

07/15/0011

EVERETT FINE ART LTD

**CHANGE OF USE OF AGRICULTURAL BARN TO FORM 4 No. BUSINESS UNITS (CLASS B1) AND 1 No. WORK LIVE UNIT (SUI GENERIS) AND EXTERNAL ALTERATIONS TO BUILDING AT HEATHERTON PARK STUDIOS, BRADFORD-ON-TONE**

Location: HEATHERTON PARK STUDIOS, HEATHERTON PARK,  
BRADFORD ON TONE, TAUNTON, TA4 1EU

Grid Reference: 317015.122078 Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Subject to the receipt of an amended plan including the parking area in the application site, Conditional Approval

**RECOMMENDED CONDITION(S) (if applicable)**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A4) Location Plan

(A1) DrNo 19D\_13 REV A Existing & Proposed S & N Elevations

(A1) DrNo 19D\_12 REV A Existing & Proposed E & W Elevations

(A1) DrNo 19D\_11 Rev A Proposed Plans & Sections

(A1) DrNo 1\_D10 Existing Ground Floor Plan

(A4) Block Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The residential floor space hereby permitted shall not be occupied until the associated business floor space in Unit 1 is fully fitted and capable of use.

The occupation of the residential floor space shall be limited to a person solely or mainly working within the business floor space within Unit 1, their spouse (or partner) and to any resident dependants or relatives living together as a single family unit.

The occupation of the business floor space of Unit 1 shall be limited to a person who resides in the residential floor space.

Reason: To ensure that the live-work units are provided in a manner that ensures that the building operates as a live-work unit without detriment to other nearby property.

4. Prior to their installation, samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the area.

5.
  - (i) Prior to its implementation, a landscaping scheme, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority.
  - (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area.

6. The business units hereby permitted shall be used only for those purposes defined within class B1 of The Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: Other uses have the potential to cause detrimental impacts to the amenities of neighbouring properties and may lead to increased traffic that would be detrimental to highway safety.

7. Between the hours of 08.00 - 18.00 Monday to Friday and 08.00 - 13.00 hrs Saturday:

Noise emissions from any part of the premises or land to which this permission refers shall not exceed background levels by more than 3 decibels expressed in terms of an A-Weighted, 2 Min Leq, at any time when measured at the façade of any residential premises.

Noise emissions having tonal characteristics, e.g. hum, drone, whine etc, shall not exceed background levels at any time, when measured as above.

For the purposes of this permission background levels shall be those levels of noise which occur in the absence of noise from the development to which this permission relates, expressed in terms of an A-Weighted, 90th percentile level, measured at an appropriate time of day and for a suitable period of not less than 10 minutes.

At all other times, including Bank Holidays, noise emissions shall not be audible when so measured.

Reason: To ensure that the amenities of neighbouring residents are protected.

8. Prior to the commencement of any other works, the vehicular access onto/from the access road to the south of the site shall be permanently stopped up in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority and shall thereafter be maintained as such.

Reason: In the interests of highway safety.

9. No external lighting shall be provided on site without the prior approval of the Local Planning Authority.

Reason: In the interests of the visual amenity of the area.

10. The area allocated for parking on the submitted plan shall be properly consolidated, surfaced, drained and marked out before the use commences or the building(s) are occupied and shall thereafter not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that there is adequate space within the site for the parking of vehicles clear of the highway.

Notes to Applicant

**PROPOSAL**

This application seeks full planning permission for the conversion of an existing agricultural building to a mixed used development comprising 5 industrial units (B1) and living accommodation. It is proposed that one of the industrial units and the residential accommodation are tied to form a 'work/live' unit. As such, they are proposed to be linked by internal staircase. A balcony would be provided to the front of the first floor, which would also provide a fire escape from the residential accommodation.

Following the formation of window openings, the building would be re-clad in metal profiled sheeting.

## **SITE DESCRIPTION AND HISTORY**

The site comprises a modern portal framed agricultural building on the north eastern side of the complex of buildings at Heatherton Park. The immediate area contains a number of residential and employment uses, but is outside any defined settlement limit and is some distance from the public highway – accessed by two alternative lengths of private drive. The most logical route to the application site is via the northern access from the road linking Bradford on Tone to the A38 and is a long, straight private drive with good visibility at its junction with the public highway.

The building is currently formed of concrete walls with profiled sheet upper sections and roof. It is broadly divided into two parts; with a higher section on the eastern side and lower to the west, under an asymmetrical roof.

The area to the east and between this and the neighbouring light industrial buildings has been laid out as a parking/yard area.

There is planning history relating to the development/conversion of buildings to form dwellings in the immediate area. In respect of the applicant's site, the following applications are considered to be relevant.

07/07/0016 – Change of use and extension of building to B1 use – Granted.

07/07/0023 – Change of use and extension of building to B1 use (revised scheme to the previous) – Granted.

These applications relate to the building directly adjoining the current application site. Conditions were imposed including a requirement for a parking area for 5 vehicles, that there should be no vehicular access from the south, that noise emissions should be restricted, and that work should only be carried out between 9 and 5 Monday to Friday.

07/10/0028 – Change of use and conversion of agricultural barn to form business units – Granted.

This permission relates to the current application site. 6 units were shown on the proposed plan – 4 at ground floor and two at first floor. Conditions were imposed including a restriction of the use to B1, restricting noise emissions, restricting the time at which machinery, business and processes could be carried out (08.00-18.00

Monday to Friday; 08.00-13.00 Saturday). The permission also required the permanent stopping up of the access to the south, prior to occupation.

07/14/0006/CMB & 07/14/0009/CMB – conversion of agricultural building to residential accommodation (under permitted development rights) – Refused.

Last year, these two applications seeking a determination as to whether prior approval of the Local Planning Authority was required for the conversion of part of the application site to a residential dwelling under permitted development rights were refused. The reasons for refusal (and subsequent dismissal at appeal) were that the conversion was not actually permitted development. The planning merits were not considered, so they have little bearing on the current application.

## **CONSULTATION AND REPRESENTATION RESPONSES**

### **Consultees**

*BRADFORD ON TONE PARISH COUNCIL* – Objects for the following reasons:

1. No objection to the principle of conversion from agricultural use to business use.
2. Some concern that the proposed residential accommodation was inappropriate.
3. Significant concern over vehicular access:
  - a. It is wrong that no contribution is made to the cost of maintaining the right of way (although acknowledge it is not a planning consideration)
  - b. The original permission required no use of the Heatherton Park 'archway' which has remained open and is clearly used in breach.
  - c. Provision for parking for 25 cars likely to cause an increase in the problems already experienced at the Heatherton Junction, regardless of which access is used.

In view of the fact that the PC cannot indicate approval subject to conditions, it appears that the only option is to object on the above grounds.

*SCC - TRANSPORT DEVELOPMENT GROUP* - As the planning officer will be aware this site was the subject of a previous application 07/10/0028 for the change of use and conversion of agricultural barn to form a similar number of business units at Heatherton Park Studios, Bradford on Tone which was subsequently approved by the LPA on the 18<sup>th</sup> January 2011, with no highway objection being raised at that particular time.

As such and in light of this previous approval the Highway Authority has no objection in principle to the latest set of proposals (as they only represent a relatively minor change to that already approved) subject to the following conditions being attached to any consent

Recommends conditions that there is no access from the site to the A38, the parking area is kept clear of obstruction, the submission of a construction management plan.

*ENVIRONMENTAL HEALTH - NOISE & POLLUTION* – The recommended condition (7) is sufficient to prevent unacceptable disturbance of neighbouring residents. Neighbours may hear a bit of noise during the day but the condition would restrict it to a reasonable level and they should not be disturbed by noise at night/most of the weekend.

*ECONOMIC DEVELOPMENT OFFICER* – Rural enterprise is vital to the local economy in Taunton Deane and the provision of business units to meet demand in rural areas is crucial. Therefore, I am happy to support this application.

## **Representations**

5 letters of support making the following points:

- It would not appear to impact upon anybody nearby.
- The development is entirely appropriate and in keeping with the current environment.

1 letter confirming support for residential accommodation but raising concern over traffic. Suggests conditions of the previous permission should be applied to this development.

1 letter raising no objection to the residential accommodation, but raising objection to the proposed industrial units for the following reasons:

- Inappropriate in a residential area, there are large appropriate industrial estates available at Chelston.
- Excessive traffic movements on and near the site.
- Parking on the site.
- Noise.
- Working times.
- Other possible pollutants.
- Environmental impact.
- Vehicular access to the south must not be permitted.
- There should be no further enlargement of the parking area into the adjoining agricultural field.
- Working times should be aligned with planning permission 07/07/0023 not 07/10/0028.
- Conditions should prevent the installation of air source heating units which could cause noise nuisance.

1 letter of concern suggesting that the gate to the southern access should be permanently closed if permission is to be granted.

## **PLANNING POLICIES**

NPPF - National Planning Policy Framework,

CP1 - TD CORE STRAT. CLIMATE CHANGE,  
CP2 - TD CORE STRATEGY - ECONOMY,  
CP4 - TD CORE STRATEGY - HOUSING,  
CP8 - CP 8 ENVIRONMENT,  
DM2 - TD CORE STRATEGY - DEV,  
DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

## **LOCAL FINANCE CONSIDERATIONS**

### Community Infrastructure Levy

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £27,250

### New Homes Bonus

#### *1 Year Payment*

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| Taunton Deane Borough Council (Lower Tier Authority) | £1,079 |
| Somerset County Council (Upper Tier Authority)       | £270   |

#### *6 Year Payment*

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| Taunton Deane Borough Council (Lower Tier Authority) | £6,474 |
| Somerset County Council (Upper Tier Authority)       | £1,619 |

## **DETERMINING ISSUES AND CONSIDERATIONS**

The main issues in the consideration of this application are the principle of the development, the impact on surrounding property, the impact on the highway network and the design of the proposal.

### Principle

Planning permission was previously granted in 2011 for the change of use of the building to form B1 industrial units. The permission was implemented (although not completed) and therefore remains extant. There is a strong fallback position, therefore, relating to the use of the site for industrial purposes. In any case, the conversion of existing buildings to employment (B1) uses is permissible under Policy DM2 of the Taunton Deane Core Strategy and is considered to be acceptable in principle.

Policy DM2 sets out which uses are considered to be appropriate in the rural area. Appropriate uses for existing buildings are set out at section 7 of the policy. It sets out that a sequential approach must be followed in the following priority:

1. Community uses;
2. Class B business uses;
3. Other employment generating uses;
4. Holiday and tourism;
5. Affordable, farm or forestry dwellings;
6. Community housing;
7. In exceptional circumstances, conversion to other residential use.

The 'exceptional circumstances' referred to in criterion 7 are clarified in paragraph 6.16, in that "residential uses will only be acceptable if the building is of particular architectural merit, worthy of retention and demonstrably unsuitable for all other listed uses". The policy, therefore, strongly restricts new residential accommodation in the rural area, such as this. There is no provision in the policy for Work/Live units.

Whilst the business use is acceptable, the proposed residential use is contrary to policy. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, permission should, therefore, be refused unless material considerations indicate otherwise.

In this case, the applicant argues that there are extraordinary circumstances that justify residential development. The applicant operates a fine art restoration business from the site and has done for some years now. It is argued that he wishes to expand but is unable to compete with other providers (which are mainly based in London and the South East) because there is insufficient security at the site. It is suggested that an on-site presence would at least double the amount of business, bringing additional employment opportunities to the area.

Rural workers dwellings are permissible as an exception to normal planning policy under paragraph 55 of the NPPF. Typically, these relate to agricultural enterprises or other land based activities where there is a requirement to live on site for the proper functioning of the enterprise. The isolated matter of security is seldom a reason that justifies such proposals, which are based upon a functional need for a continuous on-site presence for business activities.

In this case, the accommodation is proposed to be associated with the fine art restoration business. There is no need for anybody to live on site in order to carry out the business activities – it is solely a matter of security. Given the value of some of the items that are stored on site – and the fact that they are merely entrusted to the safe keeping of the applicant – it is understandable that customers and insurers alike would be comforted by a continuous on-site presence. There is no evidence to suggest that the applicant has considered other means of improving security, such as CCTV, alarms or an out of hours security presence. However, this is not simply a proposal for a stand-alone dwelling.

In this particular case, the proposed development is a mixed use proposal involving significant commercial development alongside the residential accommodation. In total, the proposed business floorspace would be larger than that proposed for residential accommodation. In terms of unit 1, which the residential accommodation would be tied to, the business floorspace would be 155 square metres. There would also be a meeting room of 27 square metres shared between all units. The residential floorspace would be 214 square metres, so only 32 square metres larger

than the business floorspace, when the meeting room is added to unit 1. This is not, therefore, considered to be a proposal where the business floorspace is little more than a token justification. In terms of the overall business floorspace, 551 square metres are proposed, so the overall residential accommodation is less than half of the proposed business floorspace.

The site is in the rural area, outside any defined settlement. Residents of the accommodation would be dependent on their cars for most of their day to day needs. There is a bus-service on the A38, but residents are likely to be deterred from using this due to the difficulties crossing the A38 at this point when travelling from Taunton/towards Wellington. Whilst work/live units are not permitted by Policy DM2, it is considered that this mixed use development can be justified by the unusual needs of the applicant and his business in the context of the overall mixed use development. The site is surrounded by a mix of other employment uses and numerous other dwellings in and around the site and the proposal will not be isolated. Therefore, on balance, it is considered that the development is acceptable in principle.

### Highways

The site is currently accessible directly from the A38 to the south or from the road to Bradford on Tone to the east. The eastern access is far preferable in terms of visibility at its junction with the public highway. Previous permissions have sought to ensure the use of the eastern access over the southern one, although no physical measures were put in place in 2007 to prevent its use – this is perhaps why the use has continued as noted by the Parish Council.

The 2010 permission required the physical stopping up of the applicant's connection to the southern access. This has not been implemented as the trigger for doing so was upon the occupation of the industrial units. The Highway Authority have recommended that this requirement is repeated and on this basis they raise no objection. The stance is considered to be a reasonable one in the face of the extant permission. The proposed parking/yard area has already been laid and a condition is recommended to ensure that it remains available for users of the building, as in 2010. The Highway Authority also recommends a construction management plan be submitted, but this is not considered to be justified if the trigger to close the southern access is revised to be prior to the commencement of any other works.

With regard to the above, the impact upon the highway network is considered to be acceptable.

### Neighbouring property

The site is surrounded by commercial and residential properties in reasonably close proximity. The previous permission for B1 units in this building included restrictions on noise and working hours. It is not considered that there is any difference now to the situation in 2010 and it is recommended that the same conditions are re-applied.

This was previously covered in two conditions, one controlling noise and another

controlling working hours. It is not considered that work needs to cease outside the controlled hours if it is not audible at nearby dwellings and, therefore, the condition has been amalgamated as recommended above.

### Design and impact on the character of the area

The proposal involves the conversion of a large, modern agricultural building. The proposals to clad the building in profiled sheeting are acceptable and have been well conceived to respect the character of the building, whilst giving it a softer appearance in the landscape. In many ways, the design is similar to that permitted in 2010, including the provision of the balcony/fire exit, although the detailed design and materials would be slightly different. It is, therefore, considered that this is acceptable and will not detract from the character and appearance of the area.

### Conclusions

The proposed B1 uses are considered to be an acceptable, policy compliant, re-use of the site. The residential accommodation, including its provision as part of a work/live unit is considered to be contrary to Policy DM2 of the Taunton Deane Core Strategy. However, it is considered that the applicant's business is likely to significantly benefit from an on-site presence and this may well lead to an expansion of the business and increased employment opportunities/economic development benefits in the future. In this particular case, the residential accommodation is proposed as part of a mixed use scheme that is heavily weighted towards the business accommodation overall and not disproportionate in terms of the space to which the unit would be tied. Despite the rural location, the site is surrounded by other residential accommodation. On balance, therefore, it is recommended that planning permission is granted.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

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