

Recommendation Report for

REF NO: A/211/17/PD

LOCATION: The Laurels (Red Lion House)
The Square
Angmering
BN16 4EA

PROPOSAL: Notification for Prior Approval under Class O for change of use from an office (Class B1) to a dwelling (Class C3).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The flat would be located on the first floor and would comprise a 2 bedroom unit. Some parking is available to the rear of the unit.
SITE AREA	Approx 77 sqm
RESIDENTIAL DEVELOPMENT DENSITY (NET)	13 dwellings per hectare
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	None
SITE CHARACTERISTICS	First floor premises in the centre of the village.
CHARACTER OF LOCALITY	Village centre location. Primarily retail uses at ground floor.

RELEVANT SITE HISTORY

A/3/48	Alterations	Approve 23-09-48
A/147/73	Removal Of Pitched Roof (Part Already Removed) And Replacing With Flat Roof To Form Balcony	ApproveConditionally 24-08-73
A/66/64	Alterations And Extensions	ApproveConditionally 04-09-64

It appears from the planning history that the premises have previously been used for residential purposes.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Angmering Parish Council

Objection - the proposed change of use does not appear to have complied with Neighbourhood Plan policy ER2.

4 Objections - The Neighbourhood Plan Policy ER2 states with regard to Local Employment There will be a general presumption against the loss of locations that provide employment within the Parish, either as a result of proposals for a change of use or for the redevelopment of existing premises or sites of employment for non-employment use.

Proposals for change of use or redevelopment, which would result in the loss of employment use, will only be acceptable if they demonstrate the following:

1) The premises or site is no longer required for employment use in terms of need or demand, by the premises or site having been marketed for a period of not less than two years for employment use and no occupier has been found. Full details relating to the marketing must accompany any proposal;

2) That the alternative use proposed will be a positive contribution to the sustainability, vitality, viability, health and well-being of Angmering.

The Neighbourhood Plan was approved by the community at referendum by a substantial majority. The requirements of ER2 do not appear to have been met.

No advance notices have been posted on nearby lampposts/buildings.

COMMENTS ON REPRESENTATIONS RECEIVED:

The principle of the use cannot be considered as part of this application. Class O allows for the change of use. There is no requirement for the application to be advertised on site.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

None

COMMENTS ON CONSULTATION RESPONSES:

None

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Conservation Area

DEVELOPMENT PLAN POLICES

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

POLICY COMMENTARY

The application is determined under the provisions of Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) in respect of a development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order from a use falling within Class B1 (a) (offices) of that schedule.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Class O 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 and any land within its curtilage to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order from a use falling within Class B1 (a) (offices) of that schedule.

The principle of the development is not in dispute. Class O allows for the change of use (and limited building operations) but states that development is not permitted if:

- (a) the building is on article 2(5) land and an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;
- (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;
- (c) the site is or forms part of a safety hazard area;
- (d) the site is or forms part of a military explosives storage area;
- (e) the building is a listed building or is within the curtilage of a listed building; and
- (f) the site is or contains a scheduled monument.

The above criteria are considered to have been met.

Class O (paragraph O.2) states that an application must be made to determine whether or not the prior approval of the Council will be required in respect of:

- (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.

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 2012(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 3 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. This period expires on 07-02-2018.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

TRANSPORT & HIGHWAY IMPACTS:

The site is considered to be a highly sustainable location where residential occupiers can easily access shops, services and facilities without the need to own a car. There is easy access to bus services with bus stops in the village centre. There is some parking available to the premises. On this basis, the proposal is considered acceptable.

CONTAMINATION RISKS:

The site is not contaminated land and there are no objections to the scheme on this basis.

FLOOD RISK:

The site is located within low risk Flood Zone 1 and the development would be on the upper floors of the premises. There are therefore no objections to the dwelling on flood risk grounds.

IMPACTS OF NOISE FROM COMMERCIAL PREMISES ON NEW OCCUPIERS:

It is not considered that the existing ground floor uses would be capable of adversely affecting residential properties by reason of noise. Commercial/retail and residential uses are by their nature essentially quiet and they will normally operate during normal working hours so as not to cause disturbance at unsocial hours.

REPRESENTATIONS FROM LOCAL RESIDENTS & ASSESSMENT AGAINST THE NPPF:

The objections received from local residents relate to loss of the office use in principle. The legislation does not allow the consideration of this proposal against the resultant loss of office space and associated NPPF guidance on this issue.

SUMMARY:

Given that there are no objections to the scheme with regard to the above issues, it is recommended that prior approval should be granted subject to the following informative.

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

- 1 For the avoidance of doubt the approved details are the: Site Location and Block Plans - 589/08 Rev A; Proposed Ground Floor Plan - 589/09 Rev A; Proposed First Floor Plan - 589/10 Rev A; and Proposed Second Floor Plan - 589/11 Rev A - all submitted on 26 May 2017.