. This Direction is yet to be adopted until coming into force on 21<sup>st</sup> July 2023.

As previously noted, the transitional period for this Article ended on the 31<sup>st</sup> July 2022, and no new new non-immediate Article 4 Direction has been made to remove permitted development rights regarding the change of use from class E use to C3 use (dwellinghouses) under Class MA of Part 3, Schedule 2 of the GDPO.

### **Class MA Permitted Development Rights**

"Class MA" rights came into being on 1<sup>st</sup> August 2021 and allow for development consisting of the 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 of the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 of that Order. The new right is introduced following changes to the Use Class Order which created a new Class E which include a number of uses that previously fell under Class A1, Class A1, Class A3, Class B1 and part of Class D1 and Class D2.

Class MA 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**

**MA.1.—(1) Development is not permitted by Class MA—**

- (a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;
- (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) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;
- (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; 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.

**(3)** An application for prior approval for development under Class MA may not be made before 1 August 2021.

**(4)** The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”.

**(5)** Development must be completed within a period of 3 years starting with the prior approval date.

**(6)** Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.

### Paragraph MA.1 of Class MA

Paragraph MA.1 details instances where development under Class MA development is *not* permitted. Compliance with this criteria is set out in the table below.

Class MA.1 Criteria	Assessment
a) Unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval	The premises have been vacant since 2019.
b) Unless the use of the building fell within one or more of the use classes specified in sub-paragraph (2) for continuous period of at least 2 years prior to the date of the application for prior approval	The premises have been in continuous office use (Class E) since the 1960s, as demonstrated by the planning history.

c) <i>If the cumulative floorspace of the existing building* changing under Class MA exceeds 1,500 square metres</i>	The floorspace to be converted within the existing building is 1,169sqm (GIA).
d) <i>If land covered by, or falls within the curtilage of, the building-</i> i. <i>is or forms part of a site of special scientific interest;</i> ii. <i>is or forms part of a listed building or land within its curtilage;</i> iii. <i>is or forms part of a scheduled monument or land within its curtilage;</i> iv. <i>is or forms part of a safety hazard area; or</i> v. <i>is or forms part of a military explosives storage area.</i>	The site is not on land covered by, nor does it fall within the curtilage of, any of the identified assets.
e) <i>If the building is within-</i> i. <i>An area of outstanding natural beauty;</i> ii. <i>An area specified by the Secretary of State for the purposes of section 41 (3) of the Wildlife and Countryside Act 1981;</i> iii. <i>The Broads;</i> iv. <i>A National Park; or</i> v. <i>A World Heritage Site</i>	The building is not located within any of the identified designations.
f) <i>If the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and tenant has been obtained</i>	The site is not occupied under an agricultural tenancy.
g) <i>Before 1 August 2022, if-</i> i. <i>The proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1<sup>st</sup> August 2021; and</i> ii. <i>The development would not have been permitted under Class O immediately before 1<sup>st</sup> 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.</i>	Not applicable.

The GPDO interpretation defines a building as “any structure or erection and, except in Class F of Part 2, [F5Classes 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”.

In this case, the second to fifth floors are the part of the building being considered.

#### Paragraph MA.2 of Class MA

Paragraph MA.2 states that: where any development under Class MA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority 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(4), the impact on the local provision of the type of services lost.*
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.*

Development under Class MA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

## **Assessment**

### Transport and Highway Impacts

The site benefits from excellent access to existing transport infrastructure, as shown through its PTAL rating of 5. Sutton Green bus stop is located 25 metres from the site, providing access to 10 different bus routes with high frequencies, including routes 154 and 213 which provide 24 hour services. In addition, the bus stop located at Sutton Crown Road can be reached in a 3.5 minute walk and provides access to a further two bus routes.

Sutton Common railway station is situated 600m from the site and provides links to numerous stations in London, including major travel hubs such as London Blackfriars and London St Pancras International.

Based on this high level of local transport infrastructure, the development is proposed to be car free other than one Blue Badge space, converted from the existing car parking on site. A total of 9 cycle parking spaces (8 long stay, 1 short stay) will be provided, in line with the Sutton Local Plan requirements. There are existing short-stay cycle parking spaces found in Sutton Green, located opposite the development site. Therefore only 4 short stay spaces are considered necessary.

This demonstrates that there will be no adverse 'transport impacts of the development' as required under Paragraph MA.2(a) of Class MA.

### Contamination Risk

A Phase 1 Preliminary Contamination Risk Assessment was produced for this application and concludes there is a low to moderate risk level from the potential contamination sources identified on the site and surrounding area. In addition, a moderate geotechnical risk was identified at the site. As a result, an Intrusive Investigation, Generic Human Health Contamination Risk Assessment and Ground Gas Risk Assessment as Phase 2 of a Site Contamination Assessment was undertaken. This assessment found that the site was suitable for proposed residential use with no remediation of the near surface soils deemed necessary.

This shows there is little risk of site contamination or geotechnical risk and it is not considered that the intensification of the site to deliver residential dwellings would pose a contamination risk.

This demonstrates that there will be no 'contamination risks in relation to the building' as required under Paragraph MA.2(b) of Class MA.

#### Flood Risk

The site is located in Flood Zone 1, representing the lowest flood risk area. Given that the proposals are for the change of use of the upper floors of an existing residential building the proposals do not result in the increase in building footprint or impermeable surfaces, therefore, there is no additional risk of flooding as a result of the proposals. A Flood Risk Assessment has also been provided in support of this application.

This demonstrates that there will be no adverse 'flooding risks in relation to the building' as required under Paragraph MA.2(c) of Class MA.

#### Commercial Noise Impacts

Office floorspace is to be retained on the ground and first floors of the building. There is also a terrace of commercial buildings immediately north of the site comprising various uses including a takeaway and a barber shop. With regard to the office uses within the building it is considered that Offices are occupied during the weekday daytime, and vacated in the evening while residential homes tend to be occupied during evenings and weekends. As such, it is not considered that there will be significant noise disturbance to future occupants as a result of the retained Office floorspace, given they are unlikely to be occupied at similar times.

With regard to the terrace of commercial premises immediately north, the commercial units are located at ground floor while the residential units proposed within this development are located from the second to fifth floors of the building, creating a significant separation distance between the uses. Furthermore, there are existing residential flats directly above the commercial units demonstrating the uses are compatible in nature.

Finally, the site is allocated in the Sutton Local Plan for a residential-led mixed use scheme. Therefore the introduction of residential uses to this site is not considered to be at odds with surrounding uses and would not suffer from adverse impacts in respect of noise disturbance as a result. Planning permission has previously been approved for residential units at the site (application reference: B2014/70711). These both demonstrate that any impact of surrounding commercial noise upon future occupants has been considered acceptable by LBS.

This demonstrates that there will be no adverse 'impacts of noise from commercial premises on the intended occupiers of the development' as required under Paragraph MA.2(d) of Class MA.

#### Provision of Natural Light

A Daylight and Sunlight Assessment has been submitted with the application. The report assesses the internal daylight levels that the new dwellings will receive using the new Target Daylight Factor standard methodology as prescribed by the new BRE guidance. Taking into account factors including window size, number of windows, room size and layout, room surface reflectance and the angle of visible sky reaching the window, provision of natural light into the dwellings is assessed. The Assessment concludes that all habitable rooms



within the proposals exceed the target average daylight factor criteria. This will provide natural light into the flats to create a healthy day lit environment for future occupants.

This demonstrates that there will be acceptable 'provision of adequate natural light in all habitable rooms of the new dwellinghouses' as required under Paragraph MA.2(f) of Class MA.

#### Fire Safety

The application is supported by a Fire Statement.

This demonstrates the proposal is in accordance with Paragraph MA.2(i) which states 'where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building' should be considered.

#### Other Class MA Requirements

Paragraph MA.2(e) of Class MA relates to impact upon Conservation Areas. The Site is not located within a Conservation Area so this paragraph does not apply to the proposed development.

Paragraph MA.2(g) of Class MA relates to impact on intended occupiers in industrial areas. The Site is not located within an industrial location.

Paragraph MA.2(h) of Class MA relates to loss of health services. This is not relevant to this planning application which results in the change of use of existing office floorspace (Class E).

#### **Conclusion**

The proposal comprises the change of use of the second to fifth floors of the building from office floorspace (Class E) to provide 399.8sqm of residential floorspace (Class C3). This proposal seeks to deliver 7 self-contained units.

It is proposed to change the use of the first floor of Helena House to from Office floorspace (Class E) to residential (Class C3). The principle of change of use is not an issue, because the principle of permission has effectively already been granted by application of Class MA of the amended order.

As required under Paragraph MA.2 of Class MA it has been demonstrated that there are no transport, contamination, flooding, or amenity reasons why the development should not proceed.

Should you have any queries on the proposal, please do not hesitate to contact me.

Yours sincerely,



Savills