



Prior Approval for the Change of Use from Office (Use Class B1a) to Residential (Use Class C3) to create 30 Self-Contained Flats.

Waterperry Court, Middleton Road, Banbury, OX16 4QD

1. Introduction

- 1.1 UPP Architects + Town Planners have been instructed by the applicant, Waterperry Court Developments Ltd, to prepare and submit a prior approval planning application at the property known as Waterperry Court. The application seeks to the change the use of the lower ground, ground, first and second floor offices (Use Class B1(a)) to 30 residential (Use Class C3) units.

2. The Site and Surroundings

- 2.1 The site is located in Banbury which is situated at Junction 11 of the London to Birmingham M40 and has a population of 42,000 and a catchment of approximately 290,000. Banbury is the largest town in Oxfordshire and is subject to considerable growth.
- 2.2 Waterperry Court, a landmark site and buildings developed by Heron Hi Tech in 1989, comprises five self-contained office buildings prominently located on the Middleton Road in Banbury, adjacent to Banbury's train station and close to the town centre, bus station and Banbury's main Castle Quay shopping centre.
- 2.3 The premises comprise a terrace of five office buildings with the large car parking area all situated on a site of circa 0.68 acres. The self-contained buildings are a mixture of three and four storey units and currently have B1 office use. There are 52 car parking spaces, 18 of which are situated under the buildings. Chiltern House.
- 2.4 The application site is not located within the Green Belt, any Conservation Area or any Area of Outstanding Natural Beauty (AONB). The property is located within Flood Zones Two and Three which has a medium to high probability of flooding. The property is not a listed building. There is no relevant planning history for the property.

3. Relevant Planning History

- 20/02817/O56 - Prior Approval for the Change of Use from office (B1a) to residential (C3) to create 30 self-contained flats. Withdrawn 4 December 2020.
- CHN.546/89 - Six office units in terrace formation with undercroft and surface parking to provide a total of 59 car spaces. New access. Approved 10 August 1989

3.1 The previously approved application from 1989 provides guidance regarding the use of the building, a copy of which is detailed below. In order to overcome this, we have sought legal opinion, which has been submitted in conjunction with this application.

11. That the buildings shall be used only for the purpose of B1(a) and B1(b) and for no other purpose whatsoever, including any other purpose in class B1 of the schedule to the Town and Country Planning (Use Classes) Order 1987.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the nearby residential premises.

Figure 1 - A Copy of Condition 11 from the Approved 1989 Application

4. Permitted Development (GPDO)

4.1 Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2020 (Amended) allows for the change of use of a building to a use falling within Class C3 (dwellinghouse) from a Class B1(a) (office) development (subject to specific land designations and prior notification to the local planning authority).

4.2 Development under Class O shall be permitted where it can be demonstrated that the proposal would be acceptable against the following criterion:

O.1 Development is not permitted by Class O if—

(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—

(i) on 29th May 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

(d) the site is, or forms part of, a safety hazard area;

(e) the site is, or forms part of, a military explosives storage area;

(f) the building is a listed building or is within the curtilage of a listed building; or

(g) the site is, or contains, a scheduled monument.

Conditions

O.2.(1) Development under Class O is permitted subject to the condition that before beginning the development, 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 and highways impacts of the development,

(b) contamination risks on the site,

(c) flooding risks on the site,

(d) impacts of noise from commercial premises on the intended occupiers of the development, and

(e) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) apply in relation to that application.

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

Interpretation of Class O

O.3. For the purposes of Class O, “commercial premises” means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2(1), and includes any premises licensed under the Licensing Act 200349 or any other place of public entertainment.


- 4.3 The proposal will be assessed against the criterion contained within Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2020 (Amended).

5. Legislative Compliance

Compliance with Class O

- 5.1 The proposal will be assessed against the criterion contained within Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015.
- 5.2 The site is not located on article 2(5) land, nor forms part of a safety hazard area or a military explosive storage area. The site is not a listed building nor are there any buildings within its curtilage which are listed. Furthermore, the site is not a scheduled monument.
- 5.3 The Business Rates Valuation for the property shows that the site has been in use as an office and premises since April 2010, as demonstrated by Figure 2. This demonstrates that the office in question has been in use for a minimum period of 7 years and certainly prior to May 2013.


Figure 2 - Business Rates Valuation Evidence for Waterperry Court (Below)

1 Waterperry Court 2-4, Middleton Road, Banbury, Oxon, OX16 4QG				
1 April 2017 - present				
Your rateable value is £16,250.00				
 This is not the amount you will pay.				
				Open all
<u>Valuation information</u>				+
<u>How the valuation was calculated</u>				-
Parts of the property				
Floor	Description	Area m ² /unit	Price per m ² /unit	Value
Lower ground	Staff toilets	0	£0.00	£0.00
Ground	Office	55.35	£120.00	£6,642.00
Ground	Staff toilets	0	£0.00	£0.00
First	Office	60.38	£120.00	£7,246.00
First	Staff toilets	0	£0.00	£0.00
Lower ground	Office	23.85	£108.00	£2,576.00
Total		139.58		£16,464.00

2 Waterperry Court 2-4, Middleton Road, Banbury, Oxon, OX16 4QG

1 April 2017 - present

Your rateable value is £70,000.00

 This is not the amount you will pay.

[Open all](#)

Valuation information

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How the valuation was calculated

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Parts of the property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value
Ground	Office	174.05	£115.00	£20,016.00
Ground	Staff toilets	0	£0.00	£0.00
First	Staff toilets	0	£0.00	£0.00
Second	Office	176.46	£115.00	£20,293.00
Second	Staff toilets	0	£0.00	£0.00
Ground	External storage	133.9	£11.50	£1,540.00
Lower ground	Staff toilets	0	£0.00	£0.00
First	Office	175.4	£115.00	£20,171.00
Lower ground	Office	105.5	£115.00	£12,133.00
Total		765.31		£74,153.00

Brethertons Llp 3 Waterperry Court 2-4, Middleton Road, Banbury, Oxon, OX16 4QG

1 April 2017 - present

Your rateable value is £25,750.00

 This is not the amount you will pay.

[Open all](#)

Valuation information

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How the valuation was calculated

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Parts of the property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value
First	Office	81.6	£120.00	£9,792.00
First	Staff toilets	0	£0.00	£0.00
Second	Office	85.15	£90.00	£7,664.00
Second	Staff toilets	0	£0.00	£0.00
Ground	Office	69.9	£120.00	£8,388.00
Ground	Staff toilets	0	£0.00	£0.00
Total		236.65		£25,844.00

Unit 5 Buxton House Waterperry Court, Middleton Road, Banbury, Oxon, OX16 4QG

1 April 2017 - present

Your rateable value is **£27,000.00**

! This is not the amount you will pay.

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[Valuation information](#)

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[How the valuation was calculated](#)

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Parts of the property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value
Ground	Office	73.5	£120.00	£8,820.00
Ground	Staff toilets	0	£0.00	£0.00
First	Office	86.7	£120.00	£10,404.00
First	Staff toilets	0	£0.00	£0.00
Second	Office	86.4	£90.00	£7,776.00
Second	Staff toilets	0	£0.00	£0.00
Total		246.6		£27,000.00

Unit 6 Chiltern House Waterperry Court, Middleton Road, Banbury, Oxon, OX16 4QG

1 April 2017 - present

Your rateable value is **£20,250.00**

! This is not the amount you will pay.

[Open all](#)

[Valuation information](#)

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[How the valuation was calculated](#)

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Parts of the property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value
Ground	Staff toilets	0	£0.00	£0.00
First	Office	118.55	£120.00	£14,226.00
First	Staff toilets	0	£0.00	£0.00
Ground	Office	50.85	£120.00	£6,102.00
Total		169.4		£20,328.00

Legal Opinion

- 5.4 As part of the previous planning application, the Case Officer highlighted a condition which was placed onto the original 1989 application for the site. The condition states that the buildings shall be used only for the purpose of B1(a) and B1(b) and for no other purpose whatsoever, including an other purpose in Class B1. Following the receipt of this information, we have sought legal opinion on the matter. They have concluded that the condition does not “clearly evince an intention” to prevent it’s conversion to residential and therefore, the condition does not exclude the application of Class O. Therefore the development would benefit from permitted development rights.

Transport

- 5.5 The nearest bus stops are located approximately 200 metres from the property within Banbury Bus Station, providing access to several nearby towns and cities including Oxford, Brackley and Daventry. Banbury Station is located approximately 300 metres from the property and provides access to towns and cities across the UK. Train services include London Marylebone, Birmingham Moor Street, Birmingham Snow Hill, Bournemouth, Manchester Piccadilly and Stratford Upon Avon.
- 5.6 The application site is in close proximity (walking distance) to Banbury Town Centre where all essential services and amenities are located. It is therefore considered acceptable that a development of this nature would not have an adverse impact on transport and highways.

Contamination

- 5.7 As detailed previously, the site is currently in use as an office which is highly unlikely to provide any contamination issues during the residential conversion of the property.

Flooding

- 5.8 The application site is located within flood zones two and three, which have a medium to high probability of flooding. A Flood Risk Assessment has been carried out in conjunction with this application and should be read alongside our submission. The report’s conclusion denotes that:
- *The building benefits from defences sufficient to defend against the 1 in 200yr flood event.*
 - *Safe and dry access and egress is immediately available.*

- *The individual dwellings on the development will be signed up to the E.A. "Flood Warnings Direct".*

It is therefore considered that the conversion to domestic accommodation is acceptable.

Noise

- 5.9 The property is situated in an area with a mixture of retail, commercial and residential uses. The retail, residential and business uses do not generate any significant noise to the extent that it would have an adverse impact on the occupiers of the proposed development. This is demonstrated by the supporting Noise Impact Assessment which should be read in conjunction with the other application documents.
- 5.10 Their conclusion denotes that *"Appropriate mitigation measures have been outlined to ensure average and maximum noise levels would meet the desired noise levels including proprietary thermal double-glazing and attenuated ventilators and potentially, mechanical ventilation. With the above measures implemented, the proposed scheme is not expected to experience an adverse noise impact and the site is considered acceptable for the proposed residential use"*.

Adequate Natural Light

- 5.11 The properties conversion to residential use will benefit from the large number of existing windows which the building has. It is therefore considered that the development would provide adequate natural light to each of the proposed units.

6. Conclusion

- 6.1 It has been demonstrated that proposal meets the requirements set out within Class O of the GPDO in terms of the qualifying use and matters of transport, flooding, contamination and noise. Accordingly, the council are respectfully requested to approve this application.