

Recommendation Report for

REF NO: BR/114/17/PD

LOCATION: 54 A & B Chichester Road
Bognor Regis

PROPOSAL: Prior notification under Class M for a change of use from shop (Class A1) to dwelling house (Class C3).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application concerns the change of use of two existing small ground floor shops (54A & 54B) into 1 two bedroom flat. The site benefits from an existing enclosed courtyard to the rear accessed via a covered side passageway (this passageway is shared with the adjacent car repair garage). External changes consist solely of replacement windows (new sash windows to match existing & provide escape opportunities) including a window to replace the door to 54B.

SITE AREA

69 square metres.

RESIDENTIAL DEVELOPMENT DENSITY (NET)

Including the existing first floor flat (no. 54), 289 dwellings per hectare.

TOPOGRAPHY

Predominantly flat

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

Existing 2m high wall to the rear (which borders the adjacent hospital site).

SITE CHARACTERISTICS

The site consists of two terraced houses, each two storeys in height but with slightly different eaves/ridge heights. Both houses are constructed with flint and brick quoins with white painted window and door frames. Clay tiled roof. There is then a single storey flat roofed brick extension on the northern side which is used as a roof terrace by the flat above. This extension also includes the covered passageway. A small covered but open porch sits over the door for the first floor flat. There are display windows at ground floor and sash windows above. No parking.

CHARACTER OF LOCALITY

Mixed character with a car repair garage to the

north and a Chinese takeaway to the south but residential dwellings above. The car repair garage has two doors into the existing covered side passageway. The site fronts onto a busy traffic light controlled crossroads and there is only very limited on-street parking opportunities.

RELEVANT SITE HISTORY

BR/17/98	New shopfront and internal alterations to create two shop units	ApproveConditionally 25-03-1998
BR/246/60	Extension of existing workshop	ApproveConditionally 07-03-1961
BR/405/73	Extension of shop premises carrying on business of general stores	Approve 12-06-1973

None.

REPRESENTATIONS

Representations received:

No comments received.

Comments on Representations received:

N/A.

CONSULTATIONS

WSCC Strategic Planning
Environmental Health
Environment Agency
Economic Regeneration

Consultations responses received:

WSCC HIGHWAYS: "Under the current General Permitted Development Order (GPDO), it is permitted development to change use from an A1 Shop use to residential subject first to prior approval being granted. As part of the prior approval process there are a number of matters to be considered. This includes matters relating to highways and transport. However the GPDO is quite clear as to what highway matters can be considered, namely whether the proposal is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site.

West Sussex County Council in its role as LHA (Local Highway Authority) has therefore considered the proposal on that basis. The proposal is not anticipated to result in a material increase or change in the character of traffic. Consequently, no highway concerns would be raised. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms. The proposed change of use from shop to dwelling house will not have a

material impact on the operation of the highway. No objection is raised."

ADC ENVIRONMENTAL HEALTH: "I have concerns that any residential use of this site may be unreasonably impacted by noise from the garage to one side. Noise from the garage has not been assessed so impact on future residents is not known. Further, there is a Chinese Take-Away on the other side. The ventilation/extract system from this premises may well also cause a noise which would impact on future residents. This also has not been assessed. I would therefore like to see an assessment of noise which could impact on future residents (taking into account the Chinese take-away and the garage which are likely to be open at different times) to ensure that future residents are not unreasonably impacted. Further (although I realise this cannot be taken into account for Permitted Development) there may be potential odour issues from the Chinese Take-Away ventilation/extract system. I have not yet had comments back from our housing team, but will forward them when I have received them."

ADC ECONOMIC REGENERATION: "Economic Development has no comment on this application"

Comments on Consultation responses:

Comments noted.

The Environmental Health comments were relayed to the applicant who then provided a Noise Report which is available on the Councils website and summarised as follows:

- (a) The Garage is run on electric driven tools and does not use compressed air;
- (a) There is also little need for hammering on modern cars;
- (c) The Garage opens 8 - 8.30am;
- (d) The Tenant within no. 54 has commented how quiet the Garage is;
- (e) The noise from the Traffic Lights outside is likely to have more of an impact than the Garage;
- (f) The Chinese Take-Away ventilation/extract systems are on the southern side of that building (opposite side to this proposed accommodation);
- (g) The Tenant within no. 54 has not complained of any noise or odours from the Takeaway;
- (h) The prevailing south westerly wind would disperse odour away from the property;
- (i) The only noticeable odour is after the Takeaway owners have restarted the equipment after a holiday; and
- (j) The flat will be built to Building Regulations standards in respect of acoustic protection, ventilation, heat transfer, air tightness etc;

Notwithstanding the above, the Council is unable to assess the application in respect of noise and odour pollution. Therefore a further Environmental Health response has not been sought.

It should also be noted that no Housing Team comments have been received and also no Contamination specific comments have been given.

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

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 falling within Class C3 (dwellinghouses) of that Schedule.

The principle of the development is not in dispute. 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;
- (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;
- (c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square 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;
- (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;
- (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.

Class M (paragraph M.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 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, and

(e) the design or external appearance of the building,

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 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. This period expires on 06 July 2017.

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:

Although there is no parking available at the site, the location is considered to be sustainable in that residents can walk, cycle or take a bus to access shops, services and employment opportunities. WSCC Highways do not anticipate that the proposal will result in a material increase or change in the character of traffic and consequently, they raise no highway concerns with the proposal. No conditions are recommended.

CONTAMINATION RISK:

The site is not considered to be contaminated land and is an existing building. Although Environmental Health Officers have not commented specifically in respect of contamination, it would seem unlikely that there would be any contamination issues from the reuse of the building and the replacement of fenestration.

FLOOD RISK:

The site is located within low risk Flood Zone 1 and there are no policy objections to the location of a dwelling in Flood Zone 1. The Environment Agency have not responded to the consultation request but this is understandable given the Flood Zone 1 designation.

SUITABILITY OF THE CHANGE OF USE:

The site is not located within an existing shopping centre and is not part of a designated retail frontage. The applicant has supplied a letter from his solicitor which states that it has been difficult to rent out the retail premises. This has been because of the lack of parking either on site or nearby, the size of the units, the 'out of town centre' location and generally difficult trading conditions for small or 'start-up' businesses. Previous occupying businesses have either failed, leaving the owner with debts or simply moved on. The letter concludes that the units are currently empty and that there is not considered to be any realistic possibility of commercial tenants being found.

The site visit confirmed that the units are currently vacant and simply being used for storage in relation to the adjacent motor garage.

The National Planning Policy Framework states that "Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."

Economic Development Officers do not object to the of of these two small retail units. It is therefore considered appropriate to allow the conversion into dwellings.

REPRESENTATIONS FROM LOCAL RESIDENTS & ASSESSMENT AGAINST THE NPPF:

No objections or representations have been received from local residents. Therefore, there is no requirement to assess the proposal against the NPPF.

DESIGN AND VISUAL AMENITY:

The proposed replacement windows will match with the design of the existing first floor windows and these changes will improve the appearance of the buildings.

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 informatives.

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 SUBJECT TO CONDITIONS

- 1 For the avoidance of doubt the approved details are the Application Form, Drawing 17-02-GD-202-02 "Proposed Ground Floor Plan" and Drawing 17-04-GD-202-04 "Proposed Front West Facing Elevation" all as submitted on the 19th April 2017.
- 2 **INFORMATIVE:-** Appropriate fire precaution facilities and equipment must be provided of such type, number and location as are considered necessary. Guidance on fire safety is contained in the LACORS guidance document - "Housing - Fire Safety, Guidance on fire safety precautions for certain types of existing housing". The flat must also meet the requirements of the Housing Act 2004 and be free of Category 1 and significant Category 2 Hazards.