

Recommendation Report for

REF NO: BR/222/20/PD

LOCATION: Gordon House
Queensway
Bognor Regis
PO21 1QX

PROPOSAL: Prior Approval under Schedule 2, Part 20, Class AA of the town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an additional 5th storey providing a total of 17 No. flats.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks prior notification for an additional 5th storey providing a total of 17 No. flats.
SITE AREA	
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat.
BOUNDARY TREATMENT	Development on upper floors. No boundary treatment.
SITE CHARACTERISTICS	Gordon House is a 4 storey structure, with the ground floor storey comprising commercial units and the upper storeys being residential flats. The property is constructed with a concrete frame and intermediate concrete floors, and external flint cladding. The property is served with communal stairs and a lift.
CHARACTER OF LOCALITY	Town centre of Bognor Regis with Morrisons car park to the East and the High Street and commercial properties to the South. To the north of the site is Kinrara House and to the West Queensway House which is in the same ownership as Gordon House. The Hatters Inn pub is within corner position on the junction of Queensway with West Street on the opposite side of Methodist Church and the Garden open space to the west and the Steyne Conservation Area to the south-west.

In Pre Application advice dated 7th July 2020 the planner has confirmed 'there would be no materially adverse overlooking or overbearing impacts on the existing flats and commercial premises'.

REPRESENTATIONS

2 letters of objection received:

- This building already has problems every time there is a rain storm ,leaks occur in various parts of the current structure. Water often comes through the walls and into the stairwells etc.
- Work should be done to repair the current building before any further floor should be allowed.
- The reduction in natural sunlight and outlook for those residents living on the first floor.

- There are already cracks within the building. High and heavy traffic volume in the town centre means the building is continuously under vibration.
- Building security will this be compromised during and after construction; scaffolding will make us venerable as well as reduce our light.
- This block has it's fair share of fire alarms going off already....will the additional storey compromise our safety?
- The current rubbish shaft is not sufficient and easily blocks up. There is no option for recycling any rubbish in the vicinity and additional residents will require even more space for rubbish disposal. No facilities for larger items of household rubbish currently at the site.
- Increase in noise disruption/vibration during building works within the street setting, additional dust

COMMENTS ON REPRESENTATIONS RECEIVED:

Permitted Development applications Part 20 of Schedule 2, Class AA - new dwellinghouses on detached buildings in commercial or mixed use of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 do not consider planning merits as part of their assessment, See Legislative Background section below for matters that may be considered.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC, Highways: in terms of highway safety the Local Highway Authority would not be in a position to resist the proposal based on highway safety reasons.

PRIVATE SECTOR HOUSING: No objection.

Full comments are online however it should be noted that the housing standards, including room sizes and facilities must be complied with.

ENVIRONMENTAL HEALTH: No objection subject to condition.

NATURAL ENGLAND: Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance.

ADC Solicitor:

The development is not permitted development and therefore an application for planning permission should be submitted not a prior approval application.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Pagham Harbour Access Management Zone B
Built up area boundary

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
ENVDM2	ENV DM2 Pagham Harbour
QEDM4	QE DM4 Contaminated Land
QEDM1	QE DM1 Noise Pollution
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The application is determined under the provisions of Class AA of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 in respect of new dwellinghouses on detached buildings in commercial or mixed use.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

The application falls to be determined under the provisions of Part 20 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 in respect of new dwellinghouses on detached buildings in commercial or mixed use.

The principle of the development is not in dispute. Class AA allows new dwellinghouses on detached buildings in commercial or mixed use.

Permitted development:

AA.(1) Development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building to which sub-paragraph (2) applies, together with any or all -

(a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;

(b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;

(c) works for the construction of appropriate and safe access to and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases;

(d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

(2) This sub-paragraph applies to a building which is -

(a) used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the Use Classes Order, or as a betting office, pay day loan shop or launderette;

(b) in a mixed use combining -

(i) two or more uses within paragraph (a); or

(ii) a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with one or more uses within paragraph (a).

But states that development is not permitted if:

AA.1. Development is not permitted by Class AA if -

- (a) above ground level, the building is less than three storeys in height;
- (b) the building was constructed before 1st July 1948 or after 5th March 2018;
- (c) on 5th March 2018 the building was in a use other than -
 - (i) a use or mixed use within paragraph AA(2)(a) or (b); or
 - (ii) a use falling within Class C3 of the Schedule to the Use Classes Order;
- (d) the additional storeys are constructed other than on the principal part of the building;
- (e) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of -
 - (i) 3 metres; or
 - (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;
- (f) the new dwellinghouses are not flats;
- (g) the height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building by more than 7 metres (not including plant, in each case);
- (h) the height of the highest part of the roof of the extended building (not including plant) would be greater than 30 metres;
- (i) development under Class AA(1)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;
- (j) development under Class AA(1)(a) would consist of engineering operations other than works within the existing curtilage of the building to -
 - (i) strengthen existing walls;
 - (ii) strengthen existing foundations; or
 - (iii) install or replace water, drainage, electricity, gas or other services;
- (k) in the case of Class AA(1)(b) development there is no existing plant on the building;
- (l) in the case of Class AA(1)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;
- (m) development under Class AA(1)(c) would extend beyond the curtilage of the existing building;
- (n) development under Class AA(1)(d) would -
 - (i) extend beyond the curtilage of the existing building;
 - (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or
 - (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building; or
- (o) the land or site on which the building is located, is or forms part of -
 - (i) article 2(3) land;
 - (ii) a site of special scientific interest;
 - (iii) a listed building or land within its curtilage;
 - (iv) a scheduled monument or land within its curtilage;
 - (v) a safety hazard area;
 - (vi) a military explosives storage area; or
 - (vii) land within 3 kilometres of the perimeter of an aerodrome.

AA.2.(1) Where any development under Class AA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to -

- (a) transport and highways impacts of the development;
- (b) air traffic and defence asset impacts of the development;
- (c) contamination risks in relation to the building;

- (d)flooding risks in relation to the building;
- (e)the external appearance of the building, including -
 - (i)the design and architectural features of -
 - (aa)the principal elevation; and
 - (bb)any side elevation that fronts a highway; and
 - (ii)the impact of any works under sub-paragraph (1)(c) or (d) of Class AA;
- (f)the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- (g)impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- (h)impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
- (i)impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
- (j)whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012(2) issued by the Secretary of State,

and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

(2) In sub-paragraph (1)(h), "commercial premises" means any premises in the building or the surrounding area which are normally used for the purpose of carrying on any trade or business, and includes any premises licensed under the Licensing Act 2003 or any other place of public entertainment.

(3) Any development under Class AA is permitted subject to the condition that it must be completed within a period of 3 years starting with the date prior approval is granted.

(4) Any development under Class AA is permitted subject to the condition that before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.

(5) The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.

(6) The notification referred to in sub-paragraph (5) must be in writing and must include -

- (a)the name of the developer;
- (b)the address or location of the development; and
- (c)the date of completion.

(7) Following the development, every dwellinghouse in the building must remain in use as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.

(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(3), 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(4), 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(5), and
 - (ii)if they determine that the site will be contaminated land, refuse to give prior approval.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

TRANSPORT AND HIGHWAY IMPACT

WSCC have provided comments and have no objection to the proposal. In terms of highway safety the LHA would not be in a position to resist the proposal based on highway safety reasons.

The site is in a sustainable location.

FLOOD RISK

The property is not within an area of high flood risk and as such, there is not considered to be any flood risk to consider.

NOISE AND DISTURBANCE

In respect of noise from commercial premises this is not an issue since this is an application for an extension above existing flats.

CONTAMINATION

Environmental Health have provided no comment. Proposal for an additional 5th storey.

CONCLUSION:

The Council's records show that No 23 Gordon House was on 5 March 2018 used as a Butterfly Body Shaping Studio, as such class D2.

Sub-paragraph (2) states that permitted development within Class AA applies to a building which is (a) used for any purpose within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1(a) (offices) of the Schedule to the Use Classes Order, or as a betting office, pay day loan shop or launderette;

(b) in a mixed use combining-

(i) two or more uses within paragraph (a); or

(ii) a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with one or more uses within paragraph (a).

Development not permitted within Class AA if - (c) on 5th March 2018 the building was in a use other than - (i) a use or mixed use within paragraph AA(2)(a) or (b).

From the above it is clear that on 5th March 2018 No 23 the proposal building was in a use within Class D2, other than - (i) a use or mixed use within paragraph AA(2)(a) or (b), therefore, in line with the legal departments advice, the proposal is not permitted development and therefore an application for planning permission should be submitted not a prior approval application.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their

home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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.

SECTION 106 DETAILS

A Section 106 agreement towards providing a financial contribution of £14,807.00 towards offsetting recreational impacts upon the Pagham Harbour SPA has not been provided by the applicant.

RECOMMENDATION**OBJECTION**

- 1 Part 20 of Schedule 2, Class AA - new dwellinghouses on detached buildings in commercial or mixed use of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 gives Permitted Development rights only if uses are as stated in sub-paragraph (a) of Class AA.

On March 2018 the property was in D2 use, therefore the proposed development is not permitted development and an application for planning permission should be submitted.