

Recommendation Report for

REF NO: BR/45/19/PD

LOCATION: 2-10 Queensway
Bognor Regis
PO21 1QT

PROPOSAL: Notification for Prior Approval for the proposed change of use of a building from office use (Class B (a)) to 24 No. flats (C3) over two floors.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TOPOGRAPHY	Flat
SITE CHARACTERISTICS	3 storey flat roofed building. Overhang above ground floor public house unit. Some of the application units are currently empty. Elevations comprise crittal windows and light grey rendered panels.
CHARACTER OF LOCALITY	The area is part of a town centre setting with mixed uses, predominantly commercial.

RELEVANT SITE HISTORY

BR/87/09/	Provision of additional 1 bed flat to previously approved scheme (to provide 2 no flats at fourth floor level)	ApproveConditionally 15-07-09
BR/278/08/	Addition of one residential unit to 4th floor of previously implemented scheme	ApproveConditionally 10-11-08
BR/134/08/	Extension & conversion of 3rd floor to form additional 4 no. 2 bed flats following BR/275/06 & BR/13/07 and lift over run to top of 3rd floor	ApproveConditionally 16-07-08
BR/90/08/	Extension of existing kitchen extractor to top of north wall	ApproveConditionally 25-04-08
BR/293/07/	Re-siting of existing air conditioning units from roof to north wall	ApproveConditionally 18-12-07

BR/13/07/	Extension & conversion of 2nd & 3rd floors to form 5 No. 2 bed. flats (Resubmission following BR/275/06)	ApproveConditionally 13-03-07
BR/239/99/	Night club - lifting of Condition No 2 imposed on planning permission BR/58/96 restricting the hours of opening	Withdrawn 01-12-99
BR/69/97	Re-instatement of external cladding to second floor only	Approve 25-04-97
BR/58/96	Change of use from A1 (shops) to D2 (Assembly and Leisure) at first floor level. Provision of 1 no. residential unit at second floor level. Ground floor to remain as existing.	ApproveConditionally 11-09-96
BR/266/17/PL	Alteration to previously implemented scheme for 24 flats to include a further 2 bedrooms & a further 2 bathrooms on a fifth floor. This application affects the character & appearance of The Steyne, Bognor Regis Conservation Area & may affect the setting of a Listed Building.	ApproveConditionally 22-01-18
BR/275/06/	Conversion of the 1st & 2nd floors of 2-10 Queensway to form 7no. 1 bedroom & 3 no. 2 bedroom flats to first floor and 2 no. 1 bedroom & 3 no. 2 bedroom flats to second floor involving change of use at first floor from D2 to C3	ApproveConditionally 25-10-06
BR/50/19/PL	Amendment to previously approved scheme (BR/266/17/PL) for 24 flats. This application may affect the setting of a listed building & may affect the character & appearance of The Steyne, Bognor Conservation Area.	
BR/342/06/	Variation of condition 4 of planning permission BR/315/94. (Change of opening hours)	ApproveConditionally 08-12-06
BR/146/06/	Removal of condition 2 of planning permission BR/315/94 & condition 2 of permission BR/379/05 to allow the playing of music	ApproveConditionally 16-06-06

BR/379/05/

Variation of condition 4 of planning permission
BR/315/94 to change the opening hours to Sunday-
Thursday 8am -1.00am and Friday-Saturday 8am -
1.30am and on other "special days" 8am - 2.30am.

ApproveConditionally
11-01-06

Noted

REPRESENTATIONS

None

COMMENTS ON REPRESENTATIONS RECEIVED:

N/A

CONSULTATIONS

Engineering Services Manager

Engineers (Drainage)

WSCC Strategic Planning

Environmental Health

Environment Agency

CONSULTATION RESPONSES RECEIVED:

WSCC Highways: Do not object:

Proposal is considered as a zero car development.

In heart of Bognor within walking distance of local amenities, public transport, and public car parking.

Do not see any highway safety or capacity issues with this proposal.

Environmental Health: Would recommend refusal:

Lack of information on potential noise impact on future residents.

Not enough information to determine whether residents would be adversely impacted from noise from commercial premises in particular public house.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Built up-Area Boundary
 2KM Buffer SSSI - Bognor Reef/Felpham
 Harbour Access Management Zone B

DEVELOPMENT PLAN POLICES

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PRINCIPLE:

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. As such, the Arun Local Plan and Bognor Regis Neighbourhood Development Plan do not apply.

ASSESMENT UNDER PART 3, CLASS O OF THE TOWN AND COUNTRY (GENERAL PERMITTED DEVELOPMENT) ORDER (as amended):

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.

It is considered that it was.

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

It is not /does not form part of a safety hazard area.

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

it is not /does not form part of a military explosives storage area.

(f/g) the building is a Listed Building or is within the curtilage of a listed building. Is or contains scheduled monument.

The building is not a listed building and is not and does not contain 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, 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.

N.B. No representations have been received.

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:

Highways do not object to this application. They consider that the proposal is considered as a zero car development, in the heart of Bognor within walking distance of local amenities, public transport, and public car parking. Do not see any highway safety or capacity issues with this proposal.

The site is considered to be a sustainable location where residential occupiers can easily access shops, services and facilities without the need to own a car.

CONTAMINATION RISKS:

The site is not contaminated land, there have been no objections relating to contaminated land.

FLOOD RISK:

The application site does not fall within Flood zones 2 and 3 and there are no policy objections to the location of dwellings in Flood Zone 1.

IMPACTS OF NOISE FROM COMMERCIAL PREMISES ON NEW OCCUPIERS:

The Council's Environmental Health Officer would recommend refusal as it is considered that there is a lack of information on potential noise impact on future residents. There is not enough information to determine whether residents would be adversely impacted from noise from commercial premises in particular the public house below.

REPRESENTATIONS FROM LOCAL RESIDENTS & ASSESSMENT AGAINST THE NPPF:

No objections or representations have been received from local residents.

SUMMARY:

It is considered that the proposed change of use is permitted development having regard to Class O.1 of the Order. However due to concerns regarding the noise impacts of the existing development surrounding the site on the proposal, the local authority raises objections to the granting of permitted development. The application must fail with an objection raised for the following reason.

HUMAN RIGHTS ACT

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.

RECOMMENDATION**OBJECTION**

- 1 Development under Part 3, Class O of the Town and Country Planning (Development) Order 2015 as amended, is subject to the conditions, under O.2, 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:

(d) impacts of noise from commercial premises on the intended occupiers of the development.

Objection to the proposed change of use is given on the basis that the Council's Environmental Health Officer has objected to this application on the grounds that there is a lack of information on potential noise impacts on future residents. Therefore, there is insufficient evidence available to determine whether or not future residents would be adversely impacted by noise, with particular regard to the public house below.