

OFFICERS REPORT

Application No: Y17/0019/PA

Location: 3 - 5 Shorncliffe Road Folkestone Kent CT20 2SQ

Proposal Determination as to whether the prior approval of the Local Authority is required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended) for the change of use and conversion from office (Class B1a) to 20no. residential flats (Class C3)

ASSESSMENT

Performance data:-

Date application valid: 30.06.2017

Applicable 8/13/16 week target date: 25.08.2017

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) ? n/a

If Yes, revised 8/13/16 week target date: n/a

Is the application being determined after 26 weeks without a PPA or a PEA? n/a

SITE DESCRIPTION

The application site is located to the southern side of Shornecliffe Road, within an area, close to the town centre, that is primarily residential. The application property was historically two separate properties that have been linked by a glazed walkway. The premises are currently vacant but was last used by East Kent Housing as offices for many years.

The site falls within the urban boundary of Folkestone.

The Shepway SFRA has no flooding shown for the site.

The EA Flood Hazard maps show the site as outside of any flood zones but the road to the front of the site has some risk of surface water flooding.

HISTORY

Y17/0010/PADetermination as to whether the prior approval is required for the change of use from offices (Class B1a) to 20No. residential dwelling units (Class C3) - Planning permission required

Y16/0022/PADetermination as to whether the prior approval is required for the change of use from offices (Class B1a) to 16No. residential dwelling units (Class C3) [Decision considered erroneous as the applicant had not made new building works apparent on the submission drawings and had not declared the intention to undertake building operations. It became apparent however that the proposal however relied on building operations to be undertaken.]

CH/3/62/233 C/U to offices (Approved)

PROPOSAL

This application is made under Class O, Part 3, Schedule 2 of the GPDO 2015 (as amended) for determination as to whether the prior approval is required for the change of use from offices (Class B1a) to 20No. residential dwelling units (Class C3).

Significant levels of internal works are proposed to enable the change of use.

Although this building is primarily of a red-brick build there are elements of the building which are of less substantial construction. Between no.s 3 and 5 is a 3 storey glazed link. On the rear elevation there is a glazed extension and there are also glazed areas running up the rear elevation of no. 5 and there is an opening that has been infilled with UPVC horizontal cladding and high level windows. Due to its historic use the building also has a number of entrances on the front, eastern and rear elevations. Some of these entrances are accessed by ramps and have porch canopies.

The current proposal only provides existing and proposed floor layouts and existing elevations of the front and rear elevations with an annotation stating 'Internal proposals do not change the external appearance of the elevations'.

No eastern and western elevations have been provided - existing or proposed.

The applicant has submitted some details from u-wert.net which show sections through glazed walls with insulation and moisture proofing and some section details of the glazed link upgrade.

PUBLICITY

Neighbour letters: Expiry date 03.08.2017

Site notice: Expiry date 08.08.2017

CONSULTATIONS

Under the previous Prior Approval notification the KCC LLFA advised - 'flooding at this location is shown as low risk and would be associated with an extreme event. The likelihood of the property flooding is very low. The existing property at this location has a very low brick wall along the frontage, If this wall is retained then the likelihood of the property flooding is further reduced. It would be anticipated that any basement flats would be protected.'

LOCAL REPRESENTATIONS

None received.

BACKGROUND

A previous prior approval application on the site Y17/0010/PA was determined as needing planning permission for the following reasons:

"The development shown within this application falls outside of what can be considered under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted development) Order 2015 (as amended) as it proposes 'building operations' (under Section 55 of the Town and Country Planning Act 1990) to enable the conversion of the building but 'building operations' are not permitted development under Class O. As such the proposal requires planning permission and is not able to be considered through any prior approval route."

APPRAISAL

The application is to be assessed in accordance with the requirements of Class O, which permits the development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the use classes Order from a use falling within Class B1a (offices) of that schedule.

O. 1 The development is acceptable in accordance with the criteria of class O where:

- a) the building is not on article 2(5) land;
- b) the building was last used as offices;
- c) the use as C3 dwelling houses has not yet commenced (2016);

- d) the site is not part of a safety hazard zone;
- e) the site is not part of a military explosive storage area;
- f) the building is not listed or a scheduled monument;

In terms of criteria above, the LPA is satisfied that none of these criteria apply and the building was last in use as offices.

BUILDING OPERATIONS

Unlike some other Classes within Part 3 of Schedule 2 it is noted that Class O does not allow for 'building operations reasonable necessary to convert the building..'.

Under application Y17/0010/PA external works were shown in the form of the removal of the existing glazed link and construction of a four storey extension and other works such as closing of entrances, block and render infill, insertion of windows, etc and other new external structures are shown on the block plan such as cycle stores and bin store.

Under the current proposal front and rear existing elevations have been provided but no side elevations. The front/rear elevation drawings is annotated that there are no external changes to allow for the internal proposals. Existing and proposed floor plans are supplied.

An additional document has been provided showing a system of how the glazed link is to be upgraded and not removed, together with drawing 154-09. (The proposed floor plan highlights in blue to areas to which this system is to be applied.) The feasibility of this has not been assessed as that is for building regulations - for which the applicant will need to apply.

The application is to be assessed on the basis of the information provided and in accordance with the requirements of Class O, which permits the development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the use classes Order from a use falling within Class B1a (offices) of that schedule.

As already stated unlike some other Classes within Part 3 of Schedule 2 it is noted that Class O does not allow for 'building operations reasonable necessary to convert the building..'.

In addition to the glazed link it is also noted that the existing building also has other glazed areas such as the main reception entrance and glazed rear extension, which are proposed to be converted to habitable rooms - bedrooms and living rooms. The applicant's elevation drawing annotates that there will be no elevational changes - which therefore would mean these elements are to be retained as they are. (It is not known to the LPA if these areas are able to be converted to habitable use as proposed without building operations but historically this matter has been raised with the applicant by the case officer.) Areas such as on the rear elevation that has UPVC horizontal cladding infill and high level windows is not considered to result in a good amenity for the occupier of that unit but that is a matter for the applicant as these matters have been raised by the LPA with him and to change this amounts to 'building operations'.

Therefore, if during conversion it becomes apparent that the proposed conversion is not possible without 'building operations' then this prior approval determination falls away and the proposal will require planning permission.

['Building operations' refers to external works only necessary for conversion as the Town and Country Planning Act 1990 Section 55 uses the phrase 'building operations' in the meaning of development and says :

"55 Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

[F1(1A) For the purposes of this Act "building operations" includes—

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.]

OTHER MATTERS

Therefore if the internal works proposed do not require planning permission then consideration is required of matters of transport /highways impacts, contamination, flooding risks and impacts of noise from commercial premises on the intended future occupiers.

Transport and highway impact -

The site plan indicates the provision of 20 parking spaces retained within the application site to serve the 20 units proposed. No visitor parking is proposed but the site is close to the town centre and public car parks.

In terms of Transport the existing highway network will be utilised without the need for modification and as the site is within the urban area of Folkestone, and on existing bus routes, the site is considered to be sustainable.

The proposal is therefore considered to be acceptable in highway and transport terms.

Contamination risk in relation to the building -

The Environment Agency maps show that the site is not in a controlled groundwater zone.

The Council is not aware of any past uses that could have left contamination and the proposal is for internal conversion only with no private gardens for individual units.

The proposal is therefore considered to be acceptable in terms of contamination matters.

Flooding risks in relation to the building -

This area is not at risk to flooding on the Environment Agency flood hazard maps of the Shepway Strategic Flood Risk Assessment hazard maps.

However on the EA Hazard Maps the road to the front of the site is shown to suffer a low risk of surface water flooding.

The proposal would have basement level units and as such the EA was consulted on the Y16/0022/PA application - who redirected the consultation to the KCC LLFA . The LLFA advised that the 'flooding at this location is shown as low risk and would be associated with an extreme event. The likelihood of the property flooding is very low. The existing property at this location has a very low brick wall along the frontage, If this wall is retained then the likelihood of the property flooding is further reduced. It would be anticipated that any basement flats would be protected.'

Therefore there are no flood risk issues in this instance.

Impacts of noise from commercial premises on the intended future occupiers

To the west of the site are offices and to the rear and east are residential properties. No noise impact from commercial development will disturb future occupiers.

CONCLUSION

Therefore, notwithstanding that no side elevation drawings have been provided - on the basis of the front and rear elevation drawings (which annotate the elevations are to remain unchanged), in combination with the floor plans supplied (which do not indicate any 'building operations' -including on the side elevations) the proposal is considered under Class O, Part 3, Schedule 2 of the GPDO 2015 (as amended) not to require prior approval.

Local finance consideration

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. New Homes Bonus payments are not considered to be a material consideration in the determination of this application. In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a CIL scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge as it is a change of use and would not create any additional floor space.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Case Officer:

Report and draft decision notice completed and passed to senior officer.

Name: W Simpson Position: Snr Planner Date: 18.08.2017

Report and draft decision notice amended (if appropriate)

Name: Position: Date:

Senior Officer

Report not agreed. Details of further work required as follows:

Name: Position: Date:

Report and draft decision notice agreed and file passed to admin to issue decision.

Name: C Dethier Position: DM Team Leader Date: 25/8/17