

Recommendation Report for

REF NO: FP/180/20/PD

LOCATION: 23A Felpham Road
Felpham
PO22 7DA

PROPOSAL: Notification of Prior Approval under Schedule 2, Part 3, Class M of the Town & Country (General Permitted Development (England) Order (as amended) for the change of use from shop (A1) to residential (C3).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks prior notification for the conversion of a shop (A1) to a studio dwelling (C3).
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 single storey detached property.
CHARACTER OF LOCALITY	The area is mixed in character with both residential uses and commercial located within Felpham High Street.

RELEVANT SITE HISTORY

FP/39/87	Alterations and extension to form 2 no flats and small shop unit	ApproveConditionally 30-03-87
FP/253/88	Change of use from Shop to Estate Agency Office	ApproveConditionally 31-10-88

None.

REPRESENTATIONS

Felpham Parish Council provided an objection

- Size not compliant with national standards. Government announced PD homes should comply
- Parking issues

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC Highway - No vehicular access or parking is associated with this proposal, and this seems to be the existing arrangement. no evidence to suggest that the existing arrangement is operating unsafely or that the proposal would exacerbate an existing concern. The proposed change of use is not anticipated to result in a material intensification of use. WSCC would expect 1 parking space provision but no not consider highway safety would be detrimentally through the proposal.

No objection is proposed although request a condition relating to cycle parking.

Environmental Health - Request conditions relating to noise, construction and asbestos.

Environment Agency - In the absence of a flood risk assessment we object to the application. The site lies within Flood Zone 2 and 3 which has a high to medium risk of flooding.

Flood risk information was then submitted by the applicant and EA were re-consulted.

Additional comments 24.11.20 - We maintain our objection in the absence of a FRA. The application does not fall under Flood Risk standing advice as it is for a change of use not for a householder application. As it involves an increase in vulnerability within Flood Zone 3 a full FRA is required.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built up area boundary

DEVELOPMENT PLAN POLICIES

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.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Schedule 2, Part 3, Class M 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 from (a) (i) a use falling within Class A1 (shops) of the Schedule to the Use Classes Order to a use in Class C3 (dwellinghouses) of that Schedule.

Class M allows for the change of use (and building operations reasonably necessary to convert the building) but states that development is not permitted if:

(a) the building was not used for one of the uses referred to in Class M(a)-

(i) on 20th March 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;

- The property has been used for an A1 use (shop) in line with (a) above.

(b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;

- Permission to use the building for a use falling within Class A1 (shops) of the Schedule to the Use Classes Order has not been granted only by this Part.

(c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;

- The proposed change of use would not exceed 150 square metres (approx. 25metres squared)

(d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;

- No other development under Class M has been carried out on this property.

(e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

- No extensions are being proposed. Therefore, the external dimensions of the building would not extend beyond the external dimensions of the existing building at any given point.

(f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or

(g) the building is-

(i) on article 2(3) land;

(ii) in a site of special scientific interest;

(iii) in a safety hazard area;

(iv) in a military explosives storage area;

(v) a listed building; or

(vi) a scheduled monument.

- The proposed change of use complies with the above criteria.

Class M (paragraph M.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 in relation to the building,

(c) flooding risks in relation to the building,

(d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use.

(i) an adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and

(e) the design or external appearance of the building,

- Criteria (a) - (e) will be assessed below in the CONCLUSIONS section below.

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 2019(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 5 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/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

HIGHWAYS

WSSC have provided comments. The WSSC Car Parking Calculator would expect 1 parking space to be provided for the new studio accommodation. Whilst on-street car parking is limited in the vicinity, we would not consider that highway safety would be detrimentally affected through the proposed nil car parking provision.

The proposal is not anticipated to result in a material increase or change in the character of traffic. Consequently, no highway concerns would be raised.

FLOOD RISK

The site falls within Flood Zone 2 and 3 and is therefore at a high to medium risk of flooding.

The Environment Agency requested the submission of a FRA and following this some information was submitted however EA have advised that as the application is for a change of use, the standing advice is not acceptable and a full FRA is required.

Furthermore given that this is an area prone to high/medium flooding, in line with flooding advice in the National Planning Policy Framework and policy W DM2 of the Arun Local Plan a sequential test is required. There is no test submitted with this application and the proposal is therefore in conflict with policy W DM2.

The Environmental Agency therefore maintain their objected to the proposal due to the absence of a Flood Risk Assessment.

CONTAMINATED LAND

The site is not considered to be contaminated land and is an existing building. Environmental Health Officers have not commented specifically in respect of contamination, it is unlikely there would be any contamination issues alteration.

SUITABILITY OF SITE

The site is in close proximity to Felpham High Street which comprises retail/office uses at ground floor and residential/commercial use above. The shopping area provides key services to local residents and tourists. There are many retail business units in the locality and as such the loss of this unit is not considered to have an undesirable impact on the locality.

DESIGN AND VISUAL AMENITY

This application includes some minor alterations to the frontage. Shopfront windows would be changed to smaller windows however this is retained within the footprint and does not increase the external dimensions. The works give the property a more residential appearance to enable the front to be used as habitable accommodation. The external alterations are not considered to have a detrimental impact upon the unit or the wider area.

PROVISION OF ADEQUATE NATURAL LIGHT TO ALL HABITABLE ROOMS

Submitted drawings indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls show the provision of adequate natural light to all habitable rooms therefore the proposed change of use would satisfy the requirement.

SUMMARY

In the absence of an acceptable Flood Risk Assessment (FRA) and a sequential test the Council objects to this application and recommend that planning permission is refused.

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 In the absence of an acceptable Flood Risk Assessment (FRA) and a sequential test the proposal is in conflict with policy W DM2 of the Arun Local Plan and the National Planning Policy Framework.