

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT

APPLICATION No: N6/2013/2364/OR

SITE ADDRESS: Highways House, 41-45 Broadwater Road, Welwyn Garden City

DESCRIPTION OF DEVELOPMENT: Prior approval for change of use from B1(a) office building to Class C3 (dwelling houses) comprising 40 x 1 bed apartments

RECOMMENDATION:

PRIOR APPROVAL REFUSED – PLANNING PERMISSION REQUIRED

1. SITE AND APPLICATION DESCRIPTION:

The application site is located along Broadwater Road and is a detached office building with associated car parking.

The application seeks prior approval for the change of use of both floors of the existing building from offices to 40 self contained flats one bedroom flats. No external alterations are proposed, which is outlined by the applicant in their supporting letter.

2. SITE DESIGNATION:

The site lies within an employment area as designated in the Welwyn Hatfield District Plan 2005.

3. RELEVANT PLANNING HISTORY:

N6/2002/1396/FP: Erection of two storey modular extension to existing office building, and associated car parking. Withdrawn.

N6/2000/0635/FP: Construction of three storey extension to existing office building and associated car parking. Approved.

N6/1983/0151/: Warehouse. Approved

C6/1987/0621/FP: Use of premises for purpose within Class B1 (Business Use) of the Use Class Order. Approved

C6/1984/0445/Industrial building including ancillary offices and car parking. Approved.

4. CONSULTATIONS:

WHBC Environmental Health: Objects to the development.

No objections however have been received in principle from Hertfordshire County Council Transportation Programs and Strategy; Environment Agency and Highways Agency.

5. NEIGHBOUR REPRESENTATIONS:

No representations have been received from the public.

6. TOWN/PARISH COUNCIL REPRESENTATIONS

None.

7. MAIN PLANNING ISSUES:

The main planning issues with this application are:

1. Whether the proposal is permitted development in accordance with Part 3 of Schedule 2, Class J of the Town and Country Planning (General Permitted Development) (Amendment) Order 2013 and if so, whether prior approval is required with regard to;

- **Transport and highways impacts of the development;**
- **Contamination risks on the site; and**
- **Flooding risks on the site; and**

2. Other material considerations

8. ANALYSIS:

1. Part 3 of Schedule 2 Class J of the GPDO outlines that a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouse) of the schedule to the Use Classes Order from a use falling within Class B1(a) (offices) of that Schedule, is permitted subject to a prior approval process.

The site's planning history demonstrates that the building's most recent use is as offices. Therefore, it is reasonable to assume that the building was used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order immediately before 30th May 2013 or when it was last in use. Additionally the site does not form part of a safety hazard area or a military explosive storage area. Furthermore, the building is not listed or a scheduled monument. The building and land can therefore benefit from this permitted development right subject to the conditions within the Order.

Class J development is permitted subject to the condition that before beginning the development, the development shall 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,

and the provision of paragraph N (procedure for applications for prior approval under Part 3) shall apply in relation to any such application.

In assessing whether prior approval is required for the three criteria, regard must be had to (i) the National Planning Policy Framework (NPPF) as if the application were a planning application, (ii) any representations received, including consultees, and (iii) whether the land would be contaminated land.

Transport and Highway Impacts of the development

The site is located on Broadwater Road which is a main route with parking restrictions. The site is well located for public transport and walking and cycling access to other facilities in Welwyn Garden City. The site has over 140 parking spaces on the application site. The applicant outlines that the existing parking spaces on site would meet the Council's standards of 0.75 spaces per unit resulting in a need for 30 spaces. This would be less parking required than its current lawful use as offices, which in accordance with the Council's adopted standards would require over 110 spaces.

HCC Transport Programs and Strategy and the Highways Agency raise no objections to the change of use. Accordingly the development is not considered likely to result in a material increase or a material change in the character of traffic in the vicinity of the site compared to the existing use.

Contamination Risks on the site

The applicant submitted a copy of the desk top environmental survey. This provides limited information on the risks of contamination at the site and makes conclusions on the risks associated with its continuing use as an office building. WHBC Environmental Department appreciate that the hard standing surrounding the development would remain intact, however they consider that an assessment is required that quantifies the risks of the proposed change of use. In providing this information data should be presented in the form of a conceptual model and evaluate the risks of gas from on and off site sources.

For this reason WHBC Environmental Health confirm that they wish to object to the proposed change of use on grounds that the development may lead to the land being designated as contaminated land under Part 2A of the Environmental Protection Act 1990. Therefore by virtue of the lack of evidence provided by the applicant, the proposal has failed to demonstrate that the development would not be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a).

The Environment Agency has made no comments in this regard.

Flooding Risks on site

The application site is not located within flood zone 2 or 3 and the area is not known to have critical drainage problems. In addition, the Environment Agency has made no comments with the development in this regard.

2. No neighbour representations have been received.

9. CONCLUSION:

Following consideration of the submission and the consultation responses, the proposed development fails to comply with the conditions of Part 3 of Schedule 2 Class J of the Town and Country Planning (General Permitted Development)

(Amendment) (England) Order 2013 as insufficient evidence has been submitted to show that the site will not be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a). Therefore the proposal does not benefit from deemed consent under Part 3 and planning permission is required through the submission of a planning application.

DECISION: PLANNING PERMISSION REQUIRED

1. The Council considers that insufficient evidence has been submitted and is available to show that the land, as a result of the proposed change of use, will not be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a). Accordingly the proposal fails to comply with the conditions in Part 3 of Schedule 2 Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 and the prior approval of the Local Planning Authority is required.

REFUSED PLANS AND INFORMATION

Drawing Nos. 17095-101 & 17095-102A & 17095/103 & 17095/104 & Application Forms received and dated 13 November 2013; &

Environmental Desk Study received and dated 23 December 2013.

INFORMATIVES

1. This written notice indicates that the proposed development would not comply with condition J.2(b) in Part 3 of Schedule 2 Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (as amended by SI 2008 No. 2362 and SI 2013 No. 1101).
2. Appeals can be made either online at www.planning-inspectorate.gov.uk or on a form which is obtainable from The Planning Inspectorate, 06a kite Wing, 2 The Square, Temple Quay, Bristol BS1 6PN. (Telephone 0117 372 8847 or 6108)

Signature of author..... Date.....