Development Management - Delegated Officer Report

Application Number: **Recommendation – Permit**
AWDM/0952/12

Site: **North Building BOC Edwards, Unit 2, 23 Dolphin Road, Shoreham-by-Sea BN43 6PB**

Proposal: **Application to vary condition 01 of planning permission ADC/0570/07 to allow occupation of existing industrial premises by any alternative occupier to Edwards Ltd.**

Date of site visit: 16.08.12

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to an industrial building located to the north of No.23 Dolphin Road at the rear of the industrial site curtilage. The building is 30m wide by 55m deep, and 1,550sqm in area approximately, with an eaves of 5.5m. The building is of standard warehouse design with a corrugated metal wall and roof construction on a 2m high brick plinth. It is currently internally subdivided in the SE corner only, with two offices and w.c. at ground floor, and a staircase and 72sqm of ancillary offices above at first floor level. The frontage of the building has two roller shutter doors facing south onto the parking forecourt. To the rear is an emergency exit door. There are some vents around the exterior of the building at head height, but nothing that would have been associated with mechanical extraction.

To the east of the site are other industrial premises within the Dolphin Road Industrial Estate, however the site (and No.23 directly to the south) occupy the most western edge of the Dolphin Road estate. Directly to the east is Apex House a larger building (of similar depth) which is located to the north of Dolphin Way, and to the south BOC Edwards occupies the frontage of No.23. To the north are semi-detached houses in Adelaide Square 17m away, and to the SW properties in Corbyn Crescent, with No's 49 & 51 being the closest at 26m away.

Permission is sought by Hargreaves Site Management Ltd for the removal of Condition 01 of ADC/0570/07 which reads:-

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.*

The applicant has stated on the forms that the site is intended to be occupied by Pyroban, a local employer within Dolphin Road which is seeking to expand operations, should the permission be granted, however no further information is provided regarding the expected operation. The grant of permission under s.73 of the Act would enable the site to be occupied by any other operating company, provided that the relevant planning conditions are satisfied.

Relevant site history
The premises were originally used as a warehouse when built, but then received a two year temporary permission to convert into a light industrial use (Class B1) under SU/97/96. This permission was granted with a personal permission for Edwards High Vacuum International until 31.08.98 and not for the benefit of the land.

A further 10 year permission (until 31.10.07) was granted for Industrial Use for a manufacturer of cardboard packaging (SU/153/97), this again was amended to become personal permission for BOC Ltd (t/a BOC Edwards) under permission SU/197/99 after they became occupiers.

BOC Edwards then leased the unit for 10 years and through an application in 2007 (ADC/0570/07) obtained permission for industrial purposes (use class B1) permanently.

Consultations

West Sussex County Council: The Highways Authority officer states that the proposal is to use the building without the personal permission (but still under its approved use class). The previous application proposed additional car and cycle parking and a condition was attached to the planning consent to secure this. Given that demand for this was identified previously, this should be carried over to any revised consent if the LPA is minded to approve this application. Conditions recommended are for the details of car parking spaces and cycle parking spaces to be approved before occupation by any other user, and the submission of a green travel plan.

Adur & Worthing Councils: The Environmental Health Officer (EHO) states that they have no objections to the application in principle, however suggest that the original conditions be amended to take into consideration for alternative B2 uses in the future.

Representations

Third Parties: The owner of No.51 Corbyn Crescent to the SW states that they have had previous issues with over loud generators over night, and lorries loading and unloading overnight. Also positioning of the ‘smoking area’ was previously against their back wall, and smoke drifted into their garden, and rubbish was thrown over the back garden and there was excessive foul language. If all things are taken into consideration than they are happy for the site to be used by another company but would prefer no night shift.

Relevant Planning Policies and Circulars
Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AE2, AE4.

South East Plan (GOSE 2009): CC1, CC6, RE3, NRM10, BE1, SCT2, SCT3.

National Planning Policy Framework (CLG 2012)
Circular 11/95 'The Use of conditions in Planning Permission' (ODPM 2005)

Planning Assessment

The main planning considerations are whether the principle of changing the permission for the site for any future occupiers would comply with policy, and whether the future use could be effectively controlled by planning condition to prevent there being any unacceptable detriment to the nearby residential areas.

Principle
Saved policy AE2 of the Adur District Local Plan states that permission will be granted for development (including changes of use) for business and industrial purposes falling within Use Classes B1 and B2, except where development is proposed in close proximity to residential areas when it will be restricted to use Class B1.

Previously the former occupier Edwards Ltd obtained permanent permission for the use of the site for industrial purposes, however the permission was made personal to them rather than giving benefit of the use to the land itself. This was owing to the associated problems there might be with differing occupiers, and the potential for a disturbing impact on nearby residential properties. It was considered that the 8 years occupation of the site premises by Edwards Ltd had not resulted in a detriment to the adjacent neighbour's amenity, and subject to planning conditions it was considered acceptable to grant permanent consent to them.

The Environmental Health team have registered no objection to the proposals, however they have requested that in light of the potential for Hargreaves (the site management company) to rent the building to any future occupier that any permission be subject to a number of restrictive conditions, that would protect the nearby residential properties from unnecessary noise and disturbance from the use of the site.

The National Planning Policy Framework states that there is a commitment to securing economic growth in order to create jobs and prosperity, and to proactively meet the development needs of business and support an economy fit for the 21st Century.

Circular 11/95 does make it clear that conditions which restrict 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 be normally be refusal of permission (para 92). It states that a permission personal to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company (para 93).

The property has been in use for a number of years within the B1 Use Class by Edwards Ltd, and as such it could reasonably be considered that other B1 uses could operate from the site without causing disturbance. The use of the

site for a B1 (Light Industry) operation has been established since 1997 when permission was granted for the manufacturer of cardboard packaging. Whilst the manufacture of cardboard boxes etc is not likely to be as intensive a manufacturing process as other B1, or in fact B2 uses, conditions were put in place to ensure the retention of amenity levels of the nearby properties. The occupation by Edwards in 1999 resulted in a more intensive operation of the site, and as such the use of machines for manufacturing and milling of steel, use of lifting cranes, and the testing of industrial pumping equipment, would suggest a B2 use was in operation. Whilst the permission (ADC/0570/07) was specific to Edwards the permission itself relates to 'continued use of warehouse for industrial purposes', and the application forms submitted with the submission state 'continual use of existing industrial operations B1'.

Residential amenity

The proximity to the site boundaries, and proximity to the residential properties of the building is of particular concern. No details have been provided about the proposed use by Pyroban, and permission, if granted, would allow for occupation by any further occupier should the arrangement with Pyroban fail. Pyroban have not been named as the applicant and are only named as future occupier in section 6 of the application. Therefore the application must be determined on the basis of its own merits, purely as an application to delete the personal condition 01 of ADC/0570/07.

No.23 the unit to the south has been occupied by BOC Edwards since 1990 since general Industrial Use (B2) was granted by means of the removal of a condition which limited the use to vehicle repairs and servicing (SU/159/90). There is a large roller shutter door to the rear, and industrial scale extraction and ventilation equipment to the rear of the building, closer to No.51 Corbyn Crescent that the rear of the application building.

The former permission allows for 24hr working through the site, and no objection has been raised by the EHO on this basis, provided there are restrictions on deliveries, use of outdoor areas, and extraction and ventilation from the building. It is considered that if future occupiers wish to install extraction plant or ventilation systems then a noise assessment that proves the background noise will not be increased from the existing levels should be provided.

It is evident that BOC Edwards had occupied the site for a good period of time and operated as general industrial use, possibly as B2, and whilst there is an objection from one of the nearby occupiers regarding how the site was managed, there have been no complaints over the intervening years received by the EHO that prevented the permission for permanent use being approved (ADC/0570/07). On this basis, it is therefore considered that a future occupier could use the site, provided that any permission is subject to relevant planning conditions which seek to protect the amenity of the neighbouring residential properties.

Adequacy of the existing conditions

Operational hours
The application does not seek to amend the operational hours that the site is restricted to, however they would appear to be specific to the former occupier, and allows for 24 hour business to be undertaken, with a limitation on deliveries to and from the site on no more than 4 days per calendar month between 11pm and 7am by van or larger vehicle. It is considered a more general condition against any deliveries outside of normal office hours would be required given the change of occupier and working practices, and the EHO confirms their agreement.

Storage of materials etc to front of building
Visually there could be a number of changes to the exterior of the property which would be associated with the occupation of the site by any number of businesses, however any such changes are likely to be considered operational development and would require a planning application in their own right.

The existing condition 03 prevents the storage, display or stacking of raw materials, finished or unfinished products parts, crates or packing materials nor any other items in front of the building. The site is located within an established industrial area, albeit on the fringe, and therefore the levels of visual amenity are lower than would be expected elsewhere, for example in a predominantly residential area. The frontage of the building was subject to planning conditions restricting the stacking of materials etc within the yard to the front, and it is considered that as there are no rear yards or other curtilage to the building other than at the front, that a similar condition covering how materials might be stored, and how refuse will be managed is required. The use of these storage facilities should also be restricted to daytime hours to prevent unnecessary disturbance to the residential neighbours.

No external working
It is considered that the condition is relevant and specific to the permission, and still required to keep the level of activity and noise outside of the building to a minimum.

No mechanical extraction plant or external plant / machinery
The former permission has a restriction on the formation of any external ducting or machinery whatsoever. The existing building has no ductwork or vents which would be associated with mechanical ventilation, and given the proximity to residential properties, and the propensity for industrial extract systems to be particularly noisy it is considered that the condition is relevant. The EHO has requested that the wording be supplemented with the requirement for a noise assessment. Whilst this would put added expense to any future occupier, given the surrounding industrial area, it is considered that it would be the only way to establish whether there would be any harm to the residential properties nearby. A dB limit at the boundary of the residential properties would not be sufficient in this case owing to the distinct changes in noise levels between day and night times, and given there may be other industrial processes within the vicinity which might increase average background noises from those that might be considered normal.

Accessibility and parking
The application 1:1250 site location plan shows the curtilage of the site separate from the Unit to the South, although there is no physical separation of the sites themselves. The application site is shown with 23 standard car parking spaces (No's 1 – 19 and No's 58 – 61) and 12 extended 9m deep spaces that might be used for lorry parking (no's 1 – 12). The parking layout does not represent the on site circumstances at the time of the site visit, as those spaces in the NE adjacent to the building are occupied by Plant and storage rooms.

The former permission related to the use of the site by employees of Edwards Ltd, and 28 car parking spaces were apportioned to Unit 2 North, all of which were located to the rear of Unit 2 South (the main frontage building), with 12 staff. There was clearly a disproportionate level of car parking allocated to the site given the level of employees, however given that the frontage site was also owned by the Edwards Hi-Vacuum International Ltd a subsidiary company, it was considered that there would be some sharing of the spaces across both sets of employees.

The current application provides no details of employment levels, or the type of operation to be undertaken and the number of deliveries to and from the site to be expected. Highways have agreed the parking levels subject to ADC/0570/07 however given the size of the site and the lack of a future permission covering the occupation it is considered that the parking and cycle parking layout should be covered by more general condition. A travel plan is also requested on the basis that the future occupiers may have employees at a higher level than formerly approved, and that owing to the site of the site 1550sqm it would be warranted.

Recommendation

APPROVE for the reason:-

The deletion of the personal condition 01 of ADC/0570/07 would enable the site to be occupied by other local employers that would provide for economic growth and the creation of jobs and prosperity within the District. It is considered that, subject to satisfactory compliance with planning conditions, the future occupation for industrial purposes would not detract from the local environment and can take place without resulting in unacceptable detriment to the amenities of neighbouring properties. It would consequently not conflict with the saved policies of the Adur District Local Plan (AG1, AE2), the policies of the South East Plan (CC1, CC6, RE3, NRM10, BE1, SCT2, SCT3), or the National Planning Policy Framework.

Subject to conditions:-

01 There shall be no deliveries or collections of goods to and from the site between 6pm and 7:30am where deliveries are made by van or larger vehicle. The roller shutter doors shall be kept closed at all times (except to handle the deliveries referred to above).

Reason: *In the interests of protecting residential amenity and to comply with saved policy AE2 of the ADLP.*

02 No raw materials, finished or unfinished products or parts, crates, packing materials, gas cylinders, industrial waste or refuse nor any other items shall be stacked, stored or displayed on the site except within the buildings or within enclosed storage areas, details of which shall be approved in writing by the Local Planning Authority.

Reason: *In the interests of protecting the amenity of the environment and to retain adequate off-street parking space and to comply with saved policy AE2 of the ADLP.*

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

Reason: *In the interests of protecting the amenity of the environment and to retain adequate off-street parking space and to comply with saved policy AE2 of the ADLP.*

04 No mechanical extraction plant or external plant shall be installed except in accordance with details of equipment, type of machinery, location, type of extraction, means of ventilation, location of ducting to be submitted to and approved in writing by the Local Planning Authority including details of any necessary sound insulation measures. These details shall include details of a BS4142 acoustic assessment and any sound insulation measures found to be necessary.

Reason: *In the interests of protecting the amenity of the environment and to comply with saved policy AE2 of the ADLP.*

05 Building not to be occupied unless and until there has been submitted and approved in writing by the LPA a Travel Plan which encourages the use of staff and visitors of alternate modes of transport to private motor car and reduces the associated harmful impacts. The approved travel Plan shall thereafter be implemented.

Reason: *In the interests of protecting the environment and to comply with saved policy AE2 of the ADLP, and the NPPF.*

06 No occupation of the site unless and until details of parking spaces and cycle parking are 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.

07 No external illumination unless otherwise agreed in writing.

08 Any separation of the site from its neighbour to the south will be done so in compliance with details of fencing/walls/gates or other means of enclosure to be submitted to an approved to the LPA.

09 Waste skips and storage of other refuse receptacles within the curtilage of the site shall not be filled between the hours of 6pm and 8am. Waste skip or other refuse collection shall only occur between the hours of 8am and 6pm.

Is recommendation contrary to letter(s) of representation? N

Case Officer: C. Hone Date: 05.10.12

Authorised by: Gary Peck Date: 5 October 2012