

## PART A

Report of: **DEVELOPMENT MANAGEMENT SECTION HEAD**

|                             |   |
|-----------------------------|---|
| Date of Committee           | <b>29<sup>th</sup> January 2015</b>                                     |
| Site address:               | <b>Sovereign House , 2 Regal Way</b>                                    |
| Reference Number :          | <b>14/01490/FUL</b>   |
| Description of Development: | <b>The installation of 6 windows to the rear ground floor elevation</b> |
| Applicant:                  | <b>Caridon Property Services</b>  |
| Date received:              | <b>(As amended) 14<sup>th</sup> December 2014</b>                       |
| 8 week date (minor):        | <b>11th February 2015</b>   |
| Ward:                       | <b>TUDOR</b>  |

### **SUMMARY**

The application relates to a two storey commercial building located in Regal Way close to its junction with Balmoral Road. The commercial unit is in good condition and benefits from a generous car park. The site backs onto the buildings fronting Balmoral Road which are all in residential use. The rear gardens of the houses (64 – 82) form the boundary with the application building.

The current application seeks approval for the installation of 6 windows to the rear ground floor elevation. A simultaneous application was submitted for the installation at first floor level of 6 obscured windows with restricted opening mechanism. However, this application has already been refused on the ground that the perceived or real loss of privacy would prejudice the amenities of the occupiers of the properties located to the rear of the application building.

The proposed windows in this application will be well below the top of the boundary fence which forms the boundary with the residential properties to the rear, with no possibility of overlooking either into the gardens or the habitable rooms of the houses. Accordingly, the

proposal will not result in a loss of privacy for or overlooking of the adjoining residential properties.

The Development Management Section Head recommends the application be approved, subject to conditions, as set out in the report.

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## BACKGROUND

### Site and surroundings

The proposal relates to a large commercial unit within Regal Way Industrial Estate. It comprises two floors of largely open plan, with a lift, and ancillary uses (kitchen, WCs) on the ground floor. It is a modern building in good condition. The vehicular access serves a large area of car parking.



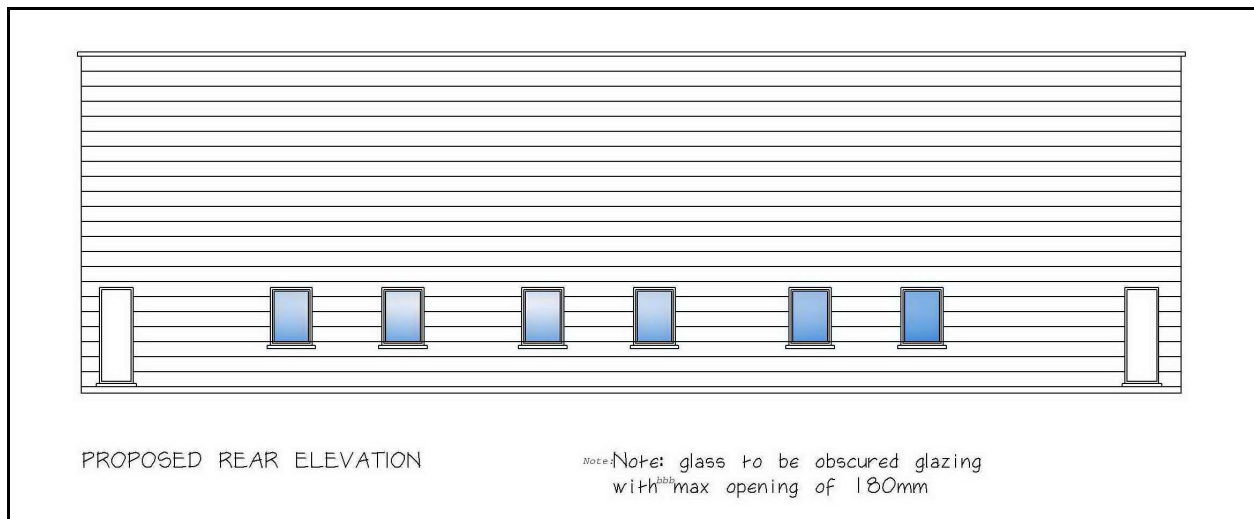
Site location plan

The only windows serving the ground floor open plan accommodation are to the front of the building. The first floor accommodation is served by windows on the front elevation and the two side elevations. At the first floor level, the rear part of the building receives light through roof lights.

The building is not listed nor is it located within a conservation area. It is, however, located in a designated employment area.

### **Proposed development**

Full planning permission is sought for the installation of 6 windows to the rear ground floor elevation.



Proposed rear elevation

### **Planning history**

The most relevant planning history is as follows:

86/00190/FUL – conditional planning permission granted on 14 May 1986 for the erection of two light industrial warehouse units. This permission included the following two additional conditions:

- The floorspace to be created by the development hereby permitted shall only be used for purposes within Classes III and X of the Town and Country Planning (Use Classes) Order 1972 or for purposes which satisfy the criteria of policy E7 of the adopted Watford District Plan (As Altered) and for no other purposes without the prior written approval of the Local Planning Authority.
- There shall be no alterations to the northern elevation of unit 2 as shown on the plans approved herewith unless an application shall have been submitted to and approved by the Local Planning Authority.

14/01526/JPD – an application seeking prior approval for a change of use of the building from offices to residential use to provide bedsit type dwellings was refused on 8 December 2014 on the following grounds:

- 1 The development is not permitted by Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 because the lawful use of the building is for a mixed use of light industrial and warehouse purposes and not an office use within class B1a.
- 2 The development is not permitted by Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 because the proposed use as indicated on the drawings is for a House in Multiple Occupation is regarded as sui generis use rather than a use falling within Class C3.
- 3 The development is not permitted by Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 because the proposed units as shown on the drawings by reason of their size, and lack of outlook, fail to be regarded as dwelling units falling within Class C3.

## **Relevant Policies**

### **National Planning Policy Framework**

Section 7 – Requiring good design

### **Hertfordshire Waste Core Strategy and Development Management Policies**

#### **Document 2011-2026**

No relevant policies.

### **Hertfordshire Minerals Local Plan (saved policies)**

No relevant policies.

### **Watford Local Plan Core Strategy 2006-2031**

SD1 Sustainable Design

SS1 Spatial Strategy

UD1 Delivering High Quality Design

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## **CONSULTATIONS**

### **Neighbour consultations**

Eleven properties in Balmoral Road and Regal Way were notified of the application. A petition against the proposal, from six residents of Balmoral Road, has been received, raising concern with regard to the following issues:

- The proposal will result in the loss of privacy for adjoining occupiers;
  - The applicant is seeking approval for the conversion of the building into a residential building. This is wholly inappropriate as the building is located with an industrial estate.
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## **APPRAISAL**

In accordance with s.38 of the Planning and Compulsory Purchase Act 2004, the Development Plan for Watford comprises:

- (a) *Watford Local Plan: Core Strategy 2006-31 (adopted January 2013)*;
- (b) the continuing “saved” policies of the *Watford District Plan 2000*;
- (c) the *Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026*; and
- (d) the Hertfordshire Minerals Local Plan Review 2002-2016.

The only issues raised by this proposal are as follows:

1. The impact of the development on the character and appearance of the building and the area.
2. The impact of the development on the amenities of the neighbouring properties.

### **Impact on the character and appearance of the building and the area**

The proposed windows will be located to the rear of the building at the ground floor elevation. The elevation here is quite bland and plain. The installation of the windows will have no significant impact upon the appearance of the character of the building, as the rear elevation at the ground floor level will not be visible from any vantage public view point. The proposed windows will have no impact on the character and appearance of the area.

### **Impact on the amenities of neighbouring properties**

The only issue here is whether the proposal will result in the loss of privacy to the occupiers of the adjoining buildings. The buildings which will be mostly affected are the houses and their associated rear gardens fronting onto Balmoral Road.

The proposed windows will be located to the rear of the buildings with an outlook across a small strip of land, about 6 metres wide, between the building and the site boundary. The site boundary is located at a higher level than the building, with the level dropping slightly

from west to east. Thus, the proposed windows, even at their highest level, will still be below the top of the fence that forms the boundary with the adjoining residential properties. Moreover, the submitted drawings indicate that the new windows are to be obscurely glazed and restricted to a maximum opening of 180 mm. Consequently, there will be no possibility of overlooking of or loss of privacy for the adjoining occupiers.

The proposal is therefore considered acceptable.



The rear of the building in relation to the boundary fence

### **Consideration of objections received**

A petition from six residents in Balmoral Road has been received by the council. The main issue raised in the petition relates to overlooking and loss of privacy, which has been discussed above. The other matter referred to is considered below.

| Objection   | Officer's response   |
|---|--|
| <p>The applicant seeks approval for the change of use of the building to offices. This is wholly inappropriate in a residential area.</p> | <p>This application is not for the change of use of the building to residential. The application only relates to the installation of windows to the building. Under current legislation, change of use of office buildings to residential uses can be 'permitted development', subject to 'prior approval' notification. The applicant had submitted an application for prior approval but this was refused on the grounds that (a) the authorised use of the building was not for an office building and (b) the dwellings proposed could not be regarded as dwellinghouses falling within Use Class C3. The applicant is currently considering a further submission to the Council with evidence that the building has been used for offices for considerable period of time and that its lawful use is for office purposes.</p> |

### **Conclusion**

The proposed windows will be well below the top of the fence which forms the boundary with the residential properties to the rear, and there is no possibility of overlooking either into the gardens or habitable rooms. Consequently, the proposal will not result in a loss of privacy for the occupiers of the adjoining residential properties.

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### **Human Rights Implications**

The Local Planning Authority is justified in interfering with the applicant's Human Rights in order to alleviate any adverse effect on adjoining properties and their occupiers and on general public amenity. With regard to any infringement of third party Human Rights, these are not considered to be of such a nature and degree as to override the Human Rights of the applicant and therefore warrant refusal of planning permission.

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## **RECOMMENDATION**

That planning permission be granted, subject to the following conditions:

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Construction of the development hereby permitted shall not take place before 8am or after 6pm Mondays to Fridays, before 8am or after 1pm on Saturdays and not at all on Sundays and Public Holidays.

Reason: To safeguard the amenities and quiet enjoyment of neighbouring properties during the time that the development is being constructed, pursuant to Policy SE22 of the Watford District Plan 2000.

### **INFORMATIVE:**

1. In dealing with this application, Watford Borough Council has considered the proposal in a positive and proactive manner having regard to the policies of the development plan as well as paragraphs 186 and 187 of the National Planning Policy Framework and other material considerations, and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010, as amended.

### **Drawing Numbers**

PG/FR revised on 14/12/.2014

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