

## COMMITTEE REPORT

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APPLICATION NO.	21/02051/FUL
LOCATION	<b>28 Finns Business Park Bowenhurst Lane Crondall Farnham GU10 5HP</b>
PROPOSAL	Retention of a replacement dwelling (retrospective)
APPLICANT	Mr B. Finn Ms L. Walker
CONSULTATIONS EXPIRY	30 September 2021
APPLICATION EXPIRY	01 November 2021
WARD	Odiham
RECOMMENDATION	<p><b>A.</b> That the Head of Place be authorised delegated authority to take the application to Full Council as a departure with a recommendation to <b>GRANT</b> permission subject to conditions (listed below);</p> <p><b>B.</b> That the Head of Place be authorised delegated authority to <b>REFUSE</b> planning permission for appropriate reasons (listed below).</p>

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## BACKGROUND

This application is brought before the Planning Committee at the discretion of the Head of Place. This is in line with Appendix A (1b) of the Council's Constitution relating to the Scheme of Delegation as The Head of Place considers that the application should be considered by Planning Committee.

The application before Planning Committee is identical to the application which was considered by Planning Committee in January 2021.

Members discussed:

- The need to look carefully at the background of this application and the possible consequences of refusing planning permission for the current occupants.
- Would permission have been granted if the Council had been approached in the first instance.
- Whether the proposed dwelling would have a likely adverse effect on the Thames Basin Heaths Special Protection Area (TBHSPA) given that prior to its demolition there was a converted building that had secured the appropriate mitigation.
- The visual impact of the new building compared to the previous building.
- The internal levels if the building in relation to the potential surface water flooding issue.
- Whether the building would be appropriate accommodation for the future.
- The impact on the surrounding business park which is a designated Locally Important Employment Site (LIES) if this application was approved.
- Whether the site was suitable in terms of the environment (eg noise) and whether it was a sustainable location.
- That the demolition of the building extinguished any fall-back position.
- That it was not appropriate to grant a personal permission.

Members debated:

- That the Planning Committee did not have the delegated powers to grant planning permission as the proposal represented a Departure to the Development Plan.
- That the proposal was a material Departure to the Development Plan as it was contrary to policies SS1 and ED3 of the Plan. It was the view of the Planning Committee that whilst this was a Departure to the Development Plan that the fact that there was previously a dwelling was material and that this weighed in favour of approving an exception to Policy.
- The need to understand the Policy implications of rejecting this Application.
- The perceived risk to the property from surface water flooding in the area.
- Environmental Health Officer's report in relation to noise complaints in that location.
- Whether by granting this Application could this set a precedent for future applications.
- It was the view of the Committee that although the demolition of the original building extinguished the approved residential use of the site and any fall-back position, the fact that there was a previous dwelling at the site that had secured appropriate mitigation against the impact on the TBHSPA meant that this dwelling would not have a likely adverse effect on the TBHSPA.

As a result of a vote not to refuse planning permission, the Chairman proposed an alternative recommendation to refer to full Council to grant planning permission subject to the Secretary of States referral.

- The Application being advertised as a Departure and no further issues being raised subject to the Secretary of State referral.



- The Recommendation is subject to conditions to be drafted by the Chairman of the Planning Committee and the Planning Ward Councillor and subject to the Applicant satisfying the surface water flooding issue by providing additional information.
- The material reason for the departure is based on the fact is that there was previously a dwelling here and the Committee felt there is an exceptional circumstance upon which to have a departure to the recently adopted Hart District Local Plan.
- If the advertisement of the departure raises new material considerations that need to be taken into account, there will be a need to bring it back to full Council or Planning Committee depending on what it is.

The planning application was referred to Full Council on 28 January 2021. The grant of retrospective planning permission, which resulted in a Departure to the Local Development Plan was deemed to be acceptable by Full Council.

Prior to a decision being formally issued Officers noted that the ownership certificates provided on the application form were incorrectly completed, as the applicant was not the legal owner of the land. The applicant confirmed they were not the owners (at the time) of the land/property.

The Local Planning Authority were therefore required to proceed to close the case with a 'Refuse to Entertain' decision, in line with relevant legislative requirements.

Consequently, the recommendation on this application is the same as the resolution of Planning Committee earlier this year, namely:

That the application be **referred to Full Council as a Departure** from the Hart Local Plan (Strategy & Sites) 2016-2032 with the recommendation to grant subject to conditions or refuse if flood risk matters were not addressed. Since this time, the applicant has addressed drainage and flood risk concerns.

## HISTORY

In 2016, Prior Approval for change of use of units 10, 11, 27 and 28 from business uses (Use Class B1) to residential use (Use Class C3) were considered to comprise permitted development. Following the change of use of unit 28 to residential under permitted development rights, the owner/occupiers subsequently demolished the unit. This extinguished any permitted development or lawful residential use rights for the land.

A building was later constructed and occupied for residential purposes without the benefit of planning permission. A retrospective planning application was submitted in January 2020 which was refused planning permission under delegated powers (19/02844/FUL) in March 2020 for the following reasons:

1. The retention of a dwelling with a substandard internal floor area and a poor-quality outdoor amenity space in a light industrial/business location with unneighbourly commercial uses adjoining it and overhead electricity power lines over the building would result in a poor environment and not high-quality residential accommodation and amenity for its occupiers.
2. The retention of a dwelling among light industrial/business uses and adjoining unneighbourly commercial activities, in conjunction with other non-employment uses within Finns Business Park would contribute negatively to the long-term sustainable operation of this Locally Important Employment Site.

No appeal was lodged against the refusal.



A subsequent application (20/01539/FUL) was submitted in July 2020 which sought to address the above refusal reasons and achieve retrospective planning permission. This application also sought permission to construct an open porch/veranda and for the retention of an unauthorised outbuilding within the private amenity area to the rear of the building. This was presented to Planning Committee on 13 January 2021, as summarised above.

This retrospective submission seeks to obtain retrospective permission for the development that has occurred on the land (described below). The applicant has confirmed that they are now the sole landowner and therefore the certification completed as part of the application form is now procedurally correct.

## **THE SITE**

The application site is located within Finns Business Park which is located near the village of Crondall. The business park is accessed off Farnham Road (A287) via a no-through road, Bowenhurst Lane. The application site is located close to the south-eastern corner of the Business Park.

The Finns Business Park is designated as a Locally Important Employment Site (LIES) within the adopted Hart Local Plan (Strategy & Sites) 2032 (HLP32) and is also subject to an Article 4 Direction which removes Permitted Development rights for conversion of business units into residential accommodation.

The access to the Business Park provides access to other commercial premises such as a construction company yard, a cesspool/sewage waste collection company, a crane rental business, a modest storage company, a golf centre and a restaurant. There are also three dwellings accessed from Bowenhurst Lane.

The settlement boundary of Mill Lane is located approximately 215m south from the application site. This settlement adjoins the northern side of Farnham Road (A287) and contains a BP petrol service station, retail unit and car sale business. The above cluster of different buildings and uses are surrounded by open countryside.

## **PROPOSAL**

Retrospective planning permission is sought for the construction of a dwelling. The building has a rectangular footprint and measured externally, is 11m wide by 4.45m deep. It has been built with a shallow dual pitch roof at a maximum height of 3.5m and with an eaves height of 2.8m. The front elevation of the building features 3 no. windows and a main entrance door. The rear elevation has 2 no. windows and a secondary door which provides access to an enclosed rear amenity area.

As part of this proposal, retrospective planning permission is also sought to retain an outbuilding to the rear/side of the dwelling. This measures 3.08m by 2.1m at a maximum height of 2.6m.

The area to the front of the building is used as car parking for 2 no. vehicles. At the rear of the building there is an outdoor amenity area measuring 10.85m in depth by 4.85m in width. The application also proposes the installation of a canopy above the existing entrance door and a veranda covering an area of 2.25m by 0.65m and a flat-roofed canopy to the side of the building.

## **RELEVANT PLANNING HISTORY**

20/01539/FUL – Retention of a replacement dwelling (retrospective). Decline to Entertain, 20.05.2021.



19/02844/FUL - Retention of a replacement dwelling (retrospective). Refused, 05.03.2020.

16/00471/PRIOR - Application for Prior Approval under Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 of Proposed Change of use from B1 to C3 - Units 10, 11, 27 and 28. Prior Approval Not required, 25.05.2016.

14/00382/FUL - Retention of re-organised car park, additional car, cycle and motorcycle parking, relocation of HGV parking, provision of open storage area for relocated portacabins and containers, retention of vehicle storage, retention of two buildings for B1 Business use and erection of fencing. Granted 03.04.2014.

## **CONSULTEE RESPONSES** (Summarised unless stated)

### **Crondall Parish Council** (Verbatim)

No objection (as per comments on previous application).

- Conforms to NBE1 (Development in the Countryside) pursuant to (g), being a replacement dwelling (the pre-existing dwelling was lawful before its demolition).
- This dwelling is one of four in a defined part of the site.
- The dwelling meets the standard dwelling size.
- Dedicated outside space has been provided.

### **Streetcare Officer (Internal)**

No objection (as per comments on previous application).

### **Environmental Health Officer (Internal)**

Objection. (As per comments on previous application, the information submitted with this application is exactly the same as that previously submitted, therefore previous objection is relevant and applicable).

Environmental Health Officers (EHO) looked at the noise information submitted and objected based on the monitoring window in June 2020, due to lack of information regarding attenuating figures from glazed windows, potential noise exceedance levels at night and resultant suitability of the site for residential use due to amenity for occupiers.

The applicant provided a response to the above matters. This response was reviewed by the EHO, and advised the following (in summary):

- The applicant's consultant has not assessed the impact of noise using the British Standard 4142 (BS4142) methodology or he has not reported it correctly so that third parties can make sense of the findings.
- No conclusions can be reached on the basis of the noise report in accordance with the British Standard. This failure is my major objection to the adequacy of the report.
- The consultant does not accurately report high sound levels, background noise and low rating levels.
- Absolute sound level parameters contained in the British Standard would take no account of the degree to which the residential uses are impacted by noise of an industrial character.



- The noise criteria used by the noise consultant is usually used for steady unobtrusive noise sources (e.g., distant traffic noise).
- Industrial noise generated close to residential uses typically will contain distinguishable character such as tonal and intermittent noises (e.g., reversing beepers; impulsive noise from items being dropped or metal on metal impacts; plant and equipment noise). Residents are much less likely to tolerate noise of this type of character than noise at a similar level arising from distant road traffic.
- The original basis for the consultant's conclusions is not a robust basis. I would expect the consultant to make reasonable enquiries regarding the industrial activity that occurs and its variation before producing a quantitative assessment. This should be set out in his report. One gets no sense of what noise emissions should be expected on these sites.
- There is no description of the activity levels observed on site during the monitoring period. Given the absence of such commentary, it seems likely that the consultant was not in attendance during the survey period.
- It cannot be established what noise sources contributed to the measured levels or attempt any guess at how representative they might be of typical conditions on the adjoining industrial sites.
- An understanding of the nature of the sound source; its location with reference to windows might allow a slightly more refined assessment, but I find none of this detail in the acoustic report.
- The consultant comments that the noise levels reported between 6:00 and 7:00 hours are attributable to a barking dog. It is uncertain how the consultant knows this. Has he been advised this was the case? Has he determined this by direct observation? Has he assessed source by captured audio records?
- Has he been able to count the number of noise events by recording audio for the whole period? One cannot be sure on any of these questions.
- This site seems to experience a large number of 15-minute noise periods with high levels and this seems to commence around 03:00 hours for the whole morning and on a less frequent basis for the afternoon. It is not known if the noises are intermittent or impulsive industrial noise, the applicant's noisy dog or some other as yet undescribed source. This returns us to a central criticism; we do not know what noise sources were measured and are represented in graphs submitted.

### **Hampshire County Council (Highways)**

No objection.

### **Natural England**

No comments to raise.

### **Drainage (Internal)**

No objection.



## **NEIGHBOUR COMMENTS**

The statutory requirements for publicity, as set out in the Development Management Procedure Order 2015 (as amended) are in this case the notification of the adjoining properties, the display of a site notice and in addition a press notice. The Council's Statement of Community Involvement has recently been amended so that we are only required to carry out the statutory publicity requirements.

The application was formally notified as a Departure from the development plan by way of a Site Notice and a Public Notice in the local paper.

Neighbour letters were also posted providing interested parties with a minimum of 21 days to comment. At the time of writing this report there have been no public representations received.

The Press Advertisement was published on 17.09.2021 and the 21-day expiry is the 08.10.2021. Should any public representations be received as a result of this press advert between the 04.10.2021 and the 08.10.2021 these would be reported to Planning Committee on the Addendum.

## **CONSIDERATIONS**

1. Planning Policy.
2. Principle of Development.
3. Finns Business Park Viability- LIES designation and adjoining commercial uses. Prior Approval and Conversion of the Unit.
4. Design of the Development and Appearance of the Locality.
5. Quality of the Residential Accommodation.
6. Housing Land Supply and Delivery.
7. Impact on Adjoining Occupiers.
8. Thames Basin Heaths Special Protection Area.
9. Parking and Access.
10. Flooding.
11. Refuse.
12. Climate Change and Equality
13. Other Matters.

### **1. PLANNING POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant plans for Hart district are the Hart Local Plan (Strategy & Sites) 2032 (HLP32), the saved policies of the Hart District Local Plan (Replacement) 1996-2006 (HLP06), the South East Plan 2006 and the Crondall Neighbourhood Plan 2017-2032 (CNP32). Adopted and saved policies of the development plan are up-to-date and consistent with the NPPF 2021.

#### **Hart Local Plan - Strategy and Sites 2016-2032 (HLP32)**

SD1 - Sustainable Development

SS1 - Spatial Strategy and Distribution of Growth

H6 - Internal Space Standards for New Homes

ED2 – Safeguarding Employment Land and Premises (B-Use Classes)



NBE1 – Development in the Countryside  
NBE2 - Landscape  
NBE3 – Thames Basin Heaths Special Protection Area  
NBE4 – Biodiversity  
NBE5 - Managing Flood Risk  
NBE9 - Design  
NBE11 - Pollution  
INF3 – Transport

Saved Policies of the Hart District Council Local Plan (Replacement) 1996 – 2006 (HLP06)

GEN 1 - General Policy for Development

Saved policy of the South East Plan 2009 (SEP)

NRM6 - Thames Basin Heaths Special Protection Area

Crandall Neighbourhood Plan 2017-2032 (CNP32)

Policy 1 - Spatial Plan  
Policy 2d - Thames Basin Heaths Special Protection Area  
Policy 3 – Housing Design  
Policy 6 – The Natural Environment

Other relevant material considerations

National Planning Policy Framework 2021 (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide (NDG)  
Technical Housing Standards - nationally described space standard (DCLG 2015)  
BRE Report - Site layout planning for daylight and sunlight: a guide to good practice (2011)  
Employment Land Review (2016)  
Strategic Housing Market Assessment 2016 (SHMA)  
Hart Five Year Housing Land Supply Position Statement (1st April 2020)  
Parking Provision Interim Guidance (2008)

## **ASSESSMENT**

The starting point for the determination of any application is whether or not the proposal accords with the Development Plan; where a development is in accordance with the Development Plan it should be approved.

However, if a development conflicts with the provisions of the development plan, then it will be necessary to consider if there are any material planning considerations which indicate that planning permission should be granted contrary to the development plan. The assessment below is undertaken in accordance with this NPPF requirement.

## **2. PRINCIPLE OF DEVELOPMENT**

The adopted HLP32 designates the site as being within the countryside and within a Locally Important Employment Site (LIES). The CNP32 also locates the site outside of any settlement policy boundary relating to its spatial strategy. The HLP32 spatial strategy and distribution of growth is set out in Policy SS1 which clearly states that development will be focused within defined settlement boundaries, on previously developed land in sustainable locations and on allocated sites as shown on the policies map.



Policy SS1 of HLP32 outlines the Council's spatial strategy and distribution of growth within Hart. It clearly states:

*'Development will be focused within:*

- defined settlement boundaries;*
- previously developed land in sustainable locations; and*
- on allocated sites as shown on the Policies Map.'*

Taking into account the above location for development, this policy also makes provision for new homes for the plan period 2016-2032 through:

- Development completions and committed development since October 2017;*
- permitting further development/redevelopment within defined settlement policy boundaries (subject to other plan policies);*
- delivery of 1500 dwellings at Hartland Village;*
- through Neighbourhood Plans; and*
- permitting rural exception sites outside defined settlement policy boundaries that accord with adopted policies H3 and NBE1*

In this case, the site is located on previously developed land. However, it is considered to be within an unsustainable location as there are limited facilities in the locality to meet the day-to-day needs of occupiers and in addition the limited pedestrian/cycling infrastructure and availability of public transportation options in the immediate area would place a reliance on the private vehicle. Residents of the development would depend on private motor vehicles to access nearby settlements with the facilities for day-to-day needs to be met in terms of shopping, health care or education.

Furthermore, the development plan recognises that exemptions to normal policies of restraint can be considered, in terms of housing provision, where these are reasonably necessary. The principal policies in this regard are policies H3 (Rural Exceptions Sites – Affordable Housing), H4 (Specialist Housing) and NBE1 (Development in Countryside - in specific circumstances). However, none of these policies are applicable to the development subject of this retrospective application. In particular, as the site is located within a designated Locally Important Employment Site, policy NBE1 is not applicable.

Adopted policy ED2 is also directly relevant which safeguards employment land and premises (B-Use Classes). Finn's Business Park, Crondall is specifically named under policy ED2 2x as a Locally Important Employment Site. The Use Classes Order was updated on 1<sup>st</sup> September 2020. However, this does not affect the effectiveness of the policy. Policy ED2 is clear that planning permission for change of use or redevelopment of land and buildings will only be supported in if it can be demonstrated that one or more of the four criteria are met. These are considered below:

*a) there are no strong economic reasons to retain the employment use;*

The applicant has not made a case to suggest that the land could not be retained in employment use or that there are unfavourable economic reasons to do so.

*b) market signals indicate that the premises / site are unlikely to be utilised for employment use;*  
*or*

The application does not contain any information demonstrating that market conditions for the employment uses/sector have prevented the use of the land for employment purposes.



In contrast, the information submitted in support of this application and discussed below, demonstrates that units within the Business Park have been in demand, as stated in the letter provided from the commercial property consultants Hollis & Hockley.

*c) the proposed use is of a similar character to employment uses in Use Classes B1, B2 and B8; or*

The proposed development is not of a similar character to any employment use. A residential use is an incompatible land use to the commercial activities which take place on the wider site.

*d) the site is not appropriate for the continuation of its employment use due to a significant detriment to the environment or amenity of the area.*

The applicant has not made a case to suggest that the land could not continue in employment use. It is noted that the demolished building was occupied and used as a dwelling for a short period, however the building was removed and therefore the benefits granted by the Prior Approval under 16/00471/PRIOR to use the building as a dwelling were extinguished with its demolition. Therefore, criterion d of Policy ED2 remains relevant.

The principle of development therefore fails on all the above planning policy grounds.

The development does not conform to the relevant policies of the development plan which direct the provision of new housing within settlements and sustainable locations. There are no housing policies in the HLP32 or CNP32 which allow housing in this protected employment location.

Furthermore, this submission is not accompanied by robust information demonstrating that a suitable employment use on the land is not viable, or that other factors would preclude the land from returning to an employment use.

The retention of a home in this location is contrary to the objectives of Policies SS1 and ED2 of the HLP32 and Policy 1 of the CNP32, which also directs development to sites within settlement boundaries of the Neighbourhood Area. Given the adopted spatial strategy for development to occur within settlements, the retention of this dwelling on the subject site would represent a departure of the HLP32 and its objectives.

### 3. VIABILITY OF FINNS BUSINESS PARK - LOCALLY IMPORTANT EMPLOYMENT SITE (LIES) AND ADJOINING COMMERCIAL SITE.

It has been established that Policy ED2 of HLP32 seeks to safeguard employment land and premises. It is noted the land subject to this application ceased to perform an employment function when the change of use to residential was implemented in 2016 however as previously mentioned the site is within a protected employment site.

Given the importance of the LIES through its positive function and contribution to the local economy in the district, the employment site was also an area covered by the District's Employment Article 4 Direction. This Article 4 Direction was imposed in 2018 to prevent loss of employment land to residential uses through permitted development rights.

The applicant submitted a report titled 'Commercial Sustainability of Finns Business Park' produced by a commercial real estate company. The report outlines that they have carried out a number of open-market transactions in the business park and that the residential properties within the Business Park were not a deterrent to these transactions.



This indicates that the market signals for employment uses have been strong and that the Business Park remains a sought-after location for business that want to establish in the District. Residential dwellings in the business park do not contribute to the economic function of the employment site and in the long term would undermine its effective operation and function.

The flexibility to accommodate suitable uses, which are difficult to provide elsewhere, would also be reduced due to residential neighbouring amenity. The supporting text of adopted policy ED2, makes it clear in this respect stating:

*'These smaller employment sites provide important business locations and in some instances provide a location for valuable 'bad neighbour' activities... industrial process which may cause nuisance by reason of noise, vibration, smell and fumes'*

The threat to the future viability of the LIES, therefore, is whether future occupiers of residential units in unsuitable locations are more likely to raise pollution complaints about existing lawful commercial operations that take place around them. This conflict between commercial and residential use is termed 'the agent of change' principle within the NPPF 2021 (paragraph 187) and the PPG (Noise PPG Paragraph 009). This is clear that the responsibility for mitigating the effects of changes in land use falls with the new user introducing the change of use, not existing business or community uses around a site.

Unfortunately, under permitted development rights, the agent of change principle has not been captured in the legislation and this has led to numerous inappropriate locations for residential occupiers being situated amongst incompatible uses. This has generated complaints against existing businesses operating at their normal and permitted level and unreasonable restrictions being imposed on commercial activities. This has hindered economic activity and in some cases resulted in a cessation of economic activity altogether on a site. This situation is one reason that the Council chose to impose an Article 4 Direction on key employment land.

Furthermore, as part of this submission the applicant has submitted a letter (dated 15 January 2021) also produced by the commercial real estate company referenced above. This letter was produced in answer to the planning assessment of the proposal against adopted planning policy ED2. In summary it states the following about the application site:

- It represents only 0.6% of the 7ha Business Park area.
- It has a remote location away from other business uses on the business park.
- It is unlikely that residential use would harm the attractiveness/viability of business park.
- Sales/lettings of other units have continued since the residential conversion in 2016.
- Finns Business Park is restricted by a condition to use Classes B1 use only.
- The building is unsuitable for letting as an industrial unit.
- There are several doubts over the sustainability/attractiveness of building as a commercial letting option because of internal layout (kitchen and bathrooms) unsuitable for office use.
- Small office occupiers prefer urban centre locations.
- Bespoke office buildings provide immediate connectivity to data and telephony systems.
- Recent economic circumstances and increase in home working from last year have resulted in a reduction of enquiries for small office locations of this size.

The comments stated in this letter are noted, however it is worth clarifying that the original planning permission for whole Finns Business Park was granted for the operation of B1 and B2 uses (currently falling within E and B use classes, respectively).



The recent changes in the Use Class Order have resulted in the former B1 use class now forming Use Class E which comprises much wider-ranging uses such as retail, sale of food and drink on the premises, financial/ professional and other services, indoor sport/ recreation or fitness, medical or health services, creche/ day nursery or centre/ offices, research and development or industrial processes. Use Class B2 continues to allow uses for industrial process excluding incineration, chemical treatment or landfill/ hazardous waste.

It is important to note the wide spectrum of potential neighbouring uses and the impacts that these could have on residential occupiers of this development.

The planning permission for the retention of the original business unit at no. 28 (removed from the land) was granted for B1 uses only.

The letter states that small businesses prefer town centre locations, yet, from the several business park inspections undertaken in the past all of the units seemed occupied. A further inspection in September 2021 revealed that only 3 units appear to be vacant (1 industrial and 2 office units), discounting those previously converted into residential use before the Article 4 Direction imposition.

The applicant also submitted flyers demonstrating 4 no. units for sale/ to let within the business park. In addition to Officers' visits to the business park, an internet search undertaken in September 2021 did not reveal any of the business park units on the market at the present time. An internet search, including the website of the commercial real estate company used by the applicant, does not currently list any property as being available at the business park, which despite the comments made, and the findings reported, occupancy in the business park appears to remain high. This raises ambiguity on the information submitted by the applicant and the commercial agent.

At the present time Officers are not satisfied that the effective operation/function of the LIES would not be affected in the longer term from the retention of the unauthorised residential development. The subject dwelling within the LIES would appear to impact negatively on the long-term sustainability of operations on the LIES.

#### 4. PRIOR APPROVAL AND CONVERSION OF THE UNIT

In this case the development must be assessed against the provisions of the development plan and a decision reached on the basis of prevailing policy, unless material considerations indicate an exception to policy should be made.

The applicants seek to justify the unauthorised dwelling by arguing that the previous building was converted into a dwelling. It is noted that the applicants obtained Prior Approval (16/00471/PRIOR) for the conversion of the former office building on the land to residential which it appears was implemented in summer 2016. However, once the former building was demolished, any permitted development rights associated with the former building were extinguished, including any rights for residential use.

The applicant advised that the business unit was not fit for purpose when the conversion took place, despite any internal adaptation works that may have been undertaken. By September 2018 it became necessary to replace the roof as rainwater/damp was discovered. The applicant resolved to demolish the building and rebuild the structure to achieve a clean environment for the family to occupy.





Figure 1 -Subject building May 2016

The photograph shows the condition of the business unit just prior to its conversion, depicting a worn timber structure building with bitumen roof sheets (uninsulated walls 10 cm in thickness- according to the Noise Report submitted). The submitted Planning Statement at page 7 shows a photograph similar to the above and a second photograph showing the building with similar roofing, but the timber cladding and window frames painted.

The photograph above and the applicant's statements confirming the extent of water ingress and damp problems were serious issues and indicates that whilst the building was occupied, it is evident that it was not in a suitable condition to provide habitable accommodation. The problems identified would appear to have been a long-term issue given the poor construction quality of the building.

It should be noted that the permitted development rights under Class O or any other Class of the Order that allow the changes of use of buildings into residential, assume that the building is capable of conversion to functioning as a dwelling for the long term. The rights under Class O do not preclude internal building operations which are necessary to convert the building, however it is not the intention of the permitted development right to allow conversion of a building into a dwelling if it is not fit for purpose. This appears to have been the case for the original building since removed from the land, given the statements of the applicant.

This has been well established by case law as part of conversions of buildings within Part 3 of the General Permitted Development Order (GPDO) (*Hibbitt, and Another v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin) (9 November 2016)).

The above case relates to a dismissed appeal where the works necessary to create a dwelling from the structure on site did not fall within the scope of what is permissible under permitted development rights granted by the GPDO. The reason being that the building was in such poor state of repair that the magnitude of the works required would result in a 'rebuild' or a 'fresh new building'.

Although the above High Court case relates to a conversion of a building under Class Q of Part 3 (agricultural buildings into dwellinghouses), the ruling also extends to Classes M (retail, takeaways, and specified Sui-Generis uses to dwellinghouses) and N (specified Sui- Generis uses to dwellinghouses).



As such the relevant principle laid out by the above High Court decision, which would also be applicable to the former building removed from the subject site, is that buildings authorised for conversion under Permitted Development Rights should already be fit for occupation in order to satisfactorily accommodate a residential use in the long term.

The fact that the applicant decided to remove the original building from the site in its entirety shortly after its conversion confirms that the original building was not fit for habitation.



Figure 2- Existing building on site.

Therefore, no consideration or material weight can be afforded to the occupation of the sub-standard and uninhabitable building which has since been removed. As a result of the demolition of the former building on site, there is no longer any lawful residential use on the land. The background which led to the removal of the unit is not a material planning consideration and cannot be given weight in the determination of the current application.

## 5. DESIGN OF THE DEVELOPMENT AND APPEARANCE OF THE LOCALITY

Policy NBE9 of the HLP32 and saved policy GEN1 of the HLP06 require that development is in keeping with the local character by virtue of design, massing, height, prominence, materials and landscaping. Policy 3 of the CNP32 requires that development in the Neighbourhood Area demonstrates high design quality. All these local policies are consistent paragraphs from Section 12 of the NPPF 2021.

In this instance the design is neither outstanding nor innovative. The current dwelling on site is simply a utilitarian structure which reflects the appearance of buildings in the Business Park.

It is noted that this submission is comprised of better quality/colour plans depicting more details in the building (e.g. planting boxes hanging from the windows), proposing an entrance porch canopy and hard/soft landscaping plans, etc. All these details are intended to enhance the appearance of the shed-like building and offer a residential feeling to it and the immediate land surrounding it.

In terms of the integration of the subject dwelling with the appearance of the business park, the dwelling does not look significantly discordant due to its utilitarian appearance.

The impact of the dwelling to the locality beyond the compounds of the business park is limited due to the fact that the ground levels of the subject site are lower than those of Bowenhurst Lane, the modest scale of the building and the established landscaping separating the Lane and higher ground adjoining the site to the south.



Thus, the dwelling would not have a disproportionate impact on the locality as it is located within the confines of the business park. There are no material conflicts with the design objectives of Policy NBE9 of HLP32, saved policy GEN1 of the HLP06, Policy 3 of the CNP32 or the NPPF 2021.

## 6. QUALITY OF THE RESIDENTIAL ACCOMMODATION

### - Internal Floor Standards

The Nationally Described Space Standards (NDSS) conforms with government aspirations to achieve better places to live. The NDSS standards have been adopted within HLP32 under Policy H6 which requires developments for new homes to meet the NDSS.

An internal inspection to the dwelling was undertaken to corroborate the applicants' statements that the internal spaces are constructed to a good standard.

The NDSS requires a minimum gross internal floor area (GIA) of 50m<sup>2</sup> for a 1 storey, 1 bed 2-person home. The development has a GIA of 44.4m<sup>2</sup>.

The unauthorised residential home is substandard and falls short of the GIA standards set by the Government and adopted by the Council within Policy H6. The GIA set in the NDSS is inclusive of storage and other ancillary spaces that are needed for a high-quality accommodation.

This submission infers that because there has been an outbuilding constructed (without planning permission) to the rear and is in daily use, the floor area of that structure should be added to the GIA of the dwelling and therefore meets the minimum standards set in the NDSS. The applicant has previously stated that nothing in the NDSS mentions that outbuildings cannot be included in the GIA of dwellings, which is incorrect. The NDSS clearly states in point 8 of the 'Using the Space Standard' Section:

*"The Gross Internal Area of a dwelling is defined as the total floor space measured between the internal faces of perimeter walls that enclose the dwelling. This includes partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs."*

The accompanying Note states that:

*"The internal face of a perimeter wall is the finished surface of the wall. For a detached house, the perimeter walls are the external walls that enclose the dwelling, and for other houses or apartments they are the external walls and party walls."*

Thus, only the internal floorspace contained within the walls of the dwelling itself is the one relevant.

The substandard size of the unit was a reason for refusal on the previous planning permission (19/02844/FUL) and the unauthorised residential accommodation subject of this application remains substandard in size, failing to meet the NDSS standards and Policy H6 of the HLP32.

The residential unit is substandard and does not provide practical/adequate facilities for comfortable daily living in the dwelling as required by the NDSS, regardless of quality of internal finishes or provision of an outbuilding.

There are no compelling reasons provided by the applicant to justify the failure to meet objectives of Policy H6 of the HLP32.



- Suitability of the area for residential accommodation.

The rectangular area to the rear of the dwelling is laid out as an outdoor amenity area measuring 52sqm. The separation distance between the rear elevation of the building and the 1.5m high timber boundary fence to the rear is 4.85m. The outdoor space is screened by mature trees along the boundary with Bowenhurst Lane (on a higher ground level).



Figure 3 - Rear garden view towards Bowenhurst Lane.

There are immediately adjacent commercial operations to the south of the site. The neighbouring ground level is substantially higher when compared to the site's ground levels. The adjoining commercial site has a metal fence as its boundary treatment which is higher than the dwelling itself by approximately 0.40m, reaching therefore an approximate total height of 3.9m when measured from the ground levels of the outdoor amenity area. This results in an imposing and unneighbourly relationship towards the application site.



Figure 4 - Rear garden west facing view.



There is a gap with unkept vegetation between the two boundaries, and there is watercourse passing between them. In addition to the harsh industrial appearance of the metal fencing, there are overhead electricity lines passing obliquely almost directly above the dwelling with a pylon also standing within the business park, 20m away from the outdoor amenity space. Thus, the environment surrounding the residential unit and its amenity space is not regarded to be of high quality for residential development regardless of the proposed landscaping that may be undertaken within the amenity space.

The development would not provide satisfactory living conditions for occupants with regard to outlook and the provision of external amenity space. It would conflict with Policy NBE9 of the HLP32 which requires high quality design. It fails to accord with the NPPF 2021 which seeks development that promotes health and well-being, with a high standard of amenity for future users.

At the front of the dwelling, there is an area currently used for the parking of 2 no. vehicles. This submission proposes to undertake soft/hard landscaping works to enhance it. The parking spaces are visually separated from the car parking for the business units by a 1.8m high close boarded timber fence. Whilst the landscaping works proposed are noted, the site and the dwelling appear to be very much still part of the Business Park and fully dependent on it for access. However, the changes proposed would not materially alter the industrial environment surrounding the application site.

It is noted that the previous poor-quality building converted and achieved through the change of use, was located among the same business/industrial environment officers experienced during the site inspections. The considerations for compliance of permitted development rights for the change of use of the building removed from the land did not require any assessment of housing quality and/or the surrounding environment. However, these factors are now a material consideration that are part of this assessment and the objectives of adopted policies, and such an environment would not be considered a suitable location for new residential development.

This application is accompanied by the same noise report submitted for the previous application which attempts to demonstrate that the surrounding environment does not have detrimental effects on the living conditions provided by the residential unit and along with the previous noise consultant's response to the original objections raised by EHO. However, there are some elements to note, as part of this noise assessment submitted.

The report refers to the commercial business adjoining the application site to the south as Hazelwood commercial storage. However, an inspection of the adjoining premises was undertaken and the business immediately adjoining the application site is a sewage waste disposal company. Several sewage tankers park immediately behind the metal fencing that adjoins the rear garden of the application site.

The clerk of the company advised during an Officer visit last year that they leave early (generally before 0700hrs) and return at different times of the afternoon/early evening. This is in contrast to the statements provided within the noise report that they leave at 0800hrs and return at 16:00hrs and the noise readings contained in the report.

The other business adjoining the metal fence 20m west along the same boundary, is a construction company. Other businesses adjoining the construction company to the South site is a crane hire business and there is a storage business of minor scale located to the east of the crane business.





Figure 5 - Aerial View of site and adjoining commercial uses (google)



Figure 6 - Waste disposal business adjoining the subject site.

In terms of noise issues arising by the location of commercial operations adjoining the site to the south, in summary, the EHO previously raised an objection to the information submitted on the following grounds and revised information provided by the applicant has not addressed these concerns. The following EHO advice remains relevant:



- Appropriate methodology was not used or not properly reported;
- there is no description of the activity levels observed on site during the monitoring period;
- one cannot be sure what noise sources contributed to the measured levels or attempt any guess at how representative they might be of typical conditions;
- understanding of the nature of the sound sources, their location with reference to windows might allow a slightly more refined assessment, but none of this is detailed in the acoustic report;
- comments that the sound levels reported between 6:00 and 7:00 hours are attributable to a barking dog. Has consultant been advised this was the case? Has he determined this by direct observation? Has he assessed source by captured audio records? Has he been able to count the number of events by recording audio for the whole period or using triggers on the instrument? One cannot be sure on any of these questions. It should also be noted that during the site inspection undertaken by Planning Officers, there was neither visible pets on site nor paraphernalia associated with pets inside or outside the dwelling;
- this site seems to be characterised by a large number of 15-minute periods with high sound levels and this seems to commence around 03:00 hours for the whole morning and on a less frequent basis for the afternoon. Central criticism is that it is not known what noise sources were measured and are represented in graphs submitted.

The noise report states the construction specification of the existing dwelling is timber framed insulated walls with a thickness of approximately 15cm, which include 1.2cm of soundproof plasterboard. However there appears to be no Building Control application on record about this construction to confirm these figures and materials used in order to inform the assessment of the suitability of the internal residential environment.

The EHO previously advised there have been a number of noise complaints logged in their system. It appears that the most relevant complaints come from the crane/ heavy haulage hire business located in the adjoining commercial land south of the application site (first number in the reference below is the year of complaint):

15/00389/NOCOM - Reference being woken by lorries from TN leaving at 4:30 hrs; Reference disturbance from lights.

17/0816/NOCOM - Reference metal on metal squeaks; dust emission and shouting. References TN noise from 03:00 hours.

18/00744/NCOM - Reference noise and diesel fumes emitted from TN. Noise references plant noise, reversing beepers in the early morning.

18/01120/NDOM - Reference multiple companies creating noise, dust and odour.

19/01837/NCOM - References noise from various companies including HIT Scaffolding and TN. References cranes leaving site around 6:30; crashing noise at 23:00 hours; reversing beepers; heavy engine noise; possibly air brake noise; flashing lights; cement mixer noise.

The EHO has stated that given the above complaints and the noises reported, all indicate that the character of noise in this location is especially likely to disturb as they all occurred very early morning and late evening. The EHO has advised that if typical activity is characterised by noise of open yard industrial type activity associated with intermittent, impulsive noise with tonal reversing beepers and heavy plant movements, consideration of the type of noise emission would be especially important in a case of this type.

The EHO advised that the use of the absolute BS8233 Table 4 criteria as the consultant has done here would be wholly inappropriate, if the resident's allegations at these times correctly characterises the noise type.



The location of a residential unit among unneighbourly industrial and business uses together with the poor quality of the surrounding environment was a previous reason for refusal in respect of the previous planning application (19/02844/FUL). This has not been addressed as part of this revised retrospective planning application.

The immediate surrounding locality represents a poor environment for residential use and enjoyment of external amenities. The character of the environment within the business park along with that of adjoining commercial sites is not conducive to achieve the high-quality residential development for occupiers required by the HLP32 or the NPPF 2021.

## 7. HOUSING LAND SUPPLY AND DELIVERY

Paragraph 120 of the NPPF supports the development of underutilised land especially where this would help meet identified housing needs in areas of constrained land supply.

In this instance the Council can demonstrate a healthy housing land supply of over 9 years, according to the latest figures contained in the Hart Five Year Housing Land Supply Position Statement (1st April 2020).

It should also be noted the Housing Delivery Test 2020 recently introduced by Central Government also illustrates that the District has a Housing Delivery Test measurement of 201% given a total housing requirement of 878 homes between 2017 and 2020 and a delivery of 1,766 homes over that same period.

The applicant has not contested the above.

## 7. IMPACT ON ADJOINING OCCUPIERS

There are no amenity impacts caused to neighbouring occupiers as a result of the dwelling constructed (physical building).

However, as noted by the comments made by the EHO above, they have received complaints from dwellings in the surroundings due to noise nuisance arising from the industrial uses in the locality. The dwelling subject to this application is within a business park and adjoins industrial uses, whereas other dwellings are further away. Since the occupiers would expect certain level of enjoyment in the subject accommodation, it could lead to further complaints about the operation/activities of adjoining businesses, which could materially impact their operation in the long term..

## 8. THAMES BASIN HEATHS SPECIAL PROTECTION AREA

Policies NBE3 and NBE4 of the HLP32 seek to protect the Thames Basin Special Protection Area (SPA). Policy NRM6 of South East Plan policy NRM6 requires adequate measures to avoid or mitigate any potential adverse effects on the Thames Basin Special Protection Area (SPA).

The Habitats Regulations 2017 requires Local Planning Authorities (as the Competent Authority) to consider the potential impact that a development may have on a European Protected Site. In this case this relates to the Thames Basins Heaths Special Protection Area (TBHSPA).

The site falls within the 5km zone of influence to the SPA. The converted residential building removed addressed negative effects on the SPA at the time of conversion through a legal agreement tied to the prior approval. However, since the building was demolished, the prior approval permitted development right has been extinguished the SPA mitigation that was secured has also fallen away.



Given the lack of SANG for the retention of the development and the fact the applicant has not secured any SANG from a third party, the Council is unable to conclude that the proposal has not had a significant effect on the SPA. The second element of the mitigation required is a financial contribution towards the Strategic Access Management and Monitoring project (SAMM) and whilst this could be secured by way of a legal agreement no such agreement is in place.

The applicant has submitted an Appropriate Assessment in support of their application, which essentially relies on the fact that the residential conversion of the original building now removed, secured SANG with the Council and therefore the current unlawful dwelling does not require SPA mitigation due to the fact there would not be a net increase in dwellings on the land. However, it does not discuss the fact that any benefit from which the lawful residential conversion benefited has been extinguished as a result of its demolition.

As such the Appropriate Assessment submitted to demonstrate that without the SANG mitigation and a contribution towards SAMM the proposal would not have a significant effect on the SPA is flawed. There is no evidence of grounds of overriding public interest and the application fails the test of 'no alternative solutions' (Regulation 64).

Natural England have decided to make no comment on the proposal and previously raised no objection to the development. However, the LPA is the 'competent authority' for the purposes of the Habitats Regulations. As the dwelling subject to his application is a new building and in the absence of any appropriate mitigation, it is concluded that the scheme would fail to meet the requirements of the Habitats Regulations and that this development would, either on its own or in combination with other plans and projects have a detrimental impact on the nature conservation status of the Thames Basin Heaths SPA.

Consequently, the application is unacceptable and contrary to Policy NBE3 of the HLP32, Policy NRM6 of the South East Plan, Policy 2d of the CNP32 and the NPPF 2021.

## 9. PARKING AND ACCESS

No concerns are raised in this respect from an operational perspective or in terms of parking numbers within the subject site.

## 10. FLOODING

The subject site is in a Flood Zone 1 location. However, part of the site is in a surface water overland flow route where flood depths can be up to 300mm and/or 900mm in parts of the Business Park. Finns Business Park has a history of flooding with several of the units flooding in 2007, August 2015 and again in August 2020. There are no Thames Water surface water sewers in the area and only a private foul sewer.

Previous concerns raised by the Drainage Officer to this proposal related to the potential for internal flooding and whether or not the dwelling is safe in this respect. The applicant has now submitted an updated flooding technical note prepared by the applicant flooding consultant and confirms that the walls of the residential unit have not been constructed to resist flood water and advises that it is not necessary as the height of the floor (internal level) is above predicted floor levels.

The Drainage Officer has reviewed the updated information and given the comments made in the technical note, has raised no objection.

As such the retention of the dwelling would not conflict with adopted Policy NBE5 of the HLP32, Policy 6 of the CNP32 or the NPPF 2021.



## 11. REFUSE

No concerns are raised in this respect as there is enough space in the front of the dwelling to accommodate refuse/recycling wheelie bins.

## 12. CLIMATE CHANGE AND EQUALITY

On 29.04.2021 Hart District Council agreed a motion which declared a Climate Emergency in the Hart District. HLP32 policy NBE9 requires demonstrate they would:

i) reduce energy consumption through sustainable approaches to building design and layout, such as through the use of low-impact materials and high energy efficiency; and

j) they incorporate renewable or low carbon energy technologies, where appropriate.

The retrospective dwelling does not raise concerns in terms of layout as the internal areas are dual aspect. However, from details provided in this application about the construction of the dwelling (submitted as part of previous application) and confirmed by the updated flooding information now submitted, the walls of the dwelling are of timber construction. The noise report from 2020 states:

*'The construction detail of the replacement dwelling ... is as follows':*

*3mm plaster sat on 12.5mm soundproof plaster board. Applied to 4x2 timber uprights with 100mm insulation. The exterior has ½ inch OSB board finish (compressed wood strands panels).* The updated flooding information submitted also confirms that walls are made of timber.

Therefore, it is highly unlikely that the building envelope of the dwelling can achieve any meaningful reduction of energy consumption, given that walls are wood panels with standard insulation thickness and external wooden cladding. These materials would not be regarded to provide a highly thermally insulated building envelope as to exceed requirements of thermal insulation for a dwelling over and above current Buildings Regulations to provide a development that is high energy efficient.

Whilst controlled under separate legislation (building regulations) it is noted that the dwelling was constructed without building regulations approval. In terms of climate change there would not have been compliance in respect of ventilation, thermal efficiency, water efficiency, conservation of fuel and power. This is a material dis-benefit of the scheme.

The dwelling does not incorporate any renewable or low energy technologies commensurate with the type of development undertaken (high efficiency gas boilers or water saving features would not fall within the technologies required by this adopted policy).

Therefore, the proposal would fail to meet sustainability requirements of Policies NBE7 and NBE9 of the HLP32 and as such would not contribute to Council's objectives to address Climate change.

In terms of Equality, The Equality Act 2010 legally protects people from discrimination in society. It replaced previous anti-discrimination laws (Sex Discrimination Act 1975; Race Relations Act 1976 and Disability Discrimination Act 1995) with one single Act.

The public sector Equality Duty came into force on 05.04.2011 In Section 149 of the Equality Act. It means that public bodies have to consider all individuals when carrying out their day-to-day work in shaping policy and delivering services.



Due regard has been given to the aims of the general Equality Duty when considering applications and reaching planning decisions in particular the aims of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations between those who share a protected characteristic and those who do not share it. This application would not raise any issue in this regard.

### 13. OTHER MATTERS

The applicant has referred to in the submitted information that the retention of the building will provide a residential environment conducive to helping the occupiers manage several difficult personal issues / circumstances cited by the applicant.

Officers have considered the information provided. Whilst the predicament of the applicant is noted, it would not constitute 'very special circumstances' to allow substandard housing in an unsuitable location. It should also be noted that the application has been made on a permanent non-personal basis.

The Local Planning Authority, in some instances would consider the granting of a planning permission on a personal basis. However, the personal reasons expressed by the applicant would not result in a compelling reason to provide a dwelling in this industrial/business location. The internal inspection undertaken did not reveal any internal adaptations or any other specially installed or bespoke elements in the rooms, indicating the building is unique to the current occupiers and that remains the case in this submission, despite the applicant submitting photos this time around of 'disability aids' (a door handle, walking stick, UV glasses). Overall, the interior arrangements of the dwelling are no different from a policy compliant residential building in a suitable location.

Paragraph 015 (ref: 21a-015-20140306) of the PPG advises in this respect, the following:

***Planning permission usually runs with the land, and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need. (Officers' emphasis)***

In this instance therefore it would be inappropriate to consider a personal planning permission.

The applicant also has made reference to the adjoining business unit no. 27 as currently being occupied by Council tenants. However, that it was an incorrect assertion as that dwelling is in private ownership and is neither managed by the Council or a registered provider.

The applicant has also mentioned about other planning applications approved for existing units, however none of them are related to a new dwelling in this business park, and in any event each application is assessed in its own merits.

Therefore, the arguments made in support of the applicants' circumstances cannot be attributed any weight in the consideration of this application.

It is also noted that the applicant puts a strong emphasis in their submission to the fact that the Planning Committee resolved to overturn the planning officer's recommendation to refuse, and this was agreed at Full Council.



Whilst it is a material consideration, the retention of the dwelling in the subject site remains contrary to the planning policy objectives of the development and there have not been any material change in planning objectives /circumstances as to indicate that the unlawful development is now in accordance with the policies of the HLP32. The strength of these resolutions does not outweigh the policy conflict and harm which would be generated by the development therefore the Officers recommendation remains for refusal.

## CONCLUSION

Members of Committee are advised to consider the A and B recommendations set out below in line with the information detailed within the report above.

## RECOMMENDATION:

As a consequence, the recommendation on this application is the same as the decision of Planning Committee earlier this year, namely:

That the application be **referred to Full Council as a Departure** from the adopted Hart Local Plan (Strategy & Sites) 2032 with the following recommendation:

## RECOMMENDATION A:

If members are minded to approve, that Planning Committee delegate authority to the Head of Place Services to take the application to Full Council as a departure with a recommendation to **GRANT** planning permission and issue the decision if no objection is raised, subject to the following planning conditions:

1. The development hereby permitted shall be retained in accordance with the following plans:

PL16 Rev. A (Block Plan), PL19 Rev. A (Unit 28- proposed), PL20 Rev. A (Utility/ Store Details and Bin Store Details), JEP Drawing No.1 Rev. A (Location plan -Garden Block Garden Plan), garden Landscaping plan 2 (Front & Side Garden Sketch Plan).

REASON: To ensure that the development is carried out in accordance with the approved details and in the interest of proper planning.

2. Notwithstanding the provisions of Classes A, B, D, E and F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent order revoking and re-enacting that Order with or without modifications), no enlargement, improvement or other alteration to the dwellinghouse hereby approved under these classes shall be carried out without the prior permission of the Local Planning Authority, obtained through the submission of a planning application.

REASON: Due to the restricted confines of the site so the Local Planning Authority can properly consider the effect of any future proposals on the character of the locality in accordance to policy NBE9 of the adopted Hart Local Plan and Sites 2016-2032, saved local policy GEN1 of the Hart District Local Plan 1996-2006, the NPPF 2021 and policy 3 of the Crondall Neighbourhood Plan 2017-2032.

3. The car parking area to the front of the dwelling hereby approved shall be retained for the parking of vehicles and shall not be used for any other purpose. Access to the parking area shall be always maintained to allow this area to be used for vehicular parking.



REASON: To ensure that the development retains adequate parking and to satisfy policy INF3 of the adopted Hart Local Plan - Strategy and Sites 2016-2032, saved policy GEN1 of the Hart District Local Plan (Replacement) 1996-2006 and the NPPF 2021.

## **RECOMMENDATION B:**

That the Head of Place be granted delegated authority to **REFUSE** planning permission for the following reasons:

### **REASONS FOR REFUSAL**

- 1 The retention of a dwelling, with a substandard internal floor area outside settlement boundaries and lack of high energy efficiency materials and renewable/ low carbon technologies, in a site subject to unreasonable level of industrial noise and surrounded by unneighbourly industrial /business land uses and unsightly electricity infrastructure in close proximity, would all represent a poor-quality environment that is unsuitable and harmful to accommodate residential development, to the detriment of residential amenity. As such the retention of the dwelling in this location is contrary to policies SS1, ED2, H6, NBE9 and NBE11 of the adopted Hart Local Plan (Strategy & Sites) 2016-2032, saved policy GEN1 of the Hart District Local Plan - Replacement (1996-2006), policy 1 of the Crondall Neighbourhood Plan 2017-2032 and Paragraph 130 of the National Planning Policy Framework (2021).
- 2 The retention of a dwelling amongst light industrial/business uses and adjoining unneighbourly commercial activities, in conjunction with other non-employment uses within Finns Business Park would be detrimental to the long-term viability and operation of this Locally Important Employment Site, contrary Policy ED2 of the Hart Local Plan (Strategy & Sites) 2016-2032 and Paragraph 81 of the National Planning Policy Framework (2021).
- 3 The site is located within 5km of the Site of Special Scientific Interest (SSSI) which forms part of the Thames Basin Heaths Special Protection Area (SPA). In the absence of any evidence that the test of no alternatives under the Conservation of Habitats and Species Regulations 2017 can be satisfied, or evidence that there are grounds of overriding public interest, the proposed development, either alone or in combination with other plans or projects, would be likely to have a significant adverse effect on the SPA. As such the proposal is contrary to Policy NBE3 of the Hart Local Plan (Strategy and Sites) 2016-2032, saved policy NRM6 of the South East Plan and Paragraphs 181-182 of the National Planning Policy Framework (2021).

### **INFORMATIVES**

- 1 The Council works positively and proactively on development proposals to deliver sustainable development in accordance with the NPPF. In this instance, the proposed development was deemed to be unacceptable in many respects (for the number of reasons above) and therefore no further additional information was required/ requested; nor could the scheme have been amended to address the Council's specific concerns without significantly changing the nature of the proposal. The development was therefore determined on the basis of the information provided.