

Recommendation Report for

REF NO: BR/173/19/PD

LOCATION: 98-100 Chichester Road
Bognor Regis
PO21 5AA

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
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
SITE CHARACTERISTICS	Two storey terraced building. The building is Class B1 use at ground floor (Calculus Chartered Financial Planners) with ancillary offices above.
CHARACTER OF LOCALITY	Part of a short parade of commercial uses with either flats or offices above.

RELEVANT SITE HISTORY

BR/187/16/PL	Conversion of first floor office to 1 No. 1 bedroom flat & 1 No. studio apartment	Refused 10-05-17
BR/213/07/	Change of use of offices on 1st floor to domestic two bedroom flat.	ApproveConditionally 17-10-07
BR/18/00/	New extensions forming offices and tea room with new office in roof space	ApproveConditionally 25-02-00
BR/187/97	First floor addition to form private interview room and file storage	Refused 15-10-97
BR/202/90	Extension to form additional offices at 1st floor	Refused 23-07-90

Relevant planning history noted.

Planning permission was previously granted for 2No. 1 bed flats on the first floor but this was not implemented and has expired.

In 2016 an application was refused for the conversion of the 1st floor to 1No. bedroom flat and studio apartment.

REPRESENTATIONS

3 objections from nearby occupiers

- Not enough parking which may affect neighbouring businesses.
- Overlooking
- Light and noise pollution
- Loss of privacy
- It will affect the sale of my property.

COMMENTS ON REPRESENTATIONS RECEIVED:

The objections received from local residents relate to privacy and overlooking. The legislation does not allow the consideration of this proposal against impacts such as overlooking and refer only to noise, contamination, flood risk and parking and will be addressed in the conclusion.

CONSULTATIONS

WSCC Strategic Planning

Environmental Health

Environment Agency

Historic England

CONSULTATION RESPONSES RECEIVED:

WSCC (Highways) - Parking demand calculator indicates that the dwelling would require 1no. parking space however the current premises operates with nil parking provision. Site is located in a sustainable location. No expectation that the proposal will increase or material change in traffic and is considered acceptable.

Environmental Health- Comments awaited.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Built up area boundary

DEVELOPMENT PLAN POLICIES

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) 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) as long as certain criteria are met.

Development is not permitted by Class O if:

(1) (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;

The host building is not on article 2(5) land

(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order -

(i) on 29th May 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.

(d) the site is or forms part of a safety hazard area;

(e) the site is or forms part of a military explosives storage area; and

(f/g) the building is a Listed Building or is within the curtilage of a listed building. Is or contains 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, and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

The Order also state the provision 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 subparagraphs (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 4 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 no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

TRANSPORT AND HIGHWAY IMPACTS

WSCC have commented and have no objections to the proposal. WSCC do not consider that the change to a C3 dwelling would have a material increase or a material change on the character of traffic in the vicinity of the site. The site is also in a sustainable location.

FLOOD RISK

The site lies in Flood Zone 1 and there are not considered to be any flood risk issues to consider.

NOISE AND DISTURBANCE

In respect of noise, there are existing dwellings nearby and therefore, the typical noise associated with a dwelling would not be harmful to the character of the area and is unlikely to adversely affect any of the existing properties. It is not considered that the existing ground floor use would be capable of adversely affecting residential properties by reason of noise.

CONTAMINATION

Environmental health have not responded to the consultation and therefore it is not possible to comment on contamination. There are no records of the site being contaminated and the proposal is considered to be acceptable on the grounds of contamination.

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