

Appendix A – Background information relating to Shannon House.

- 1.1 Application reference 20/0369/PDR for a change of use from Office (Class B1) to 74 Residential Units (Class C3) under permitted development rules was refused under delegated decision by Three Rivers District Council on parking grounds in April 2020. This decision was subsequently overturned by the Planning Inspectorate and prior approval was granted on appeal on 3 December 2020. This prior approval related to the conditional grant of what is known as “deemed planning permission” by virtue of provisions of Schedule 2, Part 3, Paragraph O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (‘the GPDO’) and permitted the change of use of Shannon House from office (Class B1) to 74 residential units (Class C3).
- 1.2 The Council and Planning Inspector were only able to assess the proposed development on the basis of transport and highways impacts; contamination risks on the site; flooding risks on the site; and impacts of noise from commercial premises on the intended occupiers of the development. The Inspector had no powers to consider matters such as the occupier living standards and indeed commented in his decision letter; *“I recognise the concerns of interested parties in respect of the quality of accommodation, inadequate living space, excessive density, lack of affordable housing and loss of employment space, but these matters do not fall to be considered under existing legislation relating to prior approval applications for the change of use of office buildings.”*
- 1.3 The permitted development rules on permitted development rights were amended in 2020 and in April 2021 minimum space standards were introduced for office to residential conversions. However, that change to the General Permitted Development Order could not be applied retrospectively and so did not affect the lawfulness of 20/0369/PDR.
- 1.4 It should be noted a further prior approval application (ref. 20/1355/PDR) for 64 flats was also refused prior approval (under delegated decision) in August 2020. This decision was also appealed and the government’s Planning Inspector granted the prior approval application. However, this scheme was not implemented.
- 1.5 A variation to the prior approval application 20/0369/PDR was submitted in February 2023. This application, reference 23/0343/FUL, was made in accordance with S73 of the 1990 Act and sought an extension to the time limit to complete the permitted development works at Shannon House. The original time limit for completion of the permitted development works (ref. 20/0369/PDR) was 3 December 2023 and at the time of the S73 application in February 2023 it was confirmed the works had already commenced.
- 1.6 Application 23/0343/FUL, submitted in February 2023, initially sought a three year extension to the timescale for implementation. In determining the application the case officer considered only a six month extension was acceptable and issued the consent accordingly, with works to be completed by 4 June 2024. Express planning permission for the development pursuant to Section 73 of the 1990 Act was granted on 23 April 2023. Officers do not accept the submission made by Councillor Cooper that *“As it (the S73 application) was applied for after 6th April 2021, it was required to comply with the National Described Minimum Space Standard. As it did not, it was unlawful.”* Article 3(9A) of the GPDO which states that Schedule 2 does not grant planning permission for development which does not comply with minimum space standards is confined to development proposed pursuant to the GPDO.

- 1.7 Application, reference 23/0343/FUL, was determined under delegated powers. Committee call in powers do not extend to PDR applications. The variation of time condition application (23/0343/FUL) was a S73 application but it related to a previous PDR application. Members may have not considered they had the opportunity to call this to the Planning Committee and Officers consider the advice, if Officers had been asked at the time, was that this application could not be called to Committee. This information was communicated to Councillor Cooper by email dated 20 September 2024.
- 1.8 Generally speaking a party who wishes to challenge a grant of a section 73 planning permission has six weeks from the determination date to lodge an application for a Judicial Review with the High Court. This did not happen in the case of the planning permission ref. 23/0343/FUL and therefore this planning permission remains valid and extant.
- 1.9 Enforcement action would only be possible if the developer had failed to build in accordance with the proposed plans. Officers do not consider the completed development has deviated in such a way as to be materially different from the approved plans.
- 1.10 In addition, Officers established that the development was substantially completed by January 2024, only weeks beyond the original three year period that was given prior approval. If the application had been refused in April 2023 the developer would still have had eight months to complete the PDR development within the original three year timescale, and it is reasonably assumed could have met the original completion deadline if necessary.