

Recommendation Report for

REF NO: BR/24/20/PD

LOCATION: 42 Sudley Road
Bognor Regis
PO21 1ES

PROPOSAL: Notification for Prior Approval under Class O for change of use from an office (Class B1) to a dwelling (Class C3) - Conversion of existing office building into 5 x No. self contained units

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. Proposed floor plans show 4 x 1 bedroom flats and 1 x 2 bedroom flat. Access to Flats 1, 2, 3 and 4 would be through the main front entrance door of the building and the communal hallway/staircase. Access to Flat 5 would be from the front entrance door/communal hallway and at the rear of the site. The proposed plans and elevations show the addition of 1 new high level window to the rear elevation at ground floor level. (N.B. the decision on this current Prior Approval application does NOT authorise this external alteration - see conclusion section of report and informative).
SITE AREA	0.06 hectares.
TOPOGRAPHY	The site is predominantly flat.
TREES	There is vegetation, hedging and trees along the north western boundary of the site, but these would not be affected by the proposed development, since only a change of use is proposed.
BOUNDARY TREATMENT	The side boundary, adjacent to the Bognor Regis Recital Hall car park and no.17 Lyon Street, consists partly of a brick and flint wall (approx.1.5m in height), partly of timber fence panels (approx. 1m in height) and partly of a white painted wall (approx. 1.5m high). The frontage of the site is unenclosed and open. The side boundary, along no.40 Sudley Road, consists timber fence panelling (approx. 2m high), as does the rear boundary onto Lyon Street.
SITE CHARACTERISTICS	The site consists of a detached, 2 storey, locally listed brick building with tiled roof, with an open paved frontage, and a large area of hardstanding/parking at the rear of the site. The property is currently empty and boarded up (as confirmed by a

site visit in February 2020). It appears from historic street view imagery that the building was vacant in 2012 and 2014, but that in 2009 it was occupied by CMS solicitors i.e. in use as an office.

CHARACTER OF LOCALITY

The site is located within the Built-Up Area Boundary, in Bognor Regis town centre. Sudley Road comprises a mix of uses, including; residential properties, the Regis Recital Hall and car park, commercial buildings (such as the rear of Boots, a solicitors office, hair workshop, taxi office) and a public car park. It has an urban character.

In 1958, planning permission was granted for the building to be used as an additional office (ref. BR/96/57/A). Planning permission was granted in 1976 for an extension to be used as storage (ref. BR/346/76).

The property does not appear to have any planning conditions removing permitted development rights. There is also no Article IV Direction on the property removing permitted development rights for Class O i.e. B1(a) office to C3 residential.

REPRESENTATIONS

No representations received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

WSCC Strategic Planning
Environmental Health
Environment Agency
Engineering Services Manager
Engineers (Drainage)

CONSULTATION RESPONSES RECEIVED:

ADC ENVIRONMENTAL HEALTH:

No objection (re contamination/noise impacts).

Recommend condition requiring copy of asbestos register and remedial strategy (where appropriate) must be provided in writing to the Local Planning Authority prior to the works commencing. Recommend informative stating that the granting of planning permission does not indemnify against statutory nuisance action being taken.

ADC DRAINAGE OFFICER:

No objection.

Due to the location, scale and type of application, there are no conditions requested. Any alterations to surface water drainage must be designed and constructed in accordance with Building Regulations.

ENVIRONMENT AGENCY:

No comments received.

WSSC HIGHWAYS:

No objection, subject to condition regarding cycle parking.

The current GPDO is quite clear as to what highways 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.

Site context - The site is located on Sudley Road, an unclassified road which is subject to a 30mph limit. Google mapping indicates that the rear part of the site is used for parking provision, and is accessed off Lyon Street, a c-classified road subject to a 30mph limit.

Access - There are no alterations proposed to the existing access onto Lyon Street. There is no evidence to suggest the existing access is operating unsafely or that the proposals would exacerbate an existing highway safety concern.

Trips - From experience of other similar proposals, the LHA recognise that offices (the permitted use here) have the potential to generate more vehicle movements compared with residential developments (proposed here). As such, there is no expectation for this proposal to give rise to any material increase or material change in the character of traffic in the vicinity of the site.

Parking - the proposed plans do not indicate parking provision, so it is considered on a basis of nil parking provision. The WSCC car parking calculator would expect 6 car parking spaces to serve this development. While some of the parking provision could be provided at the rear of the site, given the site is located in a sustainable location close to shops/amenities and Bognor train station, the proposed nil parking provision is not anticipated to result in a highway safety concern. It may be possible to provide cycle parking/storage on site, such a provision should be secured by a planning condition.

Conclusion - the proposal is not anticipated to generate an increase in movements compared to the potential that could arise from the existing office use. 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 highways terms.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Locally Listed Building

Built-Up Area Boundary

Zone B of the Pagham Harbour Site of International Importance for Nature Conservation (SINC).

DEVELOPMENT PLAN POLICIES**PLANNING POLICY GUIDANCE:**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The application is determined under the provisions of Schedule 2, Part 3, 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 Schedule 2, Part 3, 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.

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;
- (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;
- (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 building and site in question complies with the criteria above; the building is not on Article 2(5) land, the site is not nor forms part of a safety hazard area or military explosives storage area, the building (whilst it is a locally listed building) it is not a (nationally/statutorily) listed building nor within the curtilage of a listed building, and the site is not and does not contain a scheduled monument.

In terms of use, a recent site visit in February 2020 and historic imagery suggests the building is currently vacant and has been in 2014 and 2012, but that in 2009 it was in use as a solicitors office (B1a use). As such, it is concluded that the use of the building when it was last in use was as a use falling within Class B1(a) of the Schedule to the Use Classes Order.

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 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 & HIGHWAY IMPACTS:

WSCC Highways have confirmed that the Prior Approval application is acceptable in transport and highways terms and do not raise any objections. The proposed residential use is not anticipated to generate a material increase in vehicle movements nor a material change in the character of traffic in the vicinity of the site in comparison to the potential that could arise from the existing office use.

There are no highways safety concerns with regard the use of the existing access to the site off Lyon Street. While some car parking provision could be provided at the rear of the site, given the site is located in a sustainable location, the proposed nil parking provision is not anticipated to result in a highway safety concern. WSCC have advised that it may be possible to provide cycle parking/storage on site and that provision should be secured by a planning condition. As such, a planning condition will be applied to the grant of this prior approval, requiring details of the proposed cycle parking.

CONTAMINATION RISK:

Given the age of the building and its office use and likely residential use before that, it is concluded that the site is at low risk of being contaminated. ADC Environmental Health have not raised any objections with regards to contamination. ADC EH recommended adding a planning condition requiring copy of asbestos register and remedial strategy (where appropriate) must be provided in writing to the Local Planning Authority prior to the works commencing. However, this requirement would be dealt with under separate Environmental Health legislation and therefore a planning condition is not deemed to be

warranted in this respect. An informative will be added instead.

FLOOD RISK:

The site is located within Flood Zone 1 (low risk of flooding). The ADC Drainage Officer has not raised any objection with regard to flooding and drainage, nor the requirement for any planning conditions.

The Environment Agency have not responded to the consultation request but this is understandable given the Flood Zone 1 designation.

IMPACTS OF NOISE FROM COMMERCIAL PREMISES ON NEW OCCUPIERS:

The building would be wholly used for residential purposes. Sudley Road comprises a mix of uses, including; residential properties, the Regis Recital Hall and car park, commercial buildings (such as the rear of Boots, a solicitors office, hair workshop, taxi office) and a public car park. In terms of commercial premises in the immediate vicinity of the site, there is a solicitors office next door at no. 40 and the rear of Boots is opposite the site. The solicitors office is not considered to be a commercial use that would generate significant noise which would be incompatible with residential uses in the area. Whilst the rear of Boots and the nearby car park may be subject to deliveries from delivery vehicles, this is a fairly common situation in partly residential streets, there are other residences on the street and noise impacts would not be so severe as to warrant a refusal. ADC Environmental Health have not raised any objections with regards to noise impacts.

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.

EXTERNAL ALTERATIONS:

Class O of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is clear that it only allows for a change of use and no external alterations. The proposed plans and elevations show a new high level window at the rear on ground floor level. Since external alterations cannot be considered under Class O, it is recommended that an informative is added stating that the grant of prior approval does not authorise any external alterations shown on the proposed drawings and the applicant may need a separate planning permission for these.

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. This is subject to a planning condition regarding cycle parking and informatives with respect to asbestos, statutory nuisances and that the granting of prior approval does not authorise the proposed external alteration which may require separate planning permission.

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

- 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 to be submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.
- 2 For the avoidance of doubt the approved details are the Proposed Ground Floor Plan, Proposed First Floor Plan, Proposed Elevations (Side and Rear) and Proposed Elevations (Side and Front), all received 27/01/2020.
- 3 INFORMATIVE: Please note that this decision relates solely to the change of use of the office building to the five dwellings. This decision does not authorise the any proposed external alterations shown on the proposed drawings. The applicant is advised they may need a separate planning permission for these.
- 4 INFORMATIVE: The applicant is advised that, in accordance with Environmental Health legislation, and in order to protect the amenity of occupants, a copy of the property's asbestos register and a remedial strategy (where appropriate) must be provided in writing to the Local Planning Authority prior to the works commencing.
- 5 INFORMATIVE: The applicant is advised that the granting of this prior approval does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Department on (01903) 737555.
- 6 A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>.
- 7 INFORMATIVE:INFORMATIVE: The applicant will also need to comply with current Housing Legislation. This is separate to Planning permission and Building Regulations. The applicant should contact the Private Sector Housing Department at Arun District Council should they not

be aware of the requirements of the current Housing Legislation.