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## **APPEAL AGAINST THE NON-DETERMINATION OF APPLICATION DC/26/0024**

**FOR**

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**CHANGE OF USE OF BUILDING TO PROVIDE 9 C3 RESIDENTIAL UNITS**

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**BENTLEY HOUSE, NORTH HEATH LANE INDUSTRIAL SITE, HORSHAM,  
RH12 5QE**

**D&M REF: 243/25/MS  
March 2026**

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## 1.0 INTRODUCTION

- 1.1 D&M Planning Ltd have been instructed by the applicant to submit this appeal relating to the failure of the Council to determine the application reference **DC/26/0024** within the agreed time. The application seeks full planning permission for the change of use of the existing office building to provide 9 self-contained C3 residential units at Bentley House, North Heath Lane Industrial Site, Horsham.
- 1.2 The application was validated on 9<sup>th</sup> January 2026 with a determination date of 6<sup>th</sup> March 2026. The validation letter is attached at **Appendix 1**. An extension of time until 13<sup>th</sup> March 2026 was agreed to allow for consultation on conditions and to address queries raised by the Council's Environmental Health Officer in respect of noise.
- 1.3 The existing building consists of a mid-twentieth century two storey office building that has been vacant for in excess of five years. The building has been marketed in a variety of manners and potential layouts throughout this time with no interest from prospective tenants. The building is located within an existing industrial estate which provides accommodation for both offices, research and development, light industrial purposes and storage/distribution. The surrounding area is residential in character.
- 1.4 The site, as shown on the location plan below, is sustainably located within the defined boundaries of the major urban centre of Horsham (though outside the centre) and with close proximity to local amenities including shops, transport hubs, schools, open space etc.



- 1.5 The application site is designated as being within the built-up area of Horsham and is within an existing industrial estate which is otherwise surrounded by residential properties and Pondtail Park. The industrial estate is not identified under the adopted development plan to be of any strategic or local importance.
- 1.6 The original application was accompanied by a detailed planning statement setting out our contention that the proposed development would be compliant with the relevant policies of the development plan and that it would deliver a number of material benefits, particularly the provision of additional residential accommodation against the backdrop of the Council's significant under delivery. Where relevant this statement will cross reference to said statement attached at **Appendix 2**.
- 1.7 The application does not seek to make any changes to the built form of the building with the only additional work proposed being for bike storage. The application proposes the material change of use of the building.
- 1.8 This statement will, in line with the Appeal Procedure Guidance, set out the main planning considerations of the appeal and as set out will cross reference to the originally submitted planning statement. Relevant documents are attached within the appendices.

## 2.0 THE PROPOSAL

2.1 The proposal is set out in detail within the submitted plans. A written description is also included within Section 5 of the originally submitted planning statement. No amendments to the plans have been made during the life of the application and the Council have not sought any either.

2.2 The proposal is the change of use of the existing office building to provide 9 residential properties falling within use Class C3.

2.2 Such a proposal could typically be undertaken under the auspices of the General Permitted Development Order, however, historic conditions across the site limit the use of the building to being for office purposes only – this is made more complex by subsequent applications for which Horsham does not hold complete records which include similarly worded conditions. The result of such being that it cannot reasonably be determined what conditions from which conditions would actually need to be removed to allow such a change to be undertaken. We do, however, highlight that the existence of such rights should form a material consideration in that they recognise the Government’s position on such schemes.

2.3 The table below sets out the proposed mix of properties.

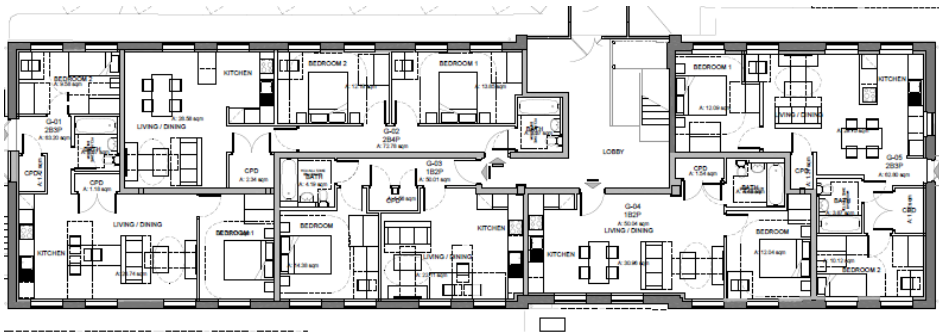
<b>Bedrooms</b>	<b>Persons</b>	<b>Number of Units</b>
<b>1</b>	2	2
<b>2</b>	3	3
<b>2</b>	4	3
<b>3</b>	5	1

### Use

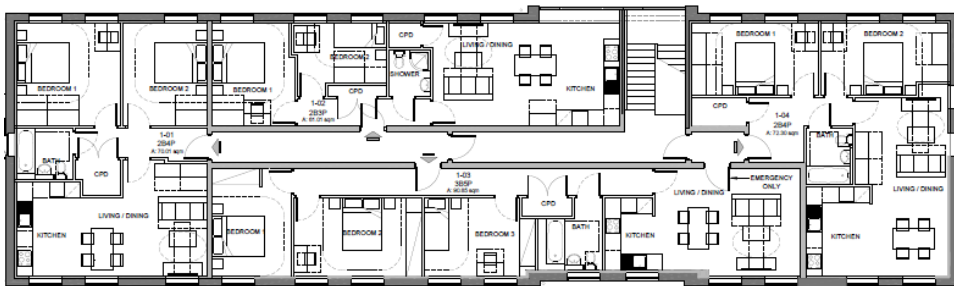
- 2.4 The building, whilst vacant, has a lawful use as offices being Class E of the use class order. Conditions prevent this from being any other use than offices,
- 2.5 The proposed development would alter the use to provide 9 residential dwellings falling within Use Class C3 of the use class order.

Layout

- 2.6 The overall layout of the building and the context of the wider site would remain unchanged. No extensions are proposed to facilitate the development, and it would therefore occupy the same footprint and position as the existing building and use.
- 2.7 All of the changes would be internal. The result of such would be to provide 5 units at ground floor and 4 at first.



*Proposed Ground Floor Plan*



*Proposed First Floor Plan*

- 2.8 The proposed layout would make use of the existing fenestration without the need for any alterations.

Amount

- 2.9 The overall development would provide 9 residential units of accommodation. The housing mix is set out above.
- 2.10 Internally the properties would range in size from circa 50sqm to circa 91sqm.

Scale

- 2.11 The proposed development would not alter the scale of the built form with no extensions or alterations proposed.
- 2.12 The proposed cycle store would be modest in scale appropriate to the use.



*Proposed Front Elevation*

Appearance

- 2.13 The proposed dwelling would retain the existing appearance with no changes proposed to the external façade of the building.
- 2.14 The proposed bike store would be of modest form in keeping with the character of the area.

### Landscaping

- 2.15 The application site is an established industrial estate wherein there is little landscaping. A condition could be included for some elements of this though this would be limited.

### Access and Parking

- 2.16 Use would be made of an existing vehicular access and no amendments to this are proposed. Parking would be designated within the wider site as indicated on the plans. It is noted that in consultation as part of the application that the Highway Authority have not raised any objections to the proposal.

### **3.0 PLANNING POLICY AND GUIDANCE BACKGROUND**

3.1 Section 6 of the originally submitted planning statement outlines the planning policy in detail including relevant constraints, and policies of the development plan. Whilst we do not wish to repeat ourselves unnecessarily it is worth highlighting that since the submission of the application there has been a change in the position of the emerging local plan. Accordingly, for matters of completeness we outline the relevant planning policy below.

3.2 The site is subject to the following planning opportunities/constraints:

- Built-up Area Boundary
- Heat Priority Area

3.3 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 38(3) states that the Development Plan includes and any other Development Plan documents. Accordingly, the development plan consists of those policies within the Horsham District Planning Framework 2015.

#### **Central Government Planning Policy Guidance**

3.4 The National Planning Policy Framework (NPPF) was first introduced in March 2012 with the current version being that dated December 2023. A recent consultation on a revised NPPF has been completed, it is our consideration, however, that should such be introduced during the life of this application the relevant parts of the NPPF would not be materially changed.

3.5 Paragraph 7 of the NPPF states:

7. *The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs*

3.6 It goes onto state that there are three dimensions to sustainable development: economic, social and environmental, and these roles should not be undertaken in isolation, because they are mutually dependent.

3.7 The development would contribute to all three of these dimensions. It would create economic activity through the works and the associated labour and materials. It would provide housing and it would also result in an attractive development in keeping with the character of the area.

3.8 Paragraph 10 of the NPPF states

*‘So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)’.*

3.9 It goes onto state that plans and decisions should apply a presumption in favour of sustainable development.

*‘For decision-taking this means:*

*c) approving development proposals that accord with an up to date development plan without delay; or*

- d) *where there are no relevant development plan policies, or the policies which are the most important for determining the application are out of date, granting permission unless:*
- (i) *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or*
  - (ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.'*

3.10 The proposal would make an important contribution to the housing needs of the area within a highly sustainable location. We highlight at this juncture that the Council's housing land supply position is significantly below the minimum five-year requirement. As per paragraph 3.2 of the Housing Delivery Test (**Appendix 3**) it is at 1 years.

3.11 Paragraph 12 states the following:

*'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

3.12 The most relevant sections of the NPPF in relation to this proposal are 2 (Achieving Sustainable Development); 5 (Delivering a sufficient supply of homes); 6 (Building a

strong, competitive economy); 9 (Promoting sustainable transport); 11 (Making effective use of land); 12 (Achieving well-designed and beautiful places); 14 (Meeting the challenge of climate change); and 15 (Conserving and enhancing the natural environment).

- 3.13 Section 5 addresses the Government’s objective to significantly deliver the supply of homes to meet the needs of different groups in the community. The NPPF requires Council’s to demonstrate an appropriate housing land supply to ensure that the needs of residents are met. The Council’s current housing land supply position is significantly below the minimum five-year requirement and therefore the tilted balance as set out in paragraph 11d is applicable. If the tilted balance is engaged, we consider that the significant benefits of the housing provision would not be significantly and demonstrably outweighed by any adverse impacts.
- 3.14 Section 6 deals with economic development. It is acknowledged that the proposal would result in the loss of offices which would decrease the employment provision within the district. Whilst this is the case, we consider its loss to be justified as supported by the evidence provided. In this case the property has been vacant for in excess of five years with no real interest. Further, the change of use of the property to residential would not undermine the operation of the wider estate as has been demonstrated by the technical information submitted and the response of the Council’s officers particularly those concerning noise impacts.
- 3.15 Section 9 deals with promoting sustainable transport. The main policy aim is to focus development on locations which are or can be made sustainable, such as through limiting and offering a genuine choice of transport modes. It also advises that developments should provide safe and secure layouts and suitable access, and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The development would be within a sustainable location being within the built-up area boundary of Horsham wherein the plan seeks to prioritise new housing. It should be noted that the highway authority did not raise objection to the scheme during the life of the application.

- 3.16 Section 11 sets out that development should make the most efficient use of land. Of direct relevance to the application paragraph 125 c) states that decision makers should *give substantial weight to the value of using suitable brownfield land within settlements for homes...which should be approved unless substantial harm would be caused...* This is in effect its own tilted balance which is supplementary to that at paragraph 11d. We do not consider that substantial harm would be caused as a result of the proposal. Further, paragraph 125 d) requires that decision makers *support the development of under-utilised land and buildings if this would help to meet identified needs for housing where land supply is constrained.* Given the Council's housing land supply position, we consider that this weighs heavily in favour of the proposal.
- 3.17 Chapter 12 deals with the requirement for good design, which it notes is a key aspect of sustainable development. Given the limited changes to the build form of the proposal, we consider that the proposal would respect the character of the area.
- 3.18 Chapter 14 deals with the Government's aim of adapting and mitigating the impact of a changing climate. The proposal would re-use a building making use of the already embodied carbons which negates the need for additional development.
- 3.19 Chapter 15 deals with conserving and enhancing the natural environment. It states the planning system should protect and enhance valued landscapes; recognise the intrinsic character and beauty of the countryside; minimise impacts on and provide net gains in biodiversity. The site is not within any protected landscape and does not change the built form of the building therefore not likely to impact on any ecological interests of the site.
- 3.20 Paragraph 224 of the NPPF states that policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made. However, paragraph 225 states existing policies should not be considered out of date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them,

according to their degree of consistency with this Framework (the closer the policies in this plan to the policies in the Framework, the greater the weight that may be given). Given the absence of housing land supply many of the policies are considered to be out of date and therefore the implications of the framework are given due consideration.

- 3.21 It is submitted that the proposed development before you duly accords with the relevant criteria set out within the NPPF.

### **Development Plan**

- 3.22 The approved and adopted Development Plan for this site comprises the Horsham District Planning Framework (HDPF) 2015.
- 3.23 A new plan was submitted for examination with initial hearing sessions were held in 2024. At the time of the submission of the application further examination was on hold following concerns raised by the Inspector and the recommendation that it be withdrawn.
- 3.24 Whilst this is the case, during the life of the application and following the retraction of the position statement concerning water neutrality and the removal of the duty to cooperate, the newly appointed Inspector has reopened the examination. The letter from the Inspector, and other relevant documents, dated 11<sup>th</sup> February is included at **Appendix 4**. The examination sessions are scheduled to be held initially in April and then resumed in September 2026. It is clear from the Council indicative timeline that there is an anticipation for significant modifications to be made.
- 3.25 Owing to the progress of the plan, the fact the policies are currently untested though were previously found to be deficient, the clear need for modifications etc. we consider that only very limited weight could be given to the policies within the document at this time. Further, given the absence of any examination any conflict with such policies would also not be demonstrable. This is consistent with the guidance contained within

*Shaping Development in Horsham District Planning Advice Note* published last year  
**(Appendix 5).**

3.26 The following Policies of the adopted HDPF 2015 apply to the application site:

- Policy 1: Sustainable Development
- Policy 2: Strategic Development
- Policy 3 & 4: Development Hierarchy and Settlement Expansion
- Policy 9: Employment Development
- Policy 15: Housing Provision
- Policy 16: Meeting Local Housing Needs
- Policy 24: Environmental Protection
- Policy 25: District Character and the Natural Environment
- Policy 32: The Quality of New Development
- Policy 33: Development Principles
- Policy 35: Climate Change
- Policy 36: Appropriate Energy Use
- Policy 37: Sustainable Design and Construction
- Policy 38: Flooding
- Policy 40: Sustainable Transport
- Policy 41: Parking

3.27 Given the comments above regarding the emerging plan only limited weight can be given to the policies at this time. Whilst they may in some instances form material considerations, we do not consider those policies with outstanding objections that are otherwise unexamined to be afforded such weight.

3.28 The site is not subject of any neighbourhood plan designation

### **Other Policy Documents**

3.29 The following policy/guidance documents are also considered relevant and have been into account:

*Appeal against non-determination  
Change of use to provide 9 dwellings  
Bentley House, North Heath Lane, Horsham  
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March 2026*

- National Planning Policy Guidance (NPPG)
- Horsham District Transport Study Technical Note (April 2015)
- Climate Change strategy (2009)
- Sussex Air Quality Guidance (2019)

## 4.0 PLANNING CONSIDERATIONS

4.1 Section 7 of the originally submitted planning statement is considered to be comprehensive in terms of the assessment of the relevant planning merits. In line with the Appeal Procedural Guide, this statement addresses *the areas that the appellant considers most likely to comprise the LPA's objections to the development proposed.*

4.2 We consider that the main consideration given to the determination of the application are as follows:

- Principle and Location of Development
- Housing Land Supply and Housing Mix
- Loss of Employment Space
- Impact on the Character of the Area
- Standard of Accommodation
- Impact on the Amenity of Neighbouring Properties
- Impact on Highways and Parking
- Water Neutrality
- Ecology and Biodiversity
- Sustainable Construction

4.3 Based on the consultation responses received during the life of the application and the main issues it is our consideration that the most likely objections would be in relation to the principle of development and the impact on the employment provision.

### Principle and Location of Development

4.4 The application site is located within the built-up area boundary of Horsham. Policies 1 and 2 of the Development Plan set out what the Council to be considered sustainable locations for development.

4.5 Policy 3 of the Local Plan states that *development will be permitted within towns and villages which have defined built up area boundaries*. Horsham is identified within the plan as being a Main Town and therefore considered to be a highly sustainable location in which the principle of new housing should be supported.

4.6 Additionally, we highlight that the site should be considered to constitute previously developed or brownfield land for which Government seeks to prioritise new development. This is notably seen in paragraph 125 c) of the NPPF which states:

*give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*

Notwithstanding the comments that will be discussed below which consider the application of paragraph 11d), it is highlighted that paragraph 125 c) forms its own balancing exercise. This is to say that it requires substantial weight to be given to the use of the brownfield land within settlement for homes that *should be approved unless substantial harm would be caused*. Accordingly, this paragraph makes it incumbent upon the decision maker to approve the development unless substantial harm from such is identified.

4.7 Having regard to the proposal it is our consideration that the only likely contentious issue that could be considered to result in some harm would be from the loss of the employment use. The other matters of considerations set out above are relevant factors, however, noting the nature of the application, consultee responses and the absence of any operational development it is highly unlikely that harms from these matters would arise. It is therefore our contention that even before engaging with the tilted balance of paragraph 11d), it is clear that the loss of the employment space would not, in this instance, constitute a *substantial harm* in regard to the balancing act at paragraph 125 c).

- 4.8 In terms of the loss of employment space it is acknowledged that the current building is within a lawful employment use. North Heath Lane, however, is not specifically designated as a key nor strategic employment site under the auspices of the adopted plan. The loss of the employment space is therefore considered under Policy 9. As will be addressed under subsequent headers this loss we consider is justified as evidenced by the marketing information. Further, it is highlighted that the loss of this unit would not undermine the wider functionality or viability of the industrial estate. We consider this is to be regardless of the application of any balancing exercise required by either paragraph 11 or 125 of the NPPF.
- 4.9 Having regard to such, it is considered that the proposal would be in a sustainable location which should be supported for additional housing. We contend that in principle support to the scheme can be assured subject to a consideration of wider factors.

#### Housing Land Supply and Housing Mix

- 4.10 Paragraphs 75 to 81 of the NPPF set out the requirement for Local Planning Authorities to identify and maintain a five-year housing land supply. Paragraph 11 sets out that if the Council is unable to provide sufficient housing land supply the relevant plans should be determined out-of-date (subject to the relevant footnotes and paragraph 14).
- 4.11 It is noted that in the April 2025 as part of the Housing Delivery Test Action Plan the Council published its housing land supply as being equivalent to 1 year. This is a chronic shortage of homes significantly below the five-year requirement. It is our contention that the shortfall is of such significance that it adds greater weight to the delivery of housing in the location that accords with the wider spatial strategy.
- 4.12 In light of such an under-delivery engagement with paragraph 11d) and the tilted balance is necessitated in reaching any determination on site.
- 4.13 As will be set out at length we consider that the benefits of the scheme, notably in the delivery of additional housing, reuse of previously developed land, etc are not

significantly and demonstrably outweighed by the harms of the proposal. We consider that any harms are highly limited being the loss of the employment space which is indeed justified by the evidence available.

- 4.14 Further, we do not consider that the change of use would undermine the viability of the wider industrial estate. In support of this we highlight that the General Permitted Development Order (Schedule 2, Part 3, Class MA) permits the change of use of units within Class E to C3 residential dwellings; the GPDO is clear that in such instances regard should only be given to the impact on the wider estate if it is considered to be of importance for *general or heavy industry, waste management, storage and distribution, or a mix of such uses*. In this instance the site is not designated as being of any particular value under the current plan and the uses within the estate are largely office linked.
- 4.15 A full assessment of this balancing exercise is made later in this report.
- 4.16 With regards to housing mix the aforementioned planning advice note, *Shaping Development in Horsham* reaffirms that Policy 16 of the plan sets out that development should meet a range of housing needs taking into account other factor such as the character of the area, viability etc.
- 4.17 The most recent evidence base for the demand for different sized homes in Horsham identifies the following:

Number of Bedrooms	Need as %
1	5
2	30
3	40
4	25

- 4.18 It is acknowledged that the development does not precisely meet these % criteria delivering a greater volume of 2 beds than 3. Whilst this is the case, the unit mix is

somewhat determined by the existing layout of the building for which the change of use is sought.

- 4.19 It is proposed that all nine units be delivered as market housing. It is confirmed within the planning advice note that the scheme would not trigger the requirement to deliver affordable housing.
- 4.20 It is our consideration that the proposed delivery of housing would weigh significantly in favour of the proposal providing notable and measurable benefits to the district as a whole.

#### **Loss of Employment Space**

- 4.21 The current lawful use of the building is as office accommodation falling within use Class E of the Use Class Order. Historic conditions prevent the building from being used for any other purpose other than as offices.
- 4.22 The wider industrial estate is not subject to any specific designation set out within the adopted local plan. It is recognised that the emerging plan seeks to designate the site, however, this policy has not been subject to an examination with the hearings scheduled for later this year. We highlight that at the time of submission the plan had not been resumed. As set out only very limited weight is given to these emerging policies and, accordingly, we contend that the draft designation has no bearing on the determination of this application. We emphasise that at this time that there are outstanding objections to these policies and there is a need for main modifications across the plan as a whole.
- 4.23 With such in mind Policy 9 of the adopted development plan is directly relevant to the application. Policy 9 2) states that:

*Redevelopment of employment sites and premises outside Key Employment Areas, must demonstrate that the site/premises is no longer needed and/or viable for employment use.*

- 4.24 The supporting text does not expand upon the policy to specify any requirement as to how this can be justified or evidenced. In our experience, however, it is typical of local authorities to require details such as marketing reports, viability reports or similar to help support such.
- 4.25 The initial application was submitted with relevant supporting documents (**Appendix 6**) to demonstrate that the loss of the employment site was justified. The supporting report and letter were prepared by Crickmay, an established and professional commercial agent. The author of the report is a chartered surveyor. The original report is dated 7<sup>th</sup> November 2024 and covers the whole estate and was prepared as part of submission relating to the emerging plan. The comments contained within, however, as they relate to Bentley House remain applicable and are supported by the additional supporting letter.
- 4.26 The report identifies a number of challenges to the viability of the site as a whole including energy performance and restrictive conditions. These challenges clearly demonstrate that the use of the building, and indeed much of the wider estate, are simply not viable to meet the needs of modern employment use.
- 4.27 Further, it is highlighted that in terms of the wider estate these challenges would not be altered as a result of proposed development. There is a clear need for the site to be redeveloped in some form as it is not viable in its current. Whilst the proposed change of use would constitute a consideration in how this evolves it does not undermine the ability to redevelop the site at large in whatever capacity in the future. The building is positioned to the edge of the wider estate, and whilst it would present as a constraint to the wider redevelopment its location is of much less impact than if it were say in the middle or on the main artery route into the estate.
- 4.28 Additionally, we would draw specific attention to those comments found under the header of *Marketing Activities* on page 9 of the report. Within this it is clear that Bentley House has been marketed unsuccessfully for in excess of 5 years without success. The report includes a summary of the marketing that has been undertaken this includes:

- Advertising the site directly to existing applicants on the agent's database
- Sharing the listing with other local agents
- Marketing on national commercial property listings including a premium listing on Zoopla
- Advertising the property on flexibility configurations for either the whole building or floor by floor or other suitable configurations
- The client has also undertaken refurbishment to improve the appearance
- Reduction in rent prices advertised

4.29 We therefore contend that the viability of the employment offering has been critically examined in two forms. Principally it has been shown that owing to the site-specific circumstances, such as the need to improve the EPC rating, limitation on working hours, limitation on uses permitted etc, that the building is not financially viable for such use.

4.30 In addition to this it is highlighted that the use of the building is controlled by an array of conditions and therefore necessitates that planning permission be required should an alternative employment use be sought on site. The site has been marketed and no enquiries for other uses have been received. We also highlight that the layout of the building is limiting in what any alternative provision could be; for example it does not benefit from large open spaces suitable for storage of industrial process and any changes to do so would likely undermine the structural integrity of the building as evidenced by the large internal columns which support parts of the first floor. Further, any change of use to an alternative employment use would still be subject to the restrictive hours of operation.

4.31 Secondly, this has been confirmed by the unsuccessful marketing that has been undertaken on the premises for in excess of five years. Accordingly, not only is it a financial consideration of the viability of the site but one that has been determined by the market. Simply put, in line with the requirement of Policy 9, if the building were needed for such a use, and that use was viable, the marketing should have been successful over such a time frame.

- 4.32 It is also clear that whilst other buildings within the estate remain occupied the viability of their longer-term future remains uncertain. We do not consider that this viability is any further undermined by the introduction of the residential units within the estate. The wider use of the estate is controlled by various conditions including specific uses and limitations to the hours of operation. These conditions have allowed the estate to historically function despite being surrounded by residential properties. Further, the submitted noise assessment clearly demonstrates that future occupiers would be afforded a comfortably living environment. Should the wider site be redeveloped in some way this would need to be assessed in line with the proposal if successful. This may present a future design constraint, but it would not fundamentally prevent any development coming forward. Further, should concerns be raised on this matter by the Council we consider that this would be tantamount to considerations of a ‘what if’ scenario unsupported by the wording of relevant adopted policy and one that goes beyond the proposal as submitted.
- 4.33 In light of the above and the comments within the report it is our position that the evidence meets the requirements of Policy 9 2) to justify that the loss of the employment space. The evidence demonstrates that there is both no longer a need for such space, as evidenced by the marketing report, and that its use for such would not be viable, as evidenced by the wider report.
- 4.34 It is further highlighted that, in any event, the loss of such, we contend, would not significantly nor demonstrably outweigh the benefits in accordance with paragraph 11d nor cause substantial harm in line with paragraph 125 c) of the NPPF. Ultimately the loss of employment space is limited in area, on a unit which has been vacant for in excess of five years and would not cause any adverse impacts to the wider operation of the commercial estate. We contend that the detrimental impacts of the loss are even further diminished by the evidence as submitted to the extent that there should be no objection to such loss.
- 4.35 In the event that the Council disagree with such a position we would expect clear evidence to counter that presented by the expert consultant of the appellant. The failure

to do so would, in our opinion, constitute unreasonable behaviour in that it would inevitably rely on vague or unsupported commentary.

### **Impact on the Character of the Area**

- 4.36 The recent updates to the NPPF have provided additional emphasis on the importance of high-quality design, making reference to beauty.
- 4.37 Section 12 also reiterates the importance of local design guides and codes; it states that developments that are not well design should be refused, but conversely, significant weight should be given to design which reflects local design policies and government guidance.
- 4.38 Policy 25 of the HDPF promotes development that protects, conserves and enhances the landscape character from inappropriate development. Proposals should take into account landscape characteristics, with development seeking to provide an attractive, functional and accessible environment that complements local character.
- 4.39 Policies 32 and 33 expand on this and state that development must be of the highest quality with specific focus towards:
- 1. Providing an attractive, functional, accessible, safe and adaptable environment;*
  - 2. Complement locally distinctive characters and heritage of the district;*
  - 3. Contribute a sense of place both in the buildings and spaces themselves and in the way they integrate with their surroundings and the historic landscape in which they sit;*
  - 4. Optimise the potential of the site to accommodate development and contribute to the support for suitable complementary facilities and uses; and*
  - 5. Help secure a framework of high quality open spaces which meets the identified needs of the community.*

4.40 Policy 33 continues to set out 11 design principles. These are summarised as being in relation to the following points:

1. Making effective use of the land
2. Ensuring development does not result in unacceptable harm to the amenity of nearby properties and land
3. Ensuring that the scale, massing and appearance of development is of a high standard of design and layout
4. Ensure that design is locally distinctive and takes into account relevant design statements
5. Uses high standard of building materials
6. Seeks to retain existing important landscape and natural features
7. Ensures buildings are orientated to gain maximum benefits from sunlight
8. Incorporate safe and visually attractive areas for parking, cycles and refuse
9. Reduce any actual or perceived opportunities for crime
10. Contribute to the removal of physical barriers; and
11. Make a clear distinction between public and private spaces

4.41 We reiterate at this juncture that no changes are proposed to the building itself with it retaining its overall form, appearance and detailing. We therefore consider that the only relevant aspects of consideration are to the proposed use in relation to the surrounding environment.

4.42 Firstly, it is highlighted that the proposal, as per paragraph 125 of the NPPF, would clearly make an effective use of the site. The current building is vacant and has been so for in excess of five years and is therefore clearly under-utilised. The introduction of a viable residential use therefore would bring the under-utilised building back into a function. Further, this function we contend would be viable and make a positive contribution to addressing the chronic shortage of homes within the district. We emphasise that this shortage is so severe that even the delivery of 9 units would make a meaningful contribution.

4.43 In terms of the layout and locality it is contended that given it is for a re-use of the building it would be positioned in a suitable location that maximises the efficiencies on site. It is recognised that the building would be set within the wider context of the estate, however, it is highlighted that this would not be an unusual relationship and there are ample examples across the district and further afield of commercial and residential development sitting comfortably next to one another. We do not, fundamentally consider, that the proposed development would undermine the wider use of the estate in its current or any future form. As highlighted before we consider the existence of the prior approval regime to be a material consideration particularly in that it highlights that such arrangements within existing estates are deemed wholly suitable to the extent that they could be converted under the auspices of permitted development.

#### **Standard of Accommodation**

4.44 The NPPF makes it clear that part of good design is ensuring that development provides a high standard of amenity for future occupiers. Government guidance on was published in March 2015 on the *Technical Housing Standards – nationally described space standard*. This document sets out a range of measures for assessing whether a dwelling is of an acceptable standard including overall size, size of bedrooms and storage. Whilst the Council does not have a specific policy on the matter, the housing standards still form a material consideration to the determination of the application.

4.45 As per the table below it is demonstrated that the proposed dwellings would all exceed the minimum space standards and relevant bedroom sizes.

<b>Unit Number</b>	<b>Bed/Persons</b>	<b>Overall Size</b>	<b>Bedroom Sizes</b>	<b>Storage</b>
<b>G-01</b>	2b/3p	63.20sqm –	Bed 1 – 12.1sqm Bed 2 – 9.58sqm	2.6sqm
<b>G- 02</b>	2b/4p	72.78sqm	Bed 1 – 12.18sqm Bed 2 – 13.85sqm	2.34sqm
<b>G-03</b>	1b/2p	50.01sqm	Bed 1 – 14.28sqm	1.56sqm

<b>G-04</b>	1b/2p	50.04sqm	Bed 1 – 12.04sqm	1.54sqm
<b>G-05</b>	2b/3p	62.80sqm	Bed 1 – 12.09sqm Bed 2 – 10.12sqm	3.12sqm
<b>1-01</b>	2b/4p	70.01	Bed 1 – 15.21sqm Bed 2 – 12.5sqm	2.12sqm
<b>1-02</b>	2b/3p	61.01sqm	Bed 1 – 12.1sqm Bed 2 – 8.2qm	2sqm
<b>1-03</b>	3b/5p	90.85sqm	Bed 1 – 12.47sqm Bed 2 – 14.41sqm Bed 3 – 11.19sqm	2.6sqm
<b>1-04</b>	2b/4p	72.30	Bed 1 – 13.4sqm Bed 2 – 12.79sqm	2.25sqm

- 4.46 Given that the proposed dwellings would all exceed the minimum standards it is our contention that the units would deliver a high standard of internal accommodation.
- 4.47 It is further highlighted that every habitable room would benefit from windows which in turn would provide outlook, natural light and ventilation. Further, some units would be provided with dual aspect arrangement enhancing the quality of accommodation in this regard. We again highlight that in preparing the application that no changes are proposed to the external appearance of the building including fenestration.
- 4.48 It is additionally highlighted that as part of the application the Council consulted their internal Environmental Health Officer. Whilst matters of clarification were requested it is clear that no objection, subject to condition, was raised.
- 4.49 It is recognised that the properties would not benefit from any significant areas of external amenities. We do not consider to be uncommon for flatted development particularly those achieved by way of a change of use such as this. Indeed, we highlight that external amenity is not a consideration of a prior approval application. Notwithstanding this, however, it is highlighted that occupiers would be in close

proximity to public open space in the form of Pondtail Park which immediately adjoins the site.

- 4.50 We emphasise at this stage, however, that the Council do not have any relevant policies in this regard. The NPPF requirements are for high quality design with the only published position in this regard being in relation to internal amenity which the proposal would exceed.
- 4.51 Having regard to the above it is contended that the proposal would have a good standard of accommodation ensuring future occupiers are furnished with enough space for a high quality of life.

#### Impact on the Amenity of Neighbouring Properties

- 4.52 Policy 33 of the Horsham District Framework sets out at point 2 that development shall be required to:

*Ensure that it is designed to avoid unacceptable harm to the amenity of occupiers/users of nearby property and land, for example through overlooking or noise, whilst having regard to the sensitivities of surrounding development;*

- 4.53 The Council does not have any specific design guidance on how this would be examined in terms of impact on neighbours. However, we have given regard to the impact of the development in terms of overlooking, loss of light, overbearing impact, noise and pollution below.
- 4.54 Bentley House backs directly onto Pondtail Park with no immediate neighbours adjoining the site. On the south eastern corner the site adjoins an area used for garaging by properties in Barnsnap Close, however, it does not share any boundaries with residential properties. The nearest property boundaries are 11m to the south east and 23m to the south.

- 4.55 Having regard to the nature of the application as a re-use of an existing building, the boundary treatment and orientation it is not considered that there would be any harm to these properties by reason of loss of light, overbearing or overshadowing.
- 4.56 With regards to privacy it is highlighted that no changes are proposed to the existing fenestration. The majority of the windows, particularly at first floor, front to the north and south meaning that the closest direct view would be in excess of 23m to the boundary of the neighbour to the south. Such a distance we contend is sufficient to ensure that there would be no harm to the amenity of the property. This distance exceeds the commonly held practise.
- 4.57 There is one side facing window at first floor on the eastern flank which would serve the kitchen of proposed unit. This is set some 7m from the nearest corner to the neighbour to the south east. This, in combination with the angle of outlook and existing vegetation, we contend, is sufficient to ensure there would be no harm to this property by virtue of a loss of privacy. Should, however, there be concern a condition requiring the window to be obscurely glazed and fixed shut noting that this room is dual aspect could be included.
- 4.58 Having regard to the above it is contended that there would be no harm by way of loss of light, overbearing, overshadowing or loss of privacy. In terms of land use, we do not consider that the introduction of 9 units would result in any material increases in noise or disturbance that would adversely impact on neighbour properties particularly compared to the existing lawful use. It is further our position that the use would not compromise the wider industrial estate or vice versa.
- 4.59 Having regard to such it is contended that the proposal would fully accord with Policy 33 of the development plan in this regard.

### **Impact on Highways and Parking**

- 4.60 Policy 40 of the HDPF states:

*There is commitment to developing an integrated community connected by a sustainable transport system. In order to manage the anticipated growth in demand for travel, development proposals which promote an improved and integrated transport network, with a re-balancing in favour of non-car modes as a means of access to jobs, homes, services and facilities, will be encouraged and supported. Development will be supported if it:*

- 1. Is appropriate and in scale to the existing transport infrastructure, including public transport.*
- 2. Maintains and improves the existing transport system (road, rail, cycle).*
- 3. Is integrated with the wider network of routes, including public rights of way and cycle paths*
- 4. Includes opportunities for sustainable transport which reduce the need for major infrastructure and cut carbon emissions.*
- 5. Is located in areas where there are, or will be a choice in the modes of transport available.*
- 6. Minimises the distance people need to travel and minimises conflicts between traffic, cyclists and pedestrians.*
- 7. Delivers better local bus and rail services in partnership with operators and increasing opportunities for interchange between the public transport network and all other modes of transport.*
- 8. Develops innovative and adaptable approaches to public transport in the rural areas of the district.*
- 9. Provides safe and suitable access for all vehicles, pedestrians, cyclists, horses riders, public transport and the delivery of goods.*
- 10. Is accompanied by an agreed Green Travel Plan where it is necessary to minimise a potentially significant impact of the development on the wider area or as a result of needing to address an existing local traffic problem*

- 4.61 The NPPF advises that development should only be refused on highways grounds if there would be *an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
- 4.62 The proposed development would make use of the existing access which currently serves the wider estate. This is an established use which provides sufficient visibility splays and can accommodate the traffic levels likely to be generated.
- 4.63 In terms of parking, guidance is provided by West Sussex County Council which is based on the designation of an area on parking behaviour zones. The site is positioned on the edge of PBZ2 and PBZ4. The guidance is for the delivery of 0.9-1.4 spaces for a 1 bed unit, 1.1-1.7 for a 2 bed and 1.7-2.1 for a 3 bed unit. Taking this into account the total demand for the 9 units would be equivalent to a demand of between 10.1 and 15.1 spaces.
- 4.64 The proposed development would provide sufficient room for such parking demand. As demonstrated on the plans there is sufficient provision for 15 spaces which we consider to be appropriate to the proposal.
- 4.65 The plans also clearly demonstrate that there would be sufficient room for cycle storage within the site the details of which could be conditioned.
- 4.66 At this juncture it is highlighted that as part of the application process the Highway Authority did not raise any objection or any suggested conditions. These comments are attached at **Appendix 7.**
- 4.67 Having regard to the above it is contended that the proposal would fully accord with policy 40 of the development plan.

### Water Neutrality

- 4.68 It is understood that on 31<sup>st</sup> October 2025 Natural England withdrew the previously published position statement concerning water neutrality. To this extent it is no longer an issue which need be overcome.
- 4.69 Whilst this is the case, it is highlighted that, by way of condition, the dwellings could be delivered in a manner which promotes the most efficient use of water reducing the overall demand.
- 4.70 The Council's published HRA (**Appendix 7**) clearly demonstrates that this is considered a suitable solution to proceed with addressing such matters.

### Ecology and Biodiversity

- 4.71 Policy 31 of the Horsham District Framework states:
- 1. Development will be supported where it can demonstrate that it maintains or enhances the existing network of green infrastructure. Proposals that would result in the loss of existing green infrastructure will be resisted unless it can be demonstrated that new opportunities will be provided that mitigates or compensates for this loss, and ensures that the ecosystem services of the area are retained.*
  - 2. Development proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate. The Council will support new development which retains and /or enhances significant features of nature conservation on development sites. The Council will also support development which makes a positive contribution to biodiversity through the creation of green spaces, and linkages between habitats to create local and regional ecological networks.*
  - 3. Where felling of protected trees is necessary, replacement planting with a suitable species will be required.*

4. a) *Particular consideration will be given to the hierarchy of sites and habitats in the district as follows:*

- i. Special Protection Area (SPA) and Special Areas of Conservation (SAC)*
- ii. Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNRs)*
- iii. Sites of Nature Conservation Importance (SNCIs), Local Nature Reserves (LNRs) and any areas of Ancient woodland, local geodiversity or other irreplaceable habitats not already identified in i & ii above.*

b) *Where development is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, development will be refused unless it can be demonstrated that:*

- i. The reason for the development clearly outweighs the need to protect the value of the site; and,*
- ii. That appropriate mitigation and compensation measures are provided.*

5. *Any development with the potential to impact Arun Valley SPA or the Mens SAC will be subject to a HRA to determine the need for an Appropriate Assessment. In addition, development will be required to be in accordance with the necessary mitigation measures for development set out in the HRA of this plan.*

4.72 Given that the application solely proposed internal alterations as part of the change of use it is not considered that the application would trigger the need for any preliminary or detailed ecology surveys. Simply put, there would be no changes to the built form the building that would warrant such.

4.73 With respect to Biodiversity Net Gain as no physical changes are proposed to the building and given that parking would be located on existing areas of such, we consider that the proposal would benefit from the *de minimis* exemption in that it would impact less than 25sqm of habitat of which none is priority habitat. To this extent the application is not accompanied by any detailed analysis of such.

### **Sustainable Construction**

- 4.74 Policies 35 and 36 of the Horsham District Planning Framework set out the expectation of development to help meet the demands of and help mitigate from climate change. At the core the policies seek to ensure that new development incorporates energy saving technology and means to influence the behaviour of occupants. Policy 36 provides details of the energy hierarchy and specifies that development must demonstrate accordance with such.
- 4.75 We highlight that the proposal is for the change of use of a building which would in turn enshrine the existing embodied carbons into the fabric of the built form as opposed to necessitating new built form. Further, there are opportunities within the fit out to retrofit the property and ensure that the most efficient fixtures and fitting are delivered.

### **Other Matters**

- 4.76 The application is also accompanied by a Flood Risk Assessment which does not identify any concerns to the proposal coming forward.

## 5.0 CONCLUSIONS

- 5.1 This appeal is made against the failure of the Council to determine the application within the agreed time. The proposal is for the change of use of the existing building to provide 9 self-contained residential units.
- 5.2 It is our contention that the proposal would accord with the relevant policies of the local plan and deliver significant planning benefits. This is particularly the case given the Council significant under provision of housing which at one year worth of supply is a chronic under supply. Additionally, the proposal would result in the re-development of previously developed land to meet such a need which is given clear support by virtue of paragraph 125 of the NPPF.
- 5.3 In light of the absence of an adequate housing land supply the NPPF requires the Council to engage with paragraph 11d) and the exercise of the tilted balance. Further, it is highlighted that paragraph 125 c) also provides an exercise similar to that of the tilted balance.
- 5.4 In this regard we consider that the proposal delivers significant benefits in the form of the additional housing in a highly sustainable location, re-use of a brownfield site and the re-use of a vacant building. Against this the proposal would result in the loss of employment floor space. This harm, however, we contend should be tempered in light of the supporting evidence. This indicates that the retention of the employment space is not viable by both reason of the works required to improve its standard and from the evidence dictated by the market resulting in the premises being vacant for in excess of five years. It has also been set out as part of this statement that the proposed development would not result in conditions prejudicial to the wider estate in its current or any future form. In light of such we consider that this should only be afforded modest weight and would certainly not be significant and demonstrable.
- 5.5 We emphasise our position at this juncture that if any harm is identified in terms of the emerging plan that this should only be afforded limited weight in accordance with the

wording of the NPPF and the Council's own guidance. Further, as those policies are yet untested and indeed previously considered so deficient that the Inspector recommended withdrawal of the plan, we do not consider that any harm would meet the demonstrable threshold either.

- 5.6 No other harms are identified with the proposal considered to deliver a high standard of accommodation, respect the character and amenity of the area and neighbouring properties, not result in adverse impacts to the highway or any other interest in the land.
- 5.7 Having regard to such we do not consider that the clear and significant benefits of the scheme are significantly nor demonstrably outweighed by the very limited harms. Further, for the purposes of paragraph 125 c) of the NPPF we do not consider those harms even meet the category of substantial. We would go further to say that in any event the proposal is in accordance with the development plan when read as a whole to the extent that it should be supported.
- 5.8 We consider there to be considerable merit in granting permission for the proposed development as outlined on the proposed plans.
- 5.9 Whilst we consider the information provided within this statement and the supporting works to be comprehensive in nature we reserve the right to provide a response to any further comments made by the Council as is set out within the appeal's procedure guide.

***D&M PLANNING LIMITED***  
***Chartered Town Planners***