

SUPPLEMENTARY REPORT

AREA 1 PLANNING COMMITTEE
EXTRAORDINARY MEETING

DATED 10 OCTOBER 2024

TM/24/01199/PA

Prior Notification under Schedule 2, Part 3, Class MA: Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3) to form 4x 1 bedroom flats at 100 High Street, Tonbridge

Additional representation received from the Environment Agency 10 October 2024

Environment Agency position We maintain our objection to the proposal due to an insufficient Flood Risk Assessment (FRA).

This is in line with paragraph 173 of the National Planning Policy Framework (NPPF).

Reasons A more detailed Flood Risk Assessment (by: GO Contaminated Land Solutions Ltd.; ref: 22756-FR-1; dated: 12 July 2024) has been submitted in support of the proposal but unfortunately, this does not fully identify the main flood risk and does not propose realistic design details to ensure the proposed development can be made safe against flood risk for the lifetime of the development. No additional information has been provided which changes our previous response but rather, reinforces our concern. No details of the proposed Finished Floor Levels have been provided and we agree an external flood depth of 490mm (23.28metres Ordnance Datum) would not be unreasonable during the design flood event. This level includes an allowance for climate change.

Overcoming our objection As previously suggested, a detailed FRA should be provided which demonstrates flood risk can be safely managed. As a minimum, this should include the following:

- A detailed topographic survey to mAOD, extending across the site and surrounding area, including external ground levels by existing and proposed entrances.
- Confirmation that the proposed FFLs will be set above the design flood level of 23.28mAOD, plus a suitable allowance of freeboard.

If the groundfloor level cannot be raised sufficiently high enough to provide freeboard, consideration could be given to duplex apartments with all sleeping accommodation at first floor. We would also have no objection to residential units restricted to the first floor and above.

Officers:

For clarity, paragraph W of Part 3 of Schedule 2 of the GPDO 2015 at sections 10 (a) and (b) require Local Planning Authorities to take into account any representations made to them as a result of any consultation, and to have regard to the NPPF so far as relevant to

the subject matter of the prior approval, as if the application were a planning application. In this instance it is appropriate for the Local Planning Authority to consider the application with regard to paragraphs 165 – 175 of the NPPF. It is necessary for proposed development within areas of flood risk to undertake the sequential test to steer new development into areas with the lowest risk of flooding. If this is not possible the exception test will need to be applied. The exception test will need to demonstrate that the development would provide wider sustainability benefits to the community that outweigh the flood risk, and that the development will be safe for its lifetime.

The more detailed Flood Risk Assessment referenced above does make reference to the sequential and exception test. However, the introduction of 4 residential units does not constitute the necessary wider sustainability benefits to the community which would outweigh the flood risk, nor does the proposal provide clear evidence that the proposed development will be safe for residential use.

RECOMMENDATION: Amend the first recommended reason for refusal relating to potential flood risk

- 1 The proposed change of use application fails to meet the requirements of the sequential and exception tests as required by paragraphs 165 – 175 of the National Planning Policy Framework 2023. The proposed change of use does not provide wider community benefits that would outweigh potential flood risk nor adequately demonstrate that the risk to internal flooding can be overcome. The application therefore also fails to comply with section (c) of MA.2 (2) of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).