Development Management - Delegated Officer Report

Application Number: AWDM/0981/15 Recommendation – Approve

Site: Nynex House, Gardner Road, Southwick

Proposal: Application for a Lawful Development Certificate for proposed use of Nynex House for a mix of B1 (business) and B8 (storage) uses with ancillary showroom

Date of site visit: Seen previously

Neighbours checked: N/A

Additional neighbour notifications: N/A

Proposal, Site and Surroundings

This is an application for a Certificate of Lawfulness where the planning merits of the case cannot be taken into account. The application is seeking a Certificate of Lawfulness for the use for Nynex House for a mix of B1 and B8 uses with ancillary showroom.

The applicant's agent has confirmed that the applicant runs a motorcycle assembly business in Brighton and wishes to expand into these larger premises, which have been empty since 2012. The proposed use would involve the final finishing of motorcycles that are built in China and shipped to the UK, needing only final adjustment, primarily the fitting of the front wheel and adding of fuel. The motorcycles are otherwise complete in all respects. All work is carried out using spanners and other hand held tools only.

The submitted floor plans show a mix of B1 and B8 uses over both floors of the building, with a showroom on the ground floor measuring 625m2 (approximately 11.5% of the total floorspace). The applicant has confirmed that they "*intend keeping the town centre showroom (in Brighton) open but we would expect to have occasional visitors collecting a motorbike from Nynex House. These visitors may include people who have made an online purchase of a motorbike and due to limited space at the main showroom they will be re-directed to Nynex House. Accessories and parts will be stored at Nynex House but they are mainly sold online, but once again we expect occasional local riders will come in to buy over the counter*."

Relevant site history

SW/55/92 - Change Of Use From Industrial To Warehouse And Offices With Demolition Of Part Of Existing Premises To Form Parking Areas (155 Vehicles) – approved 28/9/92. The permission is subject to a condition restricting hours of working to 8am-6pm Mondays to Saturdays inclusive with no working on Sundays or Public Holidays

SW/10/94 - Removal Of Condition 10 Of Permission SW/55/92 (Restriction Of Working Hours) – approved 23/1/95. This permission removed the hours of working restriction but it was made personal to Nynex CableComms Ltd only and did not inure for the benefit of the land

SW/26/94 - Use As Regional HQ By Nynex Cable TV/Telecomms (Amendment To Previous Perm. To Increase Use As Offices To Max Of 3,965 SQ.M & Reduce Warehousing) – approved. This was personal to Nynex.

SW/67/98 - Vary Conditions 3,4 & 5 Of SW/26/94 (To Increase Offices To 4,490SQ.M Floor-Space, Reduce Storage To 720SQ.M & Amend Car Parking Layout To 199 Spaces) – approved. This was personal to Cable & Wireless.

AWDM/1626/14 - Change of use from office (B1a) and warehouse (B8) to non-residential institution (D1) and Assembly and Leisure (D2) including internal alterations and external painting – withdrawn

AWDM/1038/15 - Change of use from offices (B1a) and warehouse (B8) to offices (B1), non-residential institution (D1) and Assembly and leisure (D2) including internal alterations – under consideration

Consultations

Legal advice has been sought from the Council's Solicitor who has confirmed that in her view the proposed use would be lawful as there would be no material change of use from the current lawful use of the building.

Representations

N/A

Relevant Planning Policies

N/A

Planning Assessment

The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Use Class B1 as "*Use for all or any of the following purposes:*
(a) as an office other than a use within class A2 (financial and professional services),
(b)for research and development of products or processes,
(c) for any industrial process,
being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."

Use Class B8 is defined as "Use for storage or as a distribution centre."

The premises were last used by Virgin Media as offices and warehousing which were B1 and B8 uses, as granted under SW/55/92. The proposed use

must therefore also be considered to be B1 and B8 uses in order for a Certificate of Lawfulness to be granted.

As described in the supporting information submitted with the application, and in subsequent email correspondence, the proposed use does not constitute the assembly of motorcycles from start to finish (which would be likely to fall within use class B2), but instead relates to the final finishing of pre-assembled products which would be delivered to the site in crates. No noise, vibration, smell, fumes, smoke, soot, ash, dust or grit will arise from the assembly activity.

The motorbikes would then be sold on-line and distributed from the site. There would be the occasional collection of motorbikes in person and the sale of accessories and parts from the showroom, but this would appear to be an ancillary part of the overall use.

The applicants' agent has advised that there would be some testing of the various components of the motorcycles but there "will not be performance testing on the engines or any noisy activity". Testing will rather be of "small components, lights, indicators, speedometer calibration, etc. as well as evaluation of new parts from the manufacturers in China which we consider to be a Research and Development type of B1 use."

From the information submitted, it would appear that the proposed uses would fall within use classes B1 and B8. The retail side of the business would need to be monitored but the supporting information does suggest that the majority of sales would be on-line with distribution from the site rather than over the counter purchases. The floor area of the showroom is of a size which can be considered to be sufficiently ancillary to main business uses.

It is therefore considered that a Certificate of Lawfulness can be issued for the proposed use.

Recommendation

The Adur District Council hereby certify that on (date of decision) the matter described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), and is APPROVED for the following reason: -

The proposed use of Nynex House for a mix of B1 (business) and B8 (storage) uses, as defined by The Town and Country Planning (Use Classes) Order 1987 (as amended), with ancillary showroom in connection with a motorcycle assembly and distribution business is lawful as there would be no material change of use from the current lawful use of the building.

First Schedule

Proposed use of Nynex House for a mix of B1 (business) and B8 (storage) uses with ancillary showroom as shown on the Site Plan, Site Location Plan

and Proposed Floor Plans received as valid 2 July 2015, the supporting letter from Lewis & Co Planning dated 25 June 2015, emails from Luke Carter to Dawn Ayres received 1 July 2015 and emails from Luke Carter to Peter Barnett received 29 July 2015 and 31 July 2015 (with accompanying photographs).

Second Schedule

Nynex House (formerly NTL Limited), Gardner Road, Southwick

Informative: The applicant is advised that the lawful use of the premises is for a mix of B1 (business) and B8 (storage) uses, as defined by The Town and Country Planning (Use Classes) Order 1987 (as amended) and no noise, vibration, smell, fumes, smoke, soot, ash, dust or grit should arise from the proposed activities on the site.

Informative: The applicant is advised that the operating hours of the premises is limited by permission reference SW/55/92 to 8am-6pm Mondays to Saturdays inclusive with no working on Sundays or Public Holidays.

Case Officer: Peter Barnett Date: 8 September 2015

Authorised by: Gary Peck Date: 11 September 2015