

Recommendation Report for

REF NO: BR/259/19/PD

LOCATION: 20 Sudley Road
Bognor Regis
PO21 1EU

PROPOSAL: Notification for Prior Approval under Schedule 2, Part 3, Class O for a proposed change of use from office use on ground floor (B1(a)) into 2 No. flats (C3 Dwellinghouse).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The property fronts the street scene.
SITE CHARACTERISTICS	The site is occupied by a two storey building which is a building of character and Locally Listed.
CHARACTER OF LOCALITY	The area is mixed in use with both commercial and residential properties within the vicinity.

None.

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Bognor Regis Town Council
No objection.
No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

WSCC Strategic Planning
Environment Agency
Environmental Health

CONSULTATION RESPONSES RECEIVED:

WSCC Highways - The application states that parking provision will be provided to the rear of the

property. It is unclear if this will be allocated to the new flats. The anticipated demand would be for 2 spaces and it is anticipated 3 would have been required for office use. The site benefits from being in a sustainable location. The LHA does not consider the proposal would have an unacceptable impact on the highway and it is therefore considered acceptable.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Built up area boundary.

Locally Listed Building.

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 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.

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 para O.2(1) in respect of 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

(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; or

(f) the site is, or contains, a scheduled monument.

O.2.(1) Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to

(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.

Interpretation of Class O

O.3. For the purposes of Class O, "commercial premises" means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2(1), and includes any premises licensed under the Licensing Act 2003⁴⁹ or any other place of public entertainment.

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 Ministry of Housing, Communities and Local Government in February 2019⁵⁴, 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 IMPACT

WSCC have provided comments and have no objection 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 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, 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