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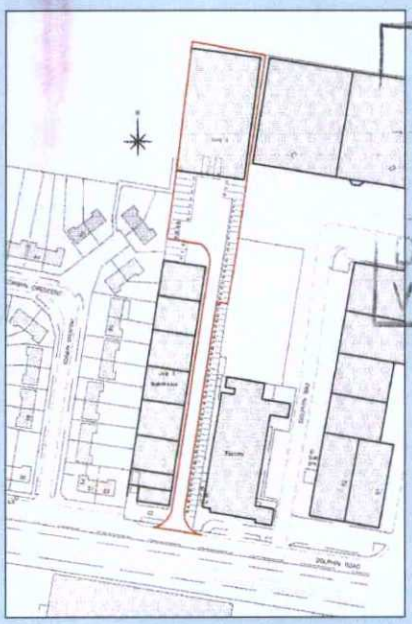

PLANNING STATEMENT
IN SUPPORT OF S73 APPLICATION



DELETION OF PERSONAL CONDITION
ATTACHED TO PLANNING PERMISSION
ADC/0570/07 DATED 9/11/07
AT
UNIT 1, 23 DOLPHIN ROAD
SHOREHAM BY SEA
FOR
HARGREAVES MANAGEMENT LTD

RH
PC

August 2012

PLANNING STATEMENT

DELETION OF PERSONAL CONDITION ATTACHED TO PLANNING PERMISSION ADC/0570/07 DATED 9/11/07 AT UNIT 1, 23 DOLPHIN ROAD SHOREHAM BY SEA

ON BEHALF OF

HARGREAVES MANAGEMENT LTD

August 2012

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PREFACE

This Statement explains, accompanies and forms part of an application for planning permission submitted to Adur District Council under S73 of the Town and Country Planning Act 1990. The application is, in respect of Unit 1, 23 Dolphin Road, Shoreham-by-Sea. The application seeks planning permission for the use of the premises for industrial purposes, as permitted by planning permission granted by the Council under reference ADC/0570/07 dated 9 November 2007, without compliance with condition 1 of that permission.

CONTENTS

SECTION		PAGE
1	INTRODUCTION	1
2	THE SITE AND SURROUNDINGS	1
3	PLANNING HISTORY	2
4	THE PROPOSED DEVELOPMENT	3
5	PLANNING POLICY CONSIDERATIONS	3
6	CONCLUSIONS	5

1.0 INTRODUCTION

1.1 This Statement explains, accompanies and forms part of an application for planning permission submitted to Adur District Council. Permission is sought for the use of the premises for industrial purposes, as permitted by planning permission granted by the Council under reference ADC/0570/07, dated 9 November 2007, without compliance with condition 1 of that permission.

1.2 This Statement gives an overview and summary of the proposed development which is the subject of the application and the principal matters relevant to its consideration by the local planning authority.

1.3 The remainder of this statement outlines the location and context, describes the planning history of the site, draws attention to the deleterious effect of the restrictive occupancy condition and addresses the planning considerations relevant to the proposed development.

2.0 THE SITE AND SURROUNDINGS

2.1 The application property forms part of the extensive industrial and commercial area flanking the north side of Shoreham Harbour. Access is gained from a private estate road connecting to Dolphin Road, which also serves unit 2 to the south. Much of the building stock in the industrial area has been refurbished and upgraded in recent years, enabling it to continue to perform a valuable contribution to the local economy and to provide local employment opportunities. The aerial photograph below shows the application premises and its curtilage edged red.



Aerial photo Showing the application premises and the local context

2.2 The application building occupies the northern part of its site. It comprises a detached high bay building with an eaves height of 5.48m. It is provided with a substantial power supply and 2 loading doors.

2.3 The ground floor accommodation comprises high bay production area including 2 offices and WCs totaling 1,630 m^2 of floorspace. Two further offices and WCs occupy the first floor of the 2-storey front wing, extending to a further 72 m^2. Externally, a generous forecourt area provides parking and loading facilities The photos below show the exterior and interior of the building respectively.





3.0 PLANNING HISTORY

3.1 The building was constructed pursuant to planning permission granted in 1971 (ref SU/62/71 dated 31 March 1971), which permitted the "Erection of two warehouses". A series of time-limited and personal permissions were subsequently granted authorising industrial (as opposed to storage and distribution) uses, as follows:

- Permission SU/97/96/TP dated 14 August 1996 authorised "Change of use from Warehouse (Class B8) to Light Industrial (Class B1)". This was time-limited to 31 August 1998 (condition 1), and stated to be personal to Edwards High Vacuum International Division only (condition 2).
- Permission SU/153/97/TP varied conditions 1 and 2 of SU/97/96/TP by extending the period of the permitted use to 31 October 2007 (condition 1), and making the permission personal to Velo Packaging Ltd (condition 2).
- Permission SU/197/99/TP dated 16 December 1999 varied condition 2 of SU/97/96/TP by substituting BOC Ltd (t/a BOC Edwards) for Velo Packaging Ltd.

3.2 Permission ADC/0570/07 dated 9 November 2007 permits "*Continued use of warehouse for industrial purposes (renewal of SU/197/99)*". The permission was granted subject to conditions which retained some of the restrictions of permission SU/97/96/TP as well as the personal limitation to "Edwards Ltd". The decision

notice is attached at Appendix A. It refers to "North Building BOC Edwards Unit 2", but it is the case that this permission, and the earlier permissions listed above, do indeed relate to the premises the subject of this application and which is now referred to as "Unit 1". Unlike the previous permissions, planning permission ADC/0570/07 is not time limited and authorises the permanent use of the premises for industrial purposes, albeit subject to a limitation to "Edwards Ltd".

3.3 The reason for the personal limitation condition No 1 is stated to be:

> *"Permission would not normally be granted for such development and is only permitted exceptionally and to comply with policy AE2 of the Adur District Local Plan and LOC1 of the West Sussex Structure Plan."*

I address this reason later in this statement.

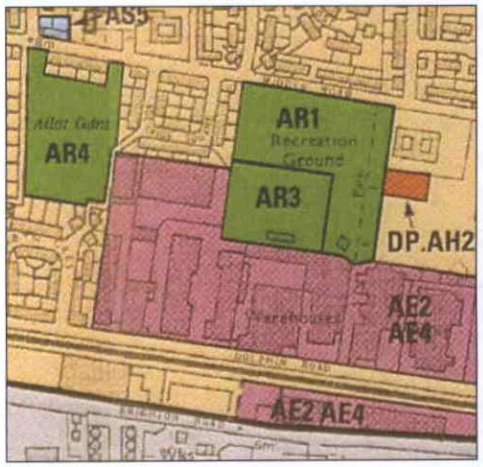
4.0 THE PROPOSED DEVELOPMENT

4.1 No operational development or change of use is involved in this application. The building and the areas of hardstanding and parking within the site will remain unchanged. The use of the premises will remain industrial as permitted at the premises by the series of planning permissions commencing in 1996. The only matter sought by this application is deletion of the personal limitation imposed by condition No 1 of the 2007 permission.

5.0 PLANNING POLICY CONSIDERATIONS

The Local Plan

5.1 The local policy context in Adur is not up to date. The Core Strategy previously under preparation has been abandoned and work is now progressing on a new Local Plan. However, it seems inevitable that the area including the application site will remain identified for employment purposes in any future plan that may emerge. However, the area is identified for employment use in the rather outdated 1996 Local Plan. An extract from the Local Plan Proposals Map, showing that the application site is identified in the context of policies AE2 and AE4, is reproduced below.



Extract from the Arun District Local Plan Proposals Map (1996)

5.2 Despite the reason stated on the 2007 planning permission for the imposition of condition No 1, it is not clear what, if any, justification there was for the personal restriction. Industrial use of the premises has been authorised since 1996 by a series of permissions. From this it is clear that permitting industrial use could not reasonably have been characterised as "exceptional", even at the date of the 2007 permission. Still less so now, some 16 years after planning permission was first granted for industrial use of the premises.

5.3 The reason for the imposition of the personal condition also implies that this was necessary to ensure compliance with Policy AE2 of the 1996 Local Plan. However, policy AE2 provides that planning permission "will be granted" for industrial development, including changes of use, within the areas defined on the proposals map. Indeed, policy AE2 does not mention warehousing (B8) amongst the uses promoted by that policy. It seems therefore that industrial use accords more closely with the provisions of the policy than the original warehouse use.

5.4 Industrial use of the application premises specifically accords with the provisions of both policies AE2 and AE4 of the 1996 Local Plan, which explicitly apply to the application premises, as the extract from the proposals map above shows.

5.5 The West Sussex Structure Plan is no longer part of the Development Plan and so its provisions are not now a relevant consideration.

National Policy

5.6 National policy is firmly against the imposition of personal conditions, unless there is an exceptional justification. Fostering growth and sustainable economic development is at the core of the recently adopted National Planning Policy Framework.

5.7 Circular 11/95 makes clear that conditions restricting occupancy, and personal permissions are undesirable in principle. Paragraph 92 of the circular states:

> **92.** Since planning controls are concerned with the use of land rather than the identity of the user, the question of who is to occupy premises for which permission is to be granted will normally be irrelevant. Conditions restricting occupancy to a particular occupier or class of occupier should only be used when special planning grounds can be demonstrated, and where the alternative would normally be refusal of permission.

5.8 Under the heading "General undesirability of commercial and industrial occupancy conditions", paragraph 94 of the circular makes clear that such conditions:

> " can act- - undesirably - to protect local businesses against fair competition, and may hinder the movement of industry in response to economic demand. If a service, or the employment it generates, is needed in an area, there is no planning reason why it should be provided by one firm rather than another."

The paragraph goes on to say:

> "The Secretaries of State therefore regard such conditions as undesirable in principle."

5.9 The National Planning Policy Framework explains in paragraph 206 that:

> "Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

These tests are essentially the same as those set out in paragraph 14 of circular 11/95. Paragraph 15 of the circular makes clear that the same principles also

apply where application is made under S73 and explains that "*a condition should not be retained unless there are sound and clear-cut reasons for doing so.*"

6.0 CONCLUSIONS

6.1 For the reasons explained above, it appears likely that there was never any justification for the imposition of condition 1 of the 2007 permission. Neither the policies of the local plan, nor national policy as it applied at the time, provided any support for seeking to limit the identity of the occupier. Nor does any such policy support for such a condition exist now.

6.2 Following vacation of the application building by the previous occupiers, it is clearly necessary for condition 1 of the 2007 planning permission to be deleted.

6.3 Retaining the restrictive condition attached to the 2007 planning permission would prevent the reoccupation of the building for employment purposes. This would be directly contrary to the provisions of circular 11/95, the objectives of the NPPF to foster economic growth and development and the promotion of sustainable development.

6.4 Planning permission should therefore be granted for the development authorised by planning permission ADC/0570/07 without the imposition of condition 1 of that permission.

APPENDIX A

PLANNING PERMISSION

ADC/0570/07

ADUR
DISTRICT COUNCIL

Civic Centre, Ham Road,
Shoreham-by-Sea, West Sussex,
BN43 6PR

Tel: (01273) 263222
Fax: (01273) 263203
www.adur.gov.uk
DX 59765 Shoreham-by-Sea
e-mail: developmentcontrol@adur.gov.uk

Development Control

PLANNING PERMISSION
TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

APPLICATION NUMBER: ADC/0570/07

BLB Surveyors Ltd
Pavillion House
14-15 Dorset Street
Brighton
BN2 1WA

Details of Development
CONTINUED USE OF WAREHOUSE FOR INDUSTRIAL PURPOSES (RENEWAL OF SU/197/99)

Location of Development
NORTH BUILDING BOC EDWARDS UNIT 2 23 DOLPHIN ROAD SHOREHAM-BY-SEA WEST SUSSEX

In pursuance of their powers under the above-mentioned Act and Order the Council hereby notify you that they PERMIT the above development, in accordance with the application and relevant correspondence registered on 14th September 2007.

This is for reasons stated on the attached schedule and subject to compliance with the conditions specified thereon.

Your copy of the application, determined as above, is returned herewith for your records.

Keith Morgan
Planning Services Manager

09/11/2007

SCHEDULE

Reasons for Granting Permission

01. The site is within the built-up area and industrial use helps meet the need for employment provision and economic and environmental regeneration without detracting from the local environment. It takes place without resulting in unacceptable detriment to the amenities of neighbouring properties and without detraction from highway safety. It consequently does not conflict with the relevant policies of the Adur District Local Plan (AG1, AE2, AE4) and the West Sussex Structure Plan 2001-16 (LOC1, NE1, NE5-6, CH1, ERA1, DEV1, DEV4-5).

Conditions

01. This permission shall inure for the benefit of Edwards Ltd only in both its implementation and the use of the premises thereafter and shall not inure for the benefit of the land.

Reason: *Permission would not normally be granted for such development and is only permitted exceptionally and to comply with policy AE2 of the Adur District Local Plan and LOC1 of the West Sussex Structure Plan.*

02. There shall be no more than 4 deliveries of goods to and from the site per calendar month between 11pm and 7am where deliveries are made by van or larger vehicle. The roller shutter doors shall be kept closed (except to handle the deliveries referred to above) between the hours of 8pm and 8am Mondays to Thursdays, between 10pm Fridays and 9am Saturdays, between 6pm Saturdays and 9am Sundays and between 6pm Sundays and 7am Mondays.

Reason: *In the interests of residential amenity and to comply with policy AE2 of the Adur District Local Plan and LOC1 of the West Sussex Structure Plan.*

03. No raw materials, finished or unfinished products or parts, crates, packing materials, nor any other items shall be stacked, stored or displayed on the site except within the buildings or within enclosed storage areas approved in writing by the Local Planning Authority.

Reason: *In the interests of amenity and to retain adequate off-street parking space and to comply with policy AE2 of the Adur District Local Plan and DEV1 & DEV5 of the West Sussex Structure Plan.*

PTO

04. No external working shall take place anywhere on the premises to which this permission relates and all working shall be confined to the buildings.

Reason: *In the interests of amenity and to retain adequate off-street parking space and to comply with policy AE2 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.*

05. No mechanical extraction plant or external plant or machinery shall be installed except in accordance with details to be submitted to and approved in writing by the Local Planning Authority including details of any necessary sound insulation measures.

Reason: *In the interest of residential amenity and to comply with policy AE2 of the Adur District Local Plan and LOC1 of the West Sussex Structure Plan.*

06. Within three months of the date of this permission the additional parking spaces and cycle parking shown on the submitted plans shall be provided in accordance with construction details to be submitted to and approved in writing by the Local Planning Authority. The areas of land so provided shall not thereafter be used for any purpose other than access and parking of vehicles and cycles incidental to the use of the premises concerned.

Reason: *To ensure adequate provision for parking clear of the highway and to comply with policy DEV4-5 of the West Sussex Structure Plan.*