Development Control – Delegated Officer Report

Application Number: NOTICE/0007/16 **Prior Approval Required and Refused**

Site: **15 Buckingham Road, Shoreham**

Proposal: **Application for permitted development for prior approval for change of use of ground floor office (Class B1) to 1 no. 3 bed dwellinghouse (C3) (incorporating existing first floor residential flat)**

Site and Surroundings:

The site sits in a commerical parade on Buckingham Road, north of the railway line. The application relates to the ground floor office alone, currently occupied by a computer website design firm (15 Buckingham Road). There is a self-contained flat above it (15a Buckingham Road). The building frontage is constructed with a commercial appearance.

Description of Development

This application is to convert the former office premises to 1 No. 3 bed dwelling under the Prior Approval GPDO procedure (incorporating existing first floor residential flat).

Date of Site Visit: 27-4-16

Relevant Planning History:
SU/48/01/TP
Change of use from Class A1 shop to Class B1 office (for computer website design)
Approved 26-03-01

This permission was subject to condition 2:-

'*The premises shall be used only for office purposes and no other purpose within Class B1 –Business' of the Schedule to the Town and Country Planning (use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory Instrument revoking and re-enacting that Order with or without modification) or for shop purposes within Class A1'*

Reason: In the interests of amenity and to comply with policy AE6 of the Adur District Local Plan and S1 of the West Sussex County Structure Plan

Relevant Planning Policies:
The National Planning Policy Framework and Practice Guidance
Saved Adur Local Plan policies: AG1, AE6

Representations
None received

Consultation Responses (summarised):

Highway Authority

The site is accessed from Buckingham Road, a 'C' classified road subject to a 30 mph speed restriction in this location. The proposal is to change the B1 office use at ground floor level to C3 residential. It is not clear how many bedrooms will be included, however the current first floor flat is a one bedroom flat and it is anticipated that the proposed will be similar. The prior notification process does not enable parking provision or other matters relating to accessibility to be considered. Nevertheless, it would appear that some parking is to be retained for the residential use. From experience of similar proposals, the LHA recognise that offices generate more vehicle movements compared with residential developments. As such, there is no expectation for this proposal to give rise to any increase or material change in the character of traffic in the vicinity of the site. There would be no highway grounds to resist the prior approval.

Adur & Worthing Councils Engineer:

Site lies within flood zone 1 and appears to be unaffected by surface water flooding. The application shows no external changes therefore surface water runoff will be unaltered.

Council Contamination Officer: *Asbestos*

Planning Assessment

Part 3 of the General Permitted Development Order states:

Class O – offices to dwellinghouses
Permitted development
O. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted
O.1 *Development is not permitted by Class O if—*
(a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;;
(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—
(i) on 29th May 2013, or
(ii) in the case of a building which was in use before that date but was not in use on that

date, when it was last in use;
(d) the site is, or forms part of, a safety hazard area;
(e) the site is, or forms part of, a military explosives storage area;
(f) the building is a listed building or is within the curtilage of a listed building; or
(g) the site is, or contains, a scheduled monument.

Conditions
***O.2** Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—*
(a) transport and highways impacts of the development;
(b) contamination risks on the site; and
(c) flooding risks on the site,
(d) impacts of noise from commercial premises on the intended occupiers of the development

and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

Interpretation of Class O

0.3. For the purposes of Class O, 'commercial premises' means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2 (1), and includes any premises licensed under the Licensing Act 2003 or any other place of public entertainment.

Procedure for applications for prior approval under Part 3
***W.**—(1) The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior*
approval of the authority will be required.

(2) The application must be accompanied by—
(a) a written description of the proposed development, which, in relation to development
proposed under Class C, M, N or Q of this Part, must include any building or other
operations;
(b) a plan indicating the site and showing the proposed development;
(ba) in relation to development proposed under Classes M, N, O, P, PA and Q of this Part, a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragrapth, 'net increase in dwellinghouses' is the number of dwellinghouses proposed by the

development that is additional to the number of dwellinghouses on the site immediately prior to the development;
(c) the developer's contact address;
(d) the developer's email address if the developer is content to receive communications
electronically; and
*(e) where sub-paragraph (6) requires the Environment Agency(**a**) to be consulted, a site specific flood risk assessment, together with any fee required to be paid.*

(3) The local planning authority may refuse an application where, in the opinion of the
authority—
(a) the proposed development does not comply with, or
(b) the developer has provided insufficient information to enable the authority to establish
whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

(4) Sub-paragraphs (5) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult—
(a) where the increase or change relates to traffic entering or leaving a trunk road, the
highway authority for the trunk road;
(b) the local highway authority, where the increase or change relates to traffic entering or
leaving a classified road or proposed highway, except where the local planning authority
is the local highway authority; and
(c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

(6) Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency where the development is—

(a) in an area within Flood Zone 2 or Flood Zone 3; or
(b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment

Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

(7) The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

(8) The local planning authority must give notice of the proposed development—
(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—
(i) describes the proposed development;
(ii) provides the address of the proposed development;
(iii) specifies the date by which representations are to be received by the local planning
authority; or
(b) by serving a notice in that form on any adjoining owner or occupier.

(9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—
(a) assessments of impacts or risks;
(b) statements setting out how impacts or risks are to be mitigated; or
(c) details of proposed building or other operations.

(10) The local planning authority must, when determining an application—
(a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);
(b) have regard to the National Planning Policy Framework issued by the Department for
*Communities and Local Government in March 2012(**a**), so far as relevant to the subject*
matter of the prior approval, as if the application were a planning application; and
(c) in relation to the contamination risks on the site—
(i) determine whether, as a result of the proposed change of use, taking into account any
proposed mitigation, the site will be contaminated land as described in Part 2A of the
*Environmental Protection Act 1990(**b**), and in doing so have regard to the*
Contaminated Land Statutory Guidance issued by the Secretary of State for the
*Environment, Food and Rural Affairs in April 2012(**c**), and*
(ii) if they determine that the site will be contaminated land, refuse to give prior approval.

(11) The development must not begin before the occurrence of one of the following—

(a) the receipt by the applicant from the local planning authority of a written notice of their
determination that such prior approval is not required;
(b) the receipt by the applicant from the local planning authority of a written notice giving
their prior approval; or
(c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

(12) The development must be carried out—
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(a) where prior approval is required, in accordance with the details approved by the local
planning authority;
(b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in
accordance with the details provided in the application referred to in sub-paragraph (1),
unless the local planning authority and the developer agree otherwise in writing.

(13) The local planning authority may grant prior approval unconditionally or subject to
conditions reasonably related to the subject matter of the prior approval.

The application proposal does NOT meet the tests of O1 since;

- The lawful planning use is restricted by way of a condition to Class B1a –Business' and the provisions of the General Permitted Development Order do not apply.

Conclusion

Prior Approval is required and is recommended for REFUSAL for the following reason:

A planning condition imposed on planning permission SU/48/01/TP removed permitted development rights for change of use from office (B1a). The building does not therefore benefit from permitted development rights under the prior approval procedure under Part 3 Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

DELEGATED

Case Officer Sign Matthew Porter Date: 7.6.16

Authorising Officer Sign: Peter Barnett Date: 7 June 2016