

Recommendation Report for**REF NO:** BR/161/17/PD**LOCATION:** 6 York Road Chambers
York Road
Bognor Regis**PROPOSAL:** Notification for prior approval under Part O for change of use from office (ClassB1(a)) to 14 No. residential apartments (Class C3)**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	The flats are to the first and second floors. They are either 1 bedroom or studio flats. The proposal retains the existing ground floor office and retail uses. There is access to rear yard but no curtilage parking.
SITE AREA	Approximately 290m ² (0.03 hectares).
RESIDENTIAL DEVELOPMENT DENSITY (NET)	467 dwellings per hectare.
TOPOGRAPHY	Flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	None.
SITE CHARACTERISTICS	3 storey building with a parapet roof. Mix of brown and red brick. Offices and retail units at ground floor. On-street parking is restricted by double yellow lines.
CHARACTER OF LOCALITY	Commercial town centre location. There are existing flats above the restaurant next door.

RELEVANT SITE HISTORY

BR/222/16/PD	Notification for prior approval under Part O for No Objection change of use from office (ClassB1(a)) to 8 No. residential apartments (Class C3)	24-10-2016
BR/336/16/PL	Extension and alteration of existing building to App Cond with S106 form 3no. new residential apartments at third floor level	21-03-2017

This application is a resubmission of BR/222/16/PD which was approved in October 2016 and permitted 8 flats on the first and second floors. The permitted flats were to be a mix of 2 or 3 bedrooms.

REPRESENTATIONS**Representations received:**

None.

Comments on Representations received:

N/A.

CONSULTATIONS

WSSC Strategic Planning

Environmental Health

Consultations responses received:

WSSC HIGHWAYS - Do not consider that the proposal will give rise to any increase or material change in the character of traffic in the vicinity of the site. Request a condition requiring secure cycle storage.

ADC ENVIRONMENTAL HEALTH - No objection.

ADC PRIVATE SECTOR HOUSING - Consider that access to flats 1,2,3 & 4 through the office is an unacceptable arrangement. Otherwise recommend measures to ensure fire safety, ventilation and room size compliance.

Comments on Consultation responses:

Comments noted. It is not possible to address the matters raised by Private Sector Housing in this determination as the Local Planning Authority is only able to assess the application in respect of certain issues and the Private Sector Housing comments do not fall within these.

POLICY CONTEXT

Designations applicable to site:

Within the Built up Area Boundary;
Primary Shopping Area;
Building of Structure of Character; and
Pagham Harbour Zone B.

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
National Planning Practice Guidance

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 03-08-2017.

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:

WSSC Highways have advised that office uses typically generate more vehicle movements than residential uses and on this basis, the proposed change of use will not give rise to any increase or material change in the character of traffic in the vicinity of the site.

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. On this basis, it is considered acceptable to allow a nil parking provision. However, it is considered that there is space in the rear yard for an element of cycle storage.

CONTAMINATION RISKS:

The site is not contaminated land and Environmental Health have not raised any objections to the scheme.

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.

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. Retail and office uses are by their nature essentially quiet and they will operate during the day so as not to cause disturbance at unsocial hours. There is also no objection from Environmental Health. The comment from Private Sector Housing about access through offices to some of the flats is noted but this would not result in disturbance from the office use to the residential occupiers but rather the other way around.

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.

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 condition and 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 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority. The secure cycle storage so approved shall be implemented in accordance with the approved details and retained in perpetuity unless otherwise agreed in writing with the local planning authority.

Reason: To provide alternative travel options to the use of the car in accordance with the National Planning Policy Framework.

- 2 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.
- 3 INFORMATIVE: Please note the following Private Sector Housing Comments:

Fire Safety

- 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 external staircase which is serving as a means of escape from the flats should be protected from the effects of fire along its length. The sensitive area is 1.8m horizontally therefore any windows in this region should be fire resisting construction and if possible fixed shut and any doors should be fire resisting and self-closing.

- A room where the only escape route is through another room is termed an "inner room" and poses a risk to its occupiers if a fire starts unnoticed in the outer room. The escape routes from the bedroom in the first floor studio flat is via the kitchen, this can be overcome by ensuring that an escape window is provided and adequate fire protection within the flat.

- There should be adequate fire separation between the commercial unit on the ground floor and the residential flats above.

Ventilation

- Any bathrooms and kitchens without windows for natural ventilation should have adequate mechanical ventilation.

Room Sizes

- Room sizes should meet the minimum standards for houses in multiple occupation if the flats are intended to be rented.

General

- Must meet the requirements of the Housing Act 2004 and be free of Category 1 and significant Category 2 Hazards; and

- Access to the flats 1,2,3 and 4 appear to be through the office this is not an acceptable arrangement.