

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : (18/04635/RESPA)

Ward:
Petts Wood And Knoll

Address : Bayheath House, 4 Fairway, Petts Wood, Orpington, BR5 1EG

Objections: Yes

OS Grid Ref: E: 544521 N: 167577

Applicant : Mr Y Osman

Description of Development:

Change of use of first and second floors at Bayheath House and Cardinal House from Class B1(a) office to Class C3 dwellinghouses to form 16 flats together with associated parking (56 day application for prior approval in respect of transport and highways, contamination and flooding risks under Class O Part 3 of the GPDO).

Key designations:

Adj Area of Special Res. Character
Biggin Hill Safeguarding Area
Local Cycle Network
London City Airport Safeguarding
Local Distributor Roads
Smoke Control SCA 4

Proposal

The application proposes the change of use of first and second floors of Bayheath House and Cardinal House from B1(a) Office to C3 residential to form 16 flats together with associated parking under Class O, Part 3, of Schedule 2 of the GPDO.

The application is supported by the following documents:

- Application forms,
- Application drawings,
- Supporting/Planning Statement
- Noise Assessment

Location and Key Constraints

The application site relates to Bayheath House and Cardinal House, a three storey post war building located on and turning the corner of Station Square and Fairway. The application site comprises the first and second floors, currently occupied by offices, and part of the car park to the rear of the building. The ground floor of the building comprises shops and other commercial/business units.

According to the Council's records and third party comments the site (and the existing Daylight Inn opposite) is known to have previously comprised a petrol filling station and vehicle maintenance garage known as Dunstonian Garage.

Planning History

No relevant history.

Policy Context and considerations

This application for prior approval is determined in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

The following paragraphs are relevant to this application, with regard to 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:

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;
- (c) the site is, or forms part of, a safety hazard area;
- (d) the site is, or forms part of, a military explosives storage area;
- (e) the building is a listed building or is within the curtilage of a listed building; or
- (f) the site is, or contains, a scheduled monument.

Conditions

O.2.—(1) 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,
- (c) flooding risks on the site, and
- (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

O.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 2003/49 or any other place of public entertainment.

Comments from Local Residents and Groups

Nearby owners/occupiers were notified of the application and no representations were received.

Local Groups

Petts Wood and District Residents' Association (PWDRA)

- Flooding risks on the site
- The Developer should demonstrate to the Council's satisfaction before the commencement of the development that peak foul water flows should not exceed that of the existing building/use in order to avoid foul water flooding,
- Impacts of noise from commercial buildings on the intended occupiers of the development
- The close proximity of The Daylight Inn public house and its standard opening hours from 0700-2330 and extended Friday-Saturday opening hours from 0700-0030 could have adverse noise impacts on the future residents. The Council's Licensing Department should be consulted with regard to previous license breaches and noise complaints.
- Contamination risks on the site
- The application site lies on a former motor repair garage and petrol station (1930-early 1970s) with the possibility that the underground petrol tanks were retained and other general vehicle contaminants to have leached into the ground. The ground floor business owner has special insurance against potential contamination. In the absence of an Environmental Survey or Soil Survey the Developer should demonstrate to the Council's satisfaction through an Environmental Site Assessment and site history investigation if the tanks remain and the likely risk of contamination and the scope of any necessary mitigation, to avoid future contamination and health risks to the construction workers and the future residents.

Comments from Consultees

Drainage Engineer: No water/drainage comments. Please consult Thames Water regarding foul water drainage.

Environmental Health Housing Officer: The proposed flats would be located above, next to and opposite a busy commercial area [noise source], the noise levels and frequency during unsociable hours may result in a significant adverse effect on the health and wellbeing of the occupants. The proposed conversion of the existing commercial properties will result in the new flats sharing party walls and floors with each other and existing commercial premises. Adequate sound insulation should be provided between the new dwelling and the existing premises to protect the

health and wellbeing of the occupants. It may be appropriate to require an Environmental Noise Assessment or Internal Sound Transmission Assessment for this proposal.

Environmental Health Pollution Officer: Comments raised by third parties are noted. According to the Council's mapping system the Daylight Inn site (opposite the application site) was formerly the "Dunstonian Garage" this is classified as a specific site and has therefore been subject to remedial measures. The application site was formerly a garage and filling station connected with the Dunstonian Garage and as such it may contain potential contaminants due to its previous use. However the site is covered in hard surfacing and the proposal relates to the first and second floors only and therefore the potential risk to future occupants would be low.

The property lies close to the railway and "Iceland" supermarket car park and could be adversely affected by noise and related disturbances

The Applicant has since submitted an acoustic assessment which finds that specialist glazing/trickle ventilators will be required to ensure that internal levels are acceptable. the report recommend that high and medium spec acoustically rated "through-the-frame" trickle ventilators and double glazing of differing pane thickness and separation are installed. The report goes on to state that it will be necessary for the glazing specifications to be confirmed at detailed design stage. As such it is recommended that a scheme of noise mitigation measures is submitted to the Council for its approval, by planning condition. Notwithstanding the above advice the Applicant is also recommended to ensure compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990 and the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017, and to contact the Council's Environmental Health department if contamination is found on site and the Applicant could be advised of this by planning informative.

Highways: There is an existing access to the rear parking area from Fairway and this access arrangement would remain the same. According to the submitted Transport Note the vehicular trip generation for residential use is concluded to be less than the existing office use. Notwithstanding this, if the transport levels differ from the Applicants estimate there is unlikely to be a significant increase in vehicular trips arising from the proposed residential use. There are currently 24 parking spaces on the site which will be retained. 16 spaces would be allocated to the proposed 16 residential units and the remaining 8 spaces would be allocated to the remaining ground floor retail units. The spaces for the residential units should be available to the residents at no additional charge. The parking area should be lit in accordance with the relevant British Standard. The cycle storage should be covered and secure. The Council's Waste Services Department would need to approve the refuse storage and collection arrangements. No objection subject to the recommended conditions:

OC03 Car parking details to be implemented

PC16 Measures to accommodate arrangements construction vehicles

AG12 Cycle parking details required

AG13 Lighting details for parking area
H28 car park management

Licensing: There is no recent record of licensing breach or noise complaint arising from The Daylight Inn public house opposite the application site.

Thames Water: No comments received.

Assessment

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;

Note: The building site is not located on article 2(5) land.

(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;

Note: According to the application details and site observations the application site is partially vacant however it is concluded to have been in office use when last in use.

(c) the site is, or forms part of, a safety hazard area;

Note: The site is not and does not form part of, a safety hazard area.

(d) the site is, or forms part of, a military explosives storage area;

Note: The site is not and does not form part of a military explosives storage area.

(e) the building is a listed building or is within the curtilage of a listed building; or

Note: The building is not and does not lie within the curtilage of a listed building.

(f) the site is, or contains, a scheduled monument.

Note: The site is not and does not contain a scheduled monument.

Conditions

O.2.—(1) 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,

The proposal and associated car park would utilise the existing access point on Fairway. The proposed residential use would not result in a significant increase in transport levels and vehicle trips as compared with the existing office use. The provision of 16 parking spaces for the proposed residential use and the retention of 8 parking spaces for the remaining ground floor units would be acceptable. For these reasons there is no objection from the Council's Highway Department in relation to the transport and highways impacts of the development subject to the recommended conditions regarding car parking provision, car parking management, car park lighting, cycle parking, construction/transport management and refuse/recycling storage and collection facilities.

(b) contamination risks on the site,

The Council's Environmental Health Officer notes the former use of the site as a vehicle garage and filling station and confirms that the redevelopment of the site for retail/commercial and office use would have been subject to the appropriate remediation measures at that time. Furthermore the site is covered in buildings and hard surfacing and the proposed residential use would be located in the upper floors the building not the ground floor and it would not disturb the existing exterior hard surfacing. For these reasons the Council's Environmental Health Department concludes that the potential risk to the future occupants would be low. Notwithstanding this, in the event that contamination is found on site, which could include the building fabric during the conversion works, the Council would advise the Applicant to cease works and to contact the Council and this could be managed by planning informative.

(c) flooding risks on the site,

There is no objection from the Council's Drainage Engineer in relation to surface water flooding risks on the site. The drainage utility services would be managed through the Building Regulations and is not a planning matter relating to Class O of the GPDO. Thames Water has not offered comments in relation to the flooding risks on the site, nonetheless on the basis that there is no objection in terms of surface water drainage and providing that the water utility service is acceptable (subject to Building Regulations) the effects of foul water drainage issues (the remit of Thames Water) would not comprise a significant flooding risk.

and

(d) impacts of noise from commercial premises on the intended occupiers of the development,

The Council's Environmental Health Department notes the location of the site above, adjacent to and surrounded by a busy commercial area within Fairway and Station Square and recommends that suitable sound insulation is installed to protect the health and wellbeing of the occupants. The Applicant's submitted acoustic report recommends installation of sound insulation/attenuation measures including trickle ventilators and double glazing; some of which would be specified

at the detailed design stage. As such the Council's Environmental Health Department raises no objection provided that a scheme of noise mitigation measures is submitted to the Council for its approval, by planning condition, and the Applicant is reminded of compliance with the with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990 and the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017 by way of planning informative.

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.

Other matters

All other matters raised have been considered however they are either not relevant to planning or not relevant to the provisions of Class O of the GPDO and therefore they do not materially alter the Council's conclusion.

Conclusion

Having regard to the above it is concluded that the proposed development under Class O would not have unacceptable transport and highways impacts, contamination risks, flooding risks, and noise impacts on the intended occupiers of the development and that prior approval should be granted in accordance with The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015.

Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

as amended by documents received on 29.11.2018

RECOMMENDATION: PRIOR APPROVAL REQUIRED AND GRANTED

1. 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.

Reason: To comply with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.

Reason: To comply with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

3. Before commencement of the use of the land or building hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the details as set out in this planning permission and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.

Reason: In order to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety and to provide acceptable transport and highway impacts in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

4. Prior to the commencement of the development hereby approved (including demolition and all preparatory work) provision shall be made to accommodate operatives and construction vehicles off-loading, parking and turning within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and such provision shall remain available for such uses to the satisfaction of the Local Planning Authority throughout the course of development.

Reason: Required prior to commencement of development to ensure sufficient measures can be secured throughout the whole build programme in the interests of pedestrian and vehicular safety and the amenities of the area to provide acceptable transport and highway impacts in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

5. (a) Details of arrangements for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works,

(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

Reason: In order to provide adequate bicycle parking facilities at the site in the interest of reducing reliance on private car transport to provide acceptable transport and highway impacts in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

6. (a) Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of above ground works,

(b) The approved scheme shall be self-certified to accord with BS 5489 - 1:2003,

(c) The lighting scheme as shall be implemented in full accordance with details submitted under Part (a) before the development is first occupied and the lighting shall be permanently retained thereafter.

Reason: In the interest of visual amenity and the safety of occupiers of and visitors to the development to provide acceptable transport and highway impacts in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

7. Details of a scheme for the management of the car park shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is first occupied and the car park shall be operated in accordance with the approved scheme at all times unless previously agreed in writing by the Authority.

Reason: To avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety and to provide acceptable transport and highway impacts in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

8. (a) Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works, (b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

Reason: In order to provide adequate refuse storage facilities in a location which is acceptable from the residential and visual amenity aspects and to provide acceptable transport and highway impacts in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

9. Details of a scheme of noise mitigation measures, in full compliance with the recommendations of the submitted acoustic report (RBA Acoustics, reference: 9072.RP01.EBF.0, 28 November 2018) to meet the criteria specified in table 7, shall be submitted to the Local Planning Authority for written approval. This shall also include consideration to maximum noise levels in accordance with BS8233:2014 and ProPG. Once approved the scheme shall be implement in full prior to the use commencing and permanently maintained thereafter.

Reason: In order to mitigate the noise impacts from commercial premises on the intended occupiers of the development in accordance with Class O of Schedule 3, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

You are further informed that :

- 1. Before works commence, the Applicant is advised to contact the Pollution Team of Environmental Health & Trading Standards regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990. The Applicant should also ensure compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017 which is available on the Bromley web site.**
- 2. If during the works on site any suspected contamination is encountered, Environmental Health should be contacted immediately. The**

contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Authority for approval in writing.