

DELEGATED APPLICATION REPORT

SITE ADDRESS: 200-202 Broad Street, Reading

APPLICATION NUMBER: 181338/OPA

PROPOSAL: Change of use of 1st, 2nd and 3rd floors from Class B1(a) (offices) to C3 (dwelling houses) to comprise 11 flats. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Expiry date: 26/09/18

INTRODUCTION

The application site comprises a basement and four storey building on the junction of Oxford Road and West Street (on the junction with Broad Street and St Marys Butts). The application site building is not listed, nor in a conservation area. At the time of the site visit on 07/09/18, the basement and ground floors were in active use as a high street bank (Class A2), with the interconnected upper floors not in active use. The site is within the Reading Central Area Action Plan area, with designations including being located within: the primary shopping area; the office core; the central core; an existing active frontage; area of archaeological importance; a tall building cluster; air quality management area

PROPOSAL

Change of use of 1st, 2nd and 3rd floors from Class B1(a) (offices) to C3 (dwelling houses) to comprise 11 flats. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

More specifically, the plans show that cycle storage and refuse storage is proposed at basement floor level, with residential units on the upper floors (3 at first floor level and 4 at both second and third floor level - based on the plans all would be 1-bed units). The existing Class A2 use would remain at ground floor level, barring presumed access via a West Street access (a proposed ground floor plan was never submitted by the applicant, despite being requested by officers on 13/08/18).

RELEVANT POLICIES AND SUPPLEMENTARY PLANNING GUIDANCE

Legal context

Class O allows development consisting of a change of use of a building and any land within its curtilage to Class C3 dwellinghouses (houses or flats) from a Class B1(a) office use.

As set out in Para 0.2 of Class O (as amended), 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 local 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

In this case, having initially reviewed the application, the Local Planning Authority has determined that prior approval is required in this instance due to the potential impact concerning points a) to d).

In assessing these issues, officers must have regard to the NPPF 2018 as if the application were a planning application, and also have regard to the Local Development Framework (the NPPF states that due weight should be given to the adopted policies of the Local Development Framework according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given)).

Reading Borough LDF Core Strategy - Adopted January 2008

CS34 Pollution and Water Resources

CS35 Flooding

Sites and Detailed Policies Document - Adopted October 2012

DM12 Access, Traffic and Highway Related Matters

PLANNING HISTORY

98/0938 (alternative reference 980922) - Change of use from A1 retail to A2, financial and professional service. Granted 20/01/1999.

RESPONSE TO PUBLICITY (REPRESENTATIONS RECEIVED)

A site notice was erected on 13/08/18, expiring on 03/09/18. No responses received.

DISCUSSIONS WITH THE AGENT OF THE APPLICANT

In addition to discussions regarding the lawful use of the building (see appraisal section below for details), the agent was advised via email on 13th August that further plans were required to fully assess the proposals. More specifically,

- 2 drawing numbers 4001 and titled 1st floor plan proposed were originally submitted - it appears that one version actually relates to the 2nd floor - an amended /updated version was submitted via email on 21st August.
- No proposed basement (showing the cycle and waste storage areas referenced in your supporting letter) or ground floor (showing access to the proposed upper floor residential units) plans were originally submitted. A revised basement plan (with annotations specifying areas for cycle/waste storage) was submitted on 21st August. No proposed ground floor plan was submitted, despite being requested for consideration by 28th August.

In relation to the basement floor plan, at the officer site visit on 7th September the agent advised that this would be omitted, as the basement floor was evidently in an active use associated with the ground floor bank (this had only been formally introduced to the proposals by virtue of this plan being received on 21st August, having originally only been referenced in the supporting letter rather than via plan when the application was first submitted). No revised plan was submitted. As this element was not part of the original

submission it was not referenced in the original description of development; this description of development has not been changed during the application, as this is usually sought to be agreed with the agent (and this process has not been undertaken).

Following the site visit on 7th September, at which point inaccuracies witnessed relating to the internal layout at second and third floor level / omission of a door at second floor level were communicated with the agent, a period of 1 week was verbally provided for the applicant to submit more information (also in relation to the lawful use matter raised). No response has been received.

INFORMATION SUBMITTED

Site Location Plan, as received 31/07/18

BS 00 - Rev A - Basement Floor Plan Measured Survey, as received 31/07/18

BS 01 - Rev A - Ground & Lower Ground Floor Plan Measured Survey, as received 31/07/18

BS 02 - Rev A - First Floor Plan Measured Survey, as received 31/07/18

BS 03 - Rev A - Second Floor Plan Measured Survey, as received 31/07/18

BS 04 - Rev A - Third Floor Plan Measured Survey, as received 31/07/18

BS 05 - Rev A - Roof Plan Measured Survey, as received 31/07/18

4010 - Basement Floor Plan Proposed, as received 21/08/18

4001 - 1st Floor Plan Proposed, as received 31/07/18

4002 - 2nd Floor Plan Proposed, as received 21/08/18

4003 - 3rd Floor Plan Proposed, as received 31/07/18

Planning Supporting Statement by Town Planning Bureau, Ref TPB-555-L1, dated and received 31/07/18

CONSULTATION RESPONSES

Transport: No objections, subject to an informative. Response in full:

The proposal is for the provision of 11 units and does not include any provision for car parking. Given that the site is located within Zone 1 of the Council's parking standards and design SPD this provision complies with policy. However, given the surrounding streets have residents parking under the Borough's current parking standards, this proposal would generate additional pressure for parking in the area. Therefore, the applicant should be advised that if the application is approved, the appropriate parking informative should be applied to prevent any future occupants of the development from obtaining a residents parking permit for the surrounding residential streets where parking is under considerable pressure. This will ensure that the development does not harm the existing amenities of the neighbouring residential properties by adding to the already high level of on street car parking in the area.

Cycle parking and bin storage is to be located within the basement, although this is not ideal there would be no transport grounds so as to object to this arrangement as part of this application.

In the circumstances it is considered that the proposed change of use would not have a material impact on the character of the traffic in the vicinity of the site. Therefore, there are no Transport objections to prior approval being given for the proposed conversion subject to the informative being included in the consent.

INFORMATIVES TO BE APPLIED

The occupiers of the residential units will not be entitled to an on-street car parking permit in the interests of the proper management of parking, and to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on street car parking in the area in accordance with Core Strategy Policy CS24 and Sites and Detailed Policies document Policy DM12. The site is located close to local facilities, with frequent public transport services on nearby roads. It is requested that the Council be notified of postal addresses of the residential units before occupation and that the occupiers/transferees to be informed of the prohibition on entitlement to a car parking permit.

Environmental Protection: No objection subject to a condition to require a noise assessment and mitigation scheme to be submitted for consideration and agreement by the Council prior to the implementation of any consent. Response in full:

This premises will be affected by noise from commercial premises in the area (those on Oxford Road, Broad Street, West Street and St Marys Butts - in particular licensed premises and takeaways). In addition, the rear may be affected by noise from mechanical plant associated with commercial properties on West St/Oxford Rd.

The application mentions that internal noise transfer from the commercial premises on the ground floor will be controlled via building regulations. However, no mention is made regarding how the properties will be protected from noise coming in from outside. A noise assessment will be required in order to ensure the new occupants will be adequately protected.

A noise assessment should be submitted in support of applications for new residential proposed in noisy areas.

The noise assessment will be assessed against the recommendations for internal noise levels within dwellings and external noise levels within gardens / balconies in accordance with BS 8233:2014 and WHO guidelines for Community Noise. The report should identify any mitigation measures that are necessary to ensure that the recommended standard is met.

Where appropriate, the noise assessment data should also include noise events (L_AMax) and the design should aim to prevent noise levels from noise events exceeding 45dB within bedrooms at night. Noise levels above 45dB are linked with sleep disturbance.

Internal noise criteria (taken from BS8233:2014)

Room	Design criteria	Upper limit
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Bedrooms (23:00 to 07:00) <30dB LAeq,8hour
Living rooms (07:00 - 23:00) <35dB LAeq,16hour
Gardens & Balconies <50dB LAeq,T <55dB LAeq,T

The noise assessment will need to identify the external noise levels impacting on the proposed site.

Noise mitigation is likely to focus on the weak point in the structure; glazing. Given that the acoustic integrity would be compromised should the windows be opened, ventilation details must also be provided, where mitigation relies on closed windows. Ventilation measures should be selected which do not allow unacceptable noise ingress and should provide sufficient ventilation to avoid the need to open windows in hot weather, however non-openable windows are not considered an acceptable solution due to the impact on living standards.

The following condition is recommended:

Sound Insulation from External Noise

No development shall take place until a detailed scheme, informed by an assessment of the current noise environment, for protecting the dwellings from the external noise environment of the area has been submitted to and approved, in writing, by the Local Planning Authority. The scheme itself shall be designed, specified and constructed so that the sound insulation performance of the structure and the layout of the dwellings are such that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233:2014. Where opening windows will lead to an internal noise level increase of 5 dBA or greater above BS 8233:2014 recommended internal levels, the scheme shall include provision of alternative mechanical ventilation with minimum performance equivalent to a mechanical heat recovery (MVHR) system with cool air bypass as an alternative means of cooling and ventilation. Noise from the system should not result in BS8233 internal levels being exceeded.

Thereafter, the development shall not be carried out other than in accordance with the approved scheme which shall be completed before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing.

Reason: to protect the amenity of future occupants of the proposed development.

APPRAISAL

Development is not permitted by new Class O in the following instances (officer comments follow in italics):

- (a) The building is on article 1(6A) land
None in Reading Borough
- (b) The building was not used for a use falling within Class B1 (a) (offices) of the Schedule to the Use Classes Order immediately before 30th May 2013 or, if the building was not in use immediately before that date, when it was last in use

The information submitted by the applicant states that “the lawful use of the first, second and third floors is B1a (office)” and within the “use of the building” section of the planning supporting statement the following is stated:

Planning decision

LPA Ref: 980922 - Change of use from A1 retail to A2, financial and professional service (ground floor). Approved: 20/01/1999.

Current use

Ground floor: occupied by TSB Bank (A2 financial and professional)

First floor: occupied by TSB Bank as back office and meeting rooms unconnected to branch operation (B1a office).

Second floor: occupied by TSB Bank as back office and meeting rooms unconnected to branch operation (B1a office).

Third floor: occupied by TSB Bank as back office and meeting rooms unconnected to branch operation (B1a office).”

Officers contacted the agent via email on 13/08/2018 seeking clarity about the statement provided above that the lawful use of the upper floors of the building was Class B1a and that a change of use planning permission from 1999 (References 98/0938 / 980922) related solely to the ground floor. Based on the decision notice, application form and plan submitted at that time (which were all sent directly to the agent) there was no evidence to suggest that there a distinction that this related solely to the ground floor of the building, as indicated by the agent (there is no reference to this relating solely to the ground floor on the decision notice or application form, while the only plan submitted with the application was a site plan i.e. no plans of each separate floor was submitted at the time), and consequently it is considered that the lawful use of the entire building is Class A2.

The planning agent was advised of this via email on 13/08/18, and advised to submit any further commentary in this regard by 28/08/18 for consideration. No further information was submitted in this regard by this deadline. During the officer site visit on 07/09/18 this was further discussed with the agent, who was verbally provided with a further 1 week to provide any further information for consideration. No response has been provided by the agent.

Based on the officer site visit it was evident that the basement floor of the building (where cycle and waste storage is proposed) was in active use by the bank occupier. The first floor, whilst not in use, retained some fixtures and fittings associated with ancillary space associated with the ground floor use, as accessed via an internal staircase within the ground floor bank use. The second and third floors appeared not to have been occupied for some time. During the officer site visit a number of inaccuracies on the

layout of the second floor (position of internal dividing walls fronting Oxford Road and the provision of a second fire escape door on the west elevation) and third floor (position of a dividing wall and internally located door on the Oxford Road / West Street junction). Although being verbally advised of these inaccuracies during the site visit no revised plans were received.

The B1a Office use must be a lawful one (see Article 3(5) of the GPDO 2015). The onus is on the applicant to provide sufficient evidence to enable the Council to establish, on the balance of probability, the appropriate use of the building.

No evidence has been submitted in this regard and instead, to the contrary, there is conflicting evidence by virtue of planning permission 98/0938 (alternative reference 980922 - Change of use from A1 retail to A2, financial and professional service. Granted 20/01/1999) which suggests the lawful use of all floors of the building is Class A2. Even if the agent's suggestion that this related solely to the ground floor of the building (which officers do not accept), then this would suggest that the lawful use of the other floors would be Class A1 (based on the description of development for permission 98/0938 referencing the change of use from Class A1 retail).

Based on the information available It is not considered that sufficient evidence has been submitted as part of the application in order to establish, on the balance of probability, that the lawful use of the upper floors of the building is B1a (office).

- (d) The site is or forms part of a safety hazard area

It does not

- (e) The site is or forms part of a military explosives storage area

It does not

- (f) The building is a listed building or a scheduled monument

The building is not a listed building or a scheduled monument

Notwithstanding the conflict with element (b) above, this assessment can nevertheless only consider the transport, flood risk, contamination risk of the development and noise from commercial premises:

Transport: The RBC Transport Development Control team has no objections to the proposal, subject to the informative outlined in full in the transport observations section above.

Contamination: The site is not located within an area of potential contaminated land.

Noise Impact from Commercial Premises: As per the Environmental Protection observations outlined above, had the proposals been able to be supported a condition would have secured a noise assessment, including mitigation measures.

Flooding: The site is not located within flood zone 2 or 3.

Recommendation: **REFUSE** Prior Approval

Reason

1. The applicant has failed to demonstrate that the parts of the building subject to this Prior Approval application was used for a lawful use falling within Class B1a (office) of the Schedule to the Use Classes Order. The proposal therefore does not meet criteria (b) set out in paragraph O.1; Class O, Part 3 of Schedule 2 or in accordance with article 3(5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore Prior Approval is refused.

Informatives:

1. The following plans, drawings & information have been assessed:

Site Location Plan, as received 31/07/18

BS 00 - Rev A - Basement Floor Plan Measured Survey, as received 31/07/18

BS 01 - Rev A - Ground & Lower Ground Floor Plan Measured Survey, as received 31/07/18

BS 02 - Rev A - First Floor Plan Measured Survey, as received 31/07/18

BS 03 - Rev A - Second Floor Plan Measured Survey, as received 31/07/18

BS 04 - Rev A - Third Floor Plan Measured Survey, as received 31/07/18

BS 05 - Rev A - Roof Plan Measured Survey, as received 31/07/18

4010 - Basement Floor Plan Proposed, as received 21/08/18

4001 - 1st Floor Plan Proposed, as received 31/07/18

4002 - 2nd Floor Plan Proposed, as received 21/08/18

4003 - 3rd Floor Plan Proposed, as received 31/07/18

Planning Supporting Statement by Town Planning Bureau, Ref TPB-555-L1, dated and received 31/07/18

Reason: For the avoidance of doubt and in the interests of proper planning.

2. In addition to lawful use not being proven, in any future prior approval application it is advised that the inaccuracies on the existing plans, as witnessed during the officer site visit on 07/09/18, are incorporated. Furthermore, a proposed ground floor plan, as requested on 13/08/18, but not submitted, should also be submitted.

3. The Local Planning Authority has worked positively and proactively with the applicant to identify issues at an early stage and provide an opportunity to see if relevant concerns could be resolved to allow the office prior approval application to be granted. However, that has not been possible within the prescribed timescale and therefore the decision to refuse this office prior approval application has been taken.