

Recommendation Report for

REF NO: AW/222/20/PD

LOCATION: Side of 16A Rose Green Road
Aldwick
PO21 3ET

PROPOSAL: Prior approval under Schedule 2, Part 3 Class M for the change of use of barber shop to 1 No. dwelling.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks prior notification for the conversion of a shop (A1) to dwelling (C3).
SITE AREA	48 square metres
TOPOGRAPHY	Predominantly flat
SITE CHARACTERISTICS	The site comprises of two storey gabled roof detached property on the eastern side of Rose Green Road in a vicinity of the junction with.
CHARACTER OF LOCALITY	A small shopping parade within predominantly residential area with outside of town centre.

REPRESENTATIONS

No representation from nearby occupiers received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Permitted Development applications under Part 3, Class M of the Town and Country Planning (General Permitted Development) Order 2015 as amended do not consider planning merits as part of their assessment, See Legislative Background section below for matters that may be considered.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Highways England: No Objection

West Sussex County Highways: No highway concerns raised.

Private Sector Housing:

Full comments are online however it should be noted that the housing standards, including room sizes and facilities must be complied with.

ADC Environmental Health - No objection (re contamination/noise impacts).

Recommend condition requiring copy of asbestos register and remedial strategy (where appropriate)

must be provided in writing to the Local Planning Authority prior to the works commencing.
Recommended condition requiring Noise/ Floor-Ceiling testing above proposed commercial units

COMMENTS ON CONSULTATION RESPONSES:

Comments noted: There are considerations relating to noise from nearby commercial development.

Conversion works will be subject of a 'change of use' application under the Building Regulations and need to comply with 'Approved Document E' in relation to satisfactory sound insulation between the units. Pre-completion sound testing will need to be undertaken to justify this as and where directed by Building Control.

It is not possible to address the matters raised by Environmental Health in this determination as the Local Planning Authority is only able to assess the application in respect of certain issues.

POLICY CONTEXT

Designation applicable to site:

Pagham Harbour Zone B
Built-Up Area Boundary

DEVELOPMENT PLAN POLICIES

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in respect of a development consisting of a change of use of a building from (a) (i) a use falling within Class A1 (shops) of the Schedule to the Use Classes Order to a use in Class C3 (dwellinghouses) of that Schedule.

Class M allows for the change of use (and building operations reasonably necessary to convert the building) but states that development is not permitted if:

(a) the building was not used for one of the uses referred to in Class M(a)-

(i) on 20th March 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;

- The property has been used for an A1 use (shop) in line with (a) above.

(b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;

- Permission to use the building for a use falling within Class A1 (shops) of the Schedule to the Use Classes Order has not been granted only by this Part.

(c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;

- The proposed change of use would not exceed 150 square metres (approx. 23 squared metres)

(d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;

- No other development under Class M has been carried out on this property.

(e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

- No extensions are being proposed. Therefore, the external dimensions of the building would not extend beyond the external dimensions of the existing building at any given point.

(f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or

(g) the building is-

(i) on article 2(3) land;

(ii) in a site of special scientific interest;

(iii) in a safety hazard area;

(iv) in a military explosives storage area;

(v) a listed building; or

(vi) a scheduled monument.

- The proposed change of use complies with the above criteria.

M.2(1) Where the development proposed is development under Class M(a) together with development under Class M(b), development 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 in relation to the building,

(c) flooding risks in relation to the building,

(d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use:

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only

where there is a reasonable prospect of the building being used to provide such services, or
(ii) where the building is located in a key shopping area, on the sustainability of that shopping area
(e) the design or external appearance of the building, and
(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses

- Criteria (a) - (f) will be assessed below in the CONCLUSIONS section below.

The Order also states that the provisions of Paragraph W shall apply in relation to any application and part (10) of paragraph W includes the following:

"(10) The local planning authority must, when determining an application ...

(a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);

(b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2019(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and

(c) in relation to the contamination risks on the site-

(i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c), and

(ii) if they determine that the site will be contaminated land, refuse to give prior approval."

This allows the local planning authority to have regard to any representations received and the NPPF but only in relation to the 5 issues stated above. Advice has been received from the DCLG which confirms that it is not possible to refuse prior approval on the basis of an issue/impact not listed above. The Local Planning Authority has 56 days to provide its comments to the applicant's agent or it is deemed that they have no objection.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

HIGHWAYS

The LHA do not anticipate that the proposal for a single dwelling would give rise to an intensification of vehicular movements to or from the site.

FLOOD RISK

The site does not appear to be in a flood risk zone.

CONTAMINATED LAND

The site is not considered to be contaminated land and is an existing building. Environmental Health have not commented specifically in respect of contamination, it is unlikely there would be any contamination issues from the reuse of the first floor of property No 16 Rose Green Road.

SUITABILITY OF SITE

The shops and restaurants along Rose Green Road provide key services to local residents. The proposal site is situated within predominantly residential area therefore it is not considered that the proposed change of use would have an undesirable impact on the locality.

DESIGN AND EXTERNAL APPEARANCE

This application does not include any external alterations. Therefore the proposed change of use would not have a detrimental impact upon the unit or the wider area.

PROVISION OF ADEQUATE NATURAL LIGHT TO ALL HABITABLE ROOMS

Submitted drawings indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls show the provision of adequate natural light to all habitable rooms therefore the proposed change of use would satisfy the requirement.

SUMMARY

As a result of the above assessment it is considered that the proposed change of use accords with Schedule 2, Part 3, Class M, of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Therefore, it is recommended that no objection is raised in relation to the proposed change of use.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

NO OBJECTION

1 For the avoidance of doubt the approved details are the Application Form and Location Plan

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submitted on 28/08/2020, Ground and First Floor Plan and details of windows and doors, Dwg
Nos 001,002,003 and 004 submitted on 18/10/2020.