

DELEGATED APPLICATION REPORT

SITE ADDRESS: 9 Southern Court, East St, Reading

APPLICATION NUMBER: 162305/OPA

PROPOSAL: Change of use from Class B1(a) (Offices) to Class C3 (dwelling houses) to comprise 16 self contained flats. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2016

CASE OFFICER: Jonathan Markwell

Introduction

The application site comprises a three storey (with mezzanine floors at ground and second floor level) office building located on the south side of South St, close to the junction with East St (to the west). The premises was most recently occupied by PACT (the offices of a charity) and therefore have been in Class B1a use. Included within the submission is an email from PACT stating “We can confirm that the property, number 9 Southern Court, South Street, Reading has been used by PACT as office space continually from August 2012 until end September 2016”. This is consistent with signage present at the site (specifying PACT) from google street view (dated September 2016). On this basis, it is considered by officers that the proposals would not be CIL liable, given they had been lawfully occupied for more than 6 months in the 3 years prior to this application being determined.

Proposal

Prior Approval, under Class O, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended by The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016, is sought on all floors for changes of use from Class B1(a)(offices) to C3 (dwelling houses) to 16 studio units.

During the course of the determination period the application submitted a revised ground floor plan (thereby resulting in there being no changes proposed on the front - north - elevation - as such, this plan is not referred to on the decision notice). The applicant also submitted the appendices to the Phase I Environmental Report, which wasn't included when the application was first submitted.

Positive and Proactive Engagement

This is an application for whether prior approval is required; the requirements of paragraphs 186-187 of the NPPF for the LPA to engage in a proactive manner are therefore not relevant.

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 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 (Altered 2015)

CS34 Pollution and Water Resources

CS35 Flooding

Sites and Detailed Policies Document - Adopted October 2012 (Altered 2015)

DM4 Safeguarding Amenity

DM12 Access, Traffic and Highway Related Matters

Reading Central Area Action Plan - Adopted 2009

RC9 Living in the Centre

Relevant Planning History

None in relation to Unit 9.

Unit 1, Southern Court

141784 - Change of use of building from Class B1(a) (offices) to C3 (dwellinghouses) to comprise 12 x self-contained studio units and 1 x 3 bed flat. Prior Approval Granted 29/12/14.

Response to publicity (representations received)

In relation to this 'prior approval' application, a site notice was erected on site by the case officer on 16/12/16, expiring on 6/1/17. No comments received.

Plans / information submitted:

Site Location Plan

Existing Ground and First Floor Plans, Rev 5

Existing Second Floor Plan, Rev 1

Proposed Ground Floor Plan, Rev 6, as received 22/12/16

Proposed First Floor Plan, Rev 3

Proposed Second Floor Plan, Rev 3

Existing and Proposed Rear Elevations, Rev 1

Email from PACT 'RE: 9 Southern Court use?', dated 13/10/16

Phase One Environmental Assessment Report by SLR, Ref 427.05052.00002 Version 1, dated October 2016, as received 11/01/17

Impact of noise from commercial premises report by Spectrum Acoustic Consultants, Ref NDT5132/16376, dated 18/10/16

Letter from Paul Scott, Ref PS/503, dated 12/12/16

Email from SLR Consulting, dated 14/01/17, as received 18/01/17

All received on 13/12/16, unless where otherwise stated.

Other information submitted, but not referenced on the decision notice:

Existing and Proposed Front Elevations, Rev 1 - superseded on 22/12/16 when the revised floor plan was submitted.

Proposed Ground Floor Plan Rev 5 - superseded by Rev 6 on 22/12/16.

Email from Spectrum Acoustics, dated & received 18/01/17 - email seeking for the advised noise condition not to be included.

Email from Nicholas Wallwork dated & received 25/01/17 - email replying to points made by the Environmental Health officer.

CONSULTATION RESPONSES

Transport: The site is located within the Zone 2, the primary core area but within walking distance of the central core area which lies at the heart of Reading Borough, consisting primarily of retail and commercial office developments with good transport hubs. In accordance with the adopted Parking Standards and Design SPD, the development would be required to provide a parking provision of 1 space per unit. A lower parking provision can be considered when the development poses no detriment to highway safety.

The supporting information indicates that the site includes 4 off-street parking spaces and service bay within the red line area. The site includes 3 further spaces which has not been included within the red line.

Whilst the site does not provide the required level of parking for the number of units proposed, South Street and the surrounding road network all have parking restrictions preventing on-street parking.

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 change of use subject to the informative being included in the consent advising the future occupants of the flats that they would not be eligible for a resident's parking permit.

Environmental Protection:

The report submitted requires a further, more comprehensive, assessment to be undertaken, as there are some uncertainties within the existing report. More specifically, this concerns the noise levels from the nearby condensers in terms of whether they were operating at full load during the visit and whether they operate at night. Also the target noise levels referred to for night time are from the old version of BS8233. Some consideration of the parameters of BS4142 should also be included as this predicts likelihood of complaints relating to plant noise. Furthermore, consideration of the noise from South Street Arts Centre should also be made in the assessment. None is provided to date.

As always it would be preferable to have this assessment up front. However, in this specific instance it is considered that this could be dealt with via condition. This is as the noise levels are unlikely to be so high that they couldn't be mitigated if necessary by measures such as appropriate windows and suitable ventilation.

Accordingly, it is recommended that a condition is attached to any consent requiring a noise assessment to be submitted prior to commencement of development and any approved mitigation measures implemented prior to occupation to show that recommended noise levels in the table below can be met.

Internal noise criteria (taken from BS8233:2014)

Room	Design criteria	Upper limit
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.

EP recommends the following condition.

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. 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.

This condition has been discussed with the applicant in advance of finalising this report. The applicant originally sought for the condition not to be included, but after it was reaffirmed by officers that it was entirely necessary and reasonable, the applicant was content for it to be included as a condition and sought clarification as to the typical event at South St Arts Centre when the assessment would be carried out.

Contaminated land

EP have reviewed the contaminated land assessment which is generally acceptable, and a condition shouldn't be required for that element - however one of the factors that the assessment is based on is that a planning condition is likely to have required the removal of contaminated made ground as part of the construction of Southern Court in 1988. However, through EP experience this is unlikely at that time. Confirmation is therefore required as to how much the risk assessment relies on that factor. Such clarifications were provided by email on 18/01/17, after which EP confirmed contention with the information submitted.

Environmental Health - Private Sector Housing

It is fully acknowledged that this is a prior approval application and therefore Private Sector Housing Environmental Health objections cannot be taken into account in the determination of the application. However, a number of concerns are being brought to the attention of the applicant as the current proposed layout may result in the need for future enforcement action under Part I of the Housing Act 2004. More specifically:

Housing Act 2004 - Part I

Local Authorities have a duty under the Housing Act 2004 to keep housing conditions within their district under review and to initiate inspections if there are reasons to believe that conditions within a dwelling may pose a danger to health or risk of injury to residents or visitors.

Hazards are assessed using the Housing Health and Safety Rating System (HHSRS). The assessment is based on inspection of a dwelling to see whether there are any deficiencies that may cause a hazard. The inspector then makes an assessment of the likelihood of harm occurring due to the hazard over a 12 month period and, if it does occur, how severe is the hazard likely to be. It is possible for poorly designed and laid out dwellings to inadvertently give rise to a category 1 hazard for which the Council would then have a duty to take action.

Where a category 1 hazard is found in a dwelling, the Council has a duty to take enforcement action. The options available include:

- To serve an improvement notice - this requires the responsible person to carry out remedial action to remove the hazard. Failure to comply with an enforcement notice without reasonable excuse is a criminal offence;
- To make a prohibition order - this prohibits the use of part (or all) of a dwelling for specific purposes, such as for use as residential accommodation. Failure to comply with a prohibition order without reasonable excuse is a criminal offence.

The Council has a similar power in relation to category 2 hazards. The above enforcement options usually come into effect after a specific time, which allows for an appeal to be made against them.

Lighting

Poor access to daylight and/or an adequate outlook can be harmful to the health of the occupiers of dwellings. The HHSRS Operating Guidance states that inadequate light can lead to the following health conditions:

- Depression and other psychological effects caused by a lack of natural light or the lack of a window with a view;
- Eye strain from a lack of adequate light (natural or artificial).

The Guidance advises that these deficiencies are frequently worst where dwellings are located at basement level and particular care should be taken with these. Attic dwellings fitted solely with velux windows or skylights are also noted as being problematic due to poor access promoting feelings of isolation. Access to daylight can be negatively affected by a number of issues, such as:

- Inadequately sized or poorly positioned windows that prevent good daylight penetration and outlook;
- Windows that are positioned such that outlook and daylighting are blocked or overshadowed by nearby objects and buildings;
- Inappropriately shaped windows that prevent a view of the outside.

Where the above deficiencies feature in a planned dwelling, they increase the likelihood of a category 1 hazard occurring. Often the only option available would be prohibition of the dwelling as structural changes are often not practicable.

Private Sector Housing Environmental Health officers are particularly concerned that, on the face of it, there are no windows in the proposed units 12, 13 and 15. This will almost certainly give rise to a category 1 hazard under the Housing Act 2004, for which the Council would be obliged to take action. If it subsequently proved impracticable for suitable remedial works to be undertaken, the Council may be left with no option but to prohibit the use of these units as residential accommodation. Therefore, the applicant is urged to reconsider this design.

On a related note, it appears these units would be dependent upon artificial ventilation to remove moisture and prevent condensation. The lack of windows will therefore carry an increased likelihood of condensation forming in these dwellings, as residents may be deterred from using artificial ventilation at night if the noise created results in sleep disturbance.

Collision and entrapment

From the floor plans, it appears the intention is for beds to be placed on a mezzanine level above the kitchen/lounge facilities. It is advised that they should ensure there is adequate ceiling height above the mezzanines for the following reasons:

- To prevent residents striking their head on the ceiling; and
- When calculating useable floor space, we disregard any floor space where the ceiling height is less than 1.5 metres.

Falling on stairs etc

It also appears from the floor plans that the intention is for the bed areas to be reached via alternating tread staircases. These can be problematic when assessed using HHSRS (particularly as residents will normally be unfamiliar with such fittings) and it is recommended that handrails be fitted on either side of the staircase to reduce the likelihood of a fall as far as possible.

Should you wish to discuss this further, please contact the Private Sector Housing officer on 0118 937 3828.

Officer comment: these observations were sent to the applicant, who subsequently replied via email on 25/1/17 as follows:

- *The studios mentioned have a large section of roof windows which provide both light from above and a horizontal view when standing in the mezzanine level and wouldn't therefore constitute a level 1 hazard.*
- *The mezzanine areas provide full head height and well over the minimum 1.5m required.*
- *We will have ventilation and where possible (hopefully all units mentioned) open-able windows will be installed as an addition.*
- *We confirm we do plan on installing hand rails on both sides of the mezzanine stairs.*

APPRAISAL

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

- (a) The building is on article 2(5) land (*not in this instance*)
- (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 building was last in use as B1(a) offices*)

(c) The use of the building falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order was begun after 30th May 2016 (*complies*)

(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*)

There are conditions to Class O:

This assessment can only consider the transport, flood risk, contamination risk of the development and noise from commercial premises:

Transport:

The proposed redevelopment of the site will consist of the change of use, from office (B1) to C3 (dwelling houses) to comprise of 16 studio units.

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.

Contamination

The applicant has submitted a Phase I Environmental assessment in support of the proposals. Environmental Protection officers have considered this information and confirm that, following clarifications sought and received during the course of the application, that the proposals are satisfactory in this regard.

Noise Impact from Commercial Premises

The applicant has submitted a report from Spectrum Acoustic Consultants in relation to the impact of noise from commercial premises. Environmental Protection officers have considered this information and confirm that, as per the observations above, that a noise assessment is required prior to the commencement of works at the site. In this instance, it is considered appropriate for this to be secured via condition, rather than being required prior to the determination of the application. Following discussions with the applicant, it is confirmed that the applicant is agreeable to the intended approach.

Flooding

The site is not located within flood zone 1 and therefore no significantly adverse flooding issues are anticipated.

Other Issues

In the supporting letter from the applicant, the following is stated “Some minor alterations to the external elevations are proposed (e.g. change from windows to doors) and extensive alterations to the internal layout. However, it is our view that these alterations are exempt from the definition of development by virtue of section 55(2)(a) of the 1990 Act, because most only affect the interior of the building, and the others do not materially affect the external appearance of the building, as viewed by the general public”.

Officers consider that external works to the rear elevation fall outside of the prior approval regime & therefore to lawfully facilitate the works stated, either a certificate of lawfulness or application for full planning permission should be submitted for consideration. This prior approval does not approve any external works to the building. An informative will specify this to the applicant.

Some potentially significant concerns have been raised by the Private Sector Housing team in Environmental Health. These are outside the scope of considerations in this type of application. These have been fed into the applicant during the course of the application, who has replied via email too (details above). However, for the avoidance of doubt, the Environmental Health observations are also recommended to be included as an informative on the decision notice.

Recommendation:

GRANT Prior Approval subject to conditions

Condition:

1. The development permitted must be completed before the expiration of three years from the date of this prior approval.

Reason: To comply with the provisions of paragraph O.2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016

2. The following plans, drawings and documents have been assessed:

Site Location Plan

Existing Ground and First Floor Plans, Rev 5

Existing Second Floor Plan, Rev 1

Proposed Ground Floor Plan, Rev 6, as received 22/12/16

Proposed First Floor Plan, Rev 3

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All received on 13/12/16, unless where otherwise stated.

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

3. 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. 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 intended occupiers from the impacts of noise from commercial premises, in line with policy DM4 of the Reading Borough LDF Sites and Detailed Policies Document 2012 (Altered 2015) and Policy RC9 of the Reading Central Area Action Plan 2009.

Informatives:

1. The applicant is advised that as an application for prior approval under Class O, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, as amended by The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016, this prior approval notice relates to the change of use of the building from Class B1(a) to C3 (dwellinghouses) only and no other use.
2. This prior approval relates only to the change of use of existing floor space and land. Planning permission (or a certificate of lawfulness, should you consider the works to fall outside of the meaning of development) is required for any external alterations or extensions to the building. The grant of prior approval does not make the development lawful.
3. 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 nearby 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.

4. In connection with the implementation of this office prior approval, no construction, demolition and associated activities should take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. No noisy works shall take place at any time on Sundays and Bank or Statutory Holidays. Please refer to the Council's website for more detailed information: <http://www.reading.gov.uk/nuisance>
5. There should be no burning of waste on the site.
6. It is fully acknowledged that this is a prior approval application and therefore Private Sector Housing Environmental Health objections cannot be taken into account in the determination of the application. However, a number of concerns are being brought to the attention of the applicant as the current proposed layout may result in the need for future enforcement action under Part I of the Housing Act 2004. More specifically:

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