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## Appeal Decision

Site visit made on 22 October 2025

**by J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 7<sup>th</sup> November 2025

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**Appeal Ref: APP/A3010/W/25/3369922**

**Mckenna Precision Castings Ltd, Offices, Lawn Road, Costhorpe,  
Nottinghamshire S81 9LB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr D Landa of JGM (Nottm) Ltd against the decision of Bassetlaw District Council.
  - The application Ref is 25/00163/PDN.
  - The development proposed is conversion of vacant office space to form 8 residential units.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs has been made by Mr D Landa of JGM (Nottm) Ltd against Bassetlaw District Council. This is the subject of a separate decision.

### Preliminary Matters

3. Under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permission is granted for the change of use of commercial, business and service uses to dwellinghouses, subject to limitations and conditions.
4. Where an application is made for prior approval, Schedule 2, Part 3, Paragraph W(3) of the GPDO specifies that a local planning authority may refuse an application where the proposed development does not comply with or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions applicable to the development in question.
5. Paragraph MA.2 of Schedule 2, Part 3, Class MA of the GPDO requires the local planning authority to assess the effect of the proposed development, against matters specified within the paragraph.

### Background and Main Issues

6. The Decision Notice specified one reason for refusal. This stated "... there is insufficient information to assess the impacts in terms of transportation, contamination and flood risk, and noise from commercial premises." The Delegated Planning Report indicated that the site is in Flood Zone 1 and that the

proposed development complies with this condition within paragraph MA.2 of Schedule 2, Part 3, Class MA of the GPDO. Consequently, the Council does not argue that the proposal would have a harmful effect with regard to flood risk.

7. The appellant contends that the Council determined the application for prior approval beyond 56 days from when it received the application. Under paragraph W(11) of Schedule 2, Part 3 of the GPDO, development must not begin unless one of three circumstances has occurred. This includes the expiry of 56 days following the date on which the application was received by the local planning authority, without the authority notifying the applicant as to whether prior approval is granted or refused. Accordingly, if the 56-day period has lapsed and the Council has not given notice of its decision, then prior approval is deemed to have been granted. The Council contend that it issued its decision within 56 days from receiving the application. Therefore, this is a matter in dispute.
8. Accordingly, the main issues of the appeal are:
  - whether prior approval is deemed to have been granted; and,
  - whether sufficient information has been submitted to assess the (a) impacts of noise from commercial premises on the intended occupiers of the proposed development; (b) impact on intended occupiers of the development of the introduction of a residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; (c) transport impacts of the development; and (d) contamination risks in relation to the building.

## Reasons

### *Whether prior approval is deemed to have been granted?*

9. As above, paragraph W(11) of Schedule 2, Part 3 of the GPDO indicates that development must not begin before the expiry of 56 days following the date on which the application was received by the local planning authority, and without the authority notifying the applicant as to whether prior approval is granted or refused. This is alongside other scenarios where development would be permitted.
10. Paragraph W(2) of Schedule 2, Part 3 of the GPDO lists what an application for prior approval should be accompanied by. The list concludes by stating "... together with any fee required to be paid." Therefore, the GPDO specifies that the application fee forms part of the application for prior approval itself. As such, the 56 day period would start the day after the Council has received the application for prior approval, including the fee.
11. The application for prior approval, without the fee, was submitted via Planning Portal on 12 February 2025. The application fee was paid on 14 February 2025 via bank transfer to Planning Portal. Within the confirmation email, Planning Portal state, "The application and fee will now be submitted ...". Importantly, Planning Portal differentiate the application from the application fee.
12. A copy of an email from Planning Portal to the appellant's agent, dated 14 February 2025, details that the Council has received the application. The email does not specify that the fee has also been received by the Council. Within its Appeal Statement, the Council indicates that it did not receive the fee until 18 February 2025.

13. In light of the above, there is no compelling evidence that the Council received the application fee until 18 February 2025. Consequently, I cannot conclude that the Council received the full application until this date. As such, the 56-day period, in which the Council had to determine the application for prior approval, would have concluded on 15 April 2025. The Decision Notice was issued on this date. Therefore, prior approval is not deemed to have been granted.

### *Noise*

14. The appeal proposal comprises of the part conversion of a building which is currently being used for several different uses. Opposite the appeal site is Blyth Marble, the submitted Noise Assessment<sup>1</sup> indicates that stone is cut and polished at this facility. As part of the Assessment noise monitoring equipment was installed at the appeal site for 72 hours. No noise attributable to stone cutting activities was audible within the sound recordings.
15. It is not clear from the Assessment whether stone cutting or polishing occurred during the 72-hour monitoring period. Therefore, the noise generated by neighbouring uses may be much worse than what was recorded. As such, it is not possible to conclude that the proposed mitigation measures would result in acceptable living conditions for future occupiers, with particular regard to noise generated by neighbouring commercial premises.
16. I acknowledge that all of the proposed noise mitigation measures could be implemented and that they would be sufficient to address concerns with other uses within the building. However, for the reasons given above, even with the proposed mitigation measures the cutting and polishing of stone at Blyth Marble may still have a harmful effect on the living conditions of future occupiers of the proposed development. I therefore conclude that insufficient information has been submitted to assess the impact of noise from commercial premises on the intended occupants of the proposed development.

### *Impact of other uses*

17. The appeal site is located within Firbeck Industrial Estate, which is defined as an existing employment site within the development plan. The appeal proposal would introduce residential development to the Industrial Estate. As above, insufficient information has been submitted to assess the impact of noise from commercial premises on the intended occupants of the proposed development.
18. Accordingly, insufficient information has been submitted to assess the impact on intended occupiers of the development, relating to the introduction of a residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

### *Transport*

19. There are 96 car parking spaces associated with the wider building. Nottinghamshire County Council, in its role as the local highway authority, contend that 2 of these spaces would be unusable when the entrance gates are open, 5 would be removed to accommodate the pedestrian accesses, bin and cycle stores and 14 would be allocated to the proposed residential use. The parties agree that

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<sup>1</sup> Noise Assessment, Acute Acoustics Ltd, Ref. 2931 Worksop – Lawn Road NPPG, Report Date: 6 November 2024

this would be an acceptable provision for the proposed residential use. 75 car parking spaces would be left for the remaining uses within the building.

20. When determining the application, the District Council assessed the building as if the lawful use is a mix of planning use classes B2 and B8 and, therefore, so shall I. The County Council has published minimum parking standards. Out of the potential B2/B8 uses in this location, offices would generate the highest demand for car parking spaces. If the remaining building were to be used as offices, the minimum parking requirement would be 60 spaces. As such, the remaining 75 car parking spaces would be more than sufficient to meet this demand.
21. Nonetheless, the building is being used for several different uses and not all fall within planning use class B2 or B8. In accordance with the minimum parking standards, the existing uses of the building would generate a demand for 75 car parking spaces. Accordingly, there would be sufficient car parking spaces to meet the demand generated by the existing uses within the wider building and the proposed residential units.
22. It has not been confirmed whether the parking spaces are also used by occupiers of the neighbouring building to the south west. There is a built link between the buildings, but it is under different ownership, and it has its own car parking spaces. Moreover, the appellant has indicated that more car parking spaces could be provided on site without harming the operational route of vehicles. There is also no evidence of parking stress in the area. Consequently, the proposed parking provision would be sufficient to meet demand.
23. The increase in vehicle movements generated by the conversion of the vacant office space to 8 residential units would be modest. This increase would not result in an unacceptable impact on highway safety neither would the residual cumulative impacts on the road network be severe. Furthermore, there is no reason why the implementation of separate in/out access points could not be implemented now or following the proposed change of use.
24. I note that additional information relating to the proposed parking provision was provided at the appeal stage and that it was not before the Council when it determined the application for prior approval. Nonetheless, it is common practice for an appellant to submit additional information to address a reason for refusal.
25. I conclude that sufficient information has been submitted to assess the transport impacts of the development, and that the proposal would not have a harmful effect on highway safety.

#### *Contamination risks*

26. The proposed development does not include ground works. There is no evidence before me that the proposed works would affect an area where contamination was previously identified or that a previous use of this part of the building would have caused contamination.
27. Whilst limited, sufficient information has been submitted to assess the contamination risks in relation to the building. I conclude that the proposal would not have a harmful effect on a sensitive receptor, with regard to contamination.

### **Other Matters**

28. The proposal seeks to make an effective use of vacant office space. This is in accordance with paragraph 124 of the National Planning Policy Framework. Notwithstanding this, the application was for prior approval for development permitted by Schedule 2, Part 3, Class MA of the GPDO. The scope of matters under consideration are limited to those specified within this part. Therefore, this material consideration could not outweigh the conflict with the GPDO identified above.
29. The appellant's concerns with the conduct of the Council during the determination of the application for prior approval is a matter between the parties and does not alter my assessment on the acceptability of the appeal proposal.

### **Conclusion**

30. For the reasons given above, I conclude that the appeal should be dismissed, prior approval is required and not granted.

*J Hobbs*

INSPECTOR