

Recommendation Report for

REF NO: FG/149/20/PD

LOCATION: 11 Sea Lane
Ferring
BN12 5DR

PROPOSAL: Prior notification under Schedule 2, Part 3, Class O of the Town & Country (General Permitted Development (England) Order (as amended) for the change of use of the existing first floor of the building from office (Class B1(a)) to 4 No. residential dwellings (Use Class C3) .

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION As above

This application for prior approval for change of use from offices to residential relates to the first floor of the building. The resultant change of use would provide for 3 x1 bed studio flats and a 1 bed flat.

SITE AREA

SITE CHARACTERISTICS

The site is the upstairs of a commercial building with shops downstairs.

CHARACTER OF LOCALITY

The village centre has a variety of retail, restaurant and commercial uses.

REPRESENTATIONS

Lack of car parking in village centre location.

Overdevelopment.

Lack of provision for wheelie bins and cycle parking.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

WSCC Highways - No objection. Cycle parking condition requested.

ADC Environmental Health - No objection subject to conditions.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The environmental health conditions proposed are either covered by other legislation

or not reasonable/necessary.

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

PD RESTRICTION

NO PUBLIC SEWER

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 (consolidated version).

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 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. WSCC do not consider that the change to a C3 use would have a material increase in 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.

NOISE AND DISTURBANCE

The commercial premises are not known to be high noise generators and the conversion works will require building control approval where insulation between premises is one of the regulations that needs compliance.

CONTAMINATION

Environmental Health have provided no comment with regard to contamination. There are no records of the site being contaminated and the proposal is considered to be acceptable on the grounds of contamination.

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 planning conditions regarding provision of cycle parking and sound insulation.

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 The use hereby permitted shall not commence 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 and policy T SP1 of the Arun Local Plan.
- 2 For the avoidance of doubt the approved details are the proposed floor plans FG/SL/04 dated October 2020.