Recommendation Report for

REF NO: BR/142/21/PD

LOCATION: 95 Hawthorn Road
Bognor Regis
PO21 2BE

PROPOSAL: Notification for Prior Approval under Schedule 2, Part 3, Class M for the change of use from a shop (A1 shops) to 1 No flat (C3 Dwelling house).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks prior notification for the conversion of a shop to a ground floor dwelling (C3).
SITE CHARACTERISTICS	The site is occupied by a two storey property with a residential premises above and a retail unit to the ground floor.
CHARACTER OF LOCALITY	The site is located in a road of buildings of similar style, with mixed residential and commercial uses within the immediate vicinity of the site.

Noted

REPRESENTATIONS

No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No objection but request a condition relating to construction hours.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. There is no construction proposed and the condition is not necessary.

POLICY CONTEXT

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.

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.

(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.

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) an 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,

(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
WSCC have provided comments. The WSCC Car Parking Calculator would expect 1 parking space to be provided for a 1 bed property. Whilst on-street car parking is limited in the vicinity, it is not considered that highway safety would be detrimentally affected through the proposed nil car parking provision.

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, although a condition for cycle parking is requested.

FLOOD RISK
The site falls within Flood Zone 1 and is not at risk of flooding.

CONTAMINATED LAND
The site is not considered to be contaminated land and is an existing building. Environmental Health Officers have no objection.

SUITABILITY OF SITE
The site is situated in a row of a small parade of shops which comprises retail uses at ground floor and residential uses above. The shopping area provides key services to local residents and tourists.
There are some other shops present in the locality and the loss is not considered significant in which a refusal is warranted.

DESIGN AND VISUAL AMENITY
The shopfront windows would be changed to smaller windows however this is retained within the footprint and does not increase the external dimensions. The works give the property a more residential appearance to enable the front to be used as habitable accommodation. The external alterations are not considered to have a detrimental impact upon the unit or the wider area.

PROVISION OF ADEQUATE NATURAL LIGHT TO ALL HABITABLE ROOMS
The drawings submitted demonstrate a window to the front of the property which would serve a living room/kitchen. The plans also demonstrate a roof lantern which would allow light for a rear bedroom.
As such the works comply with the requirement.

SUMMARY
It is recommended prior approval is approved.

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.

RECOMMENDATION

NO OBJECTION