

Recommendation Report for

REF NO: LU/138/17/PD

LOCATION: 9A Beach Road
Littlehampton

PROPOSAL: Prior notification under Class O for change of use from B1(a) office to 1No. 2 Bed flat (C3)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The works would convert the second floor office into a 2 bedroom flat above Chopsticks restaurant at 9A Beach Road Littlehampton. No off street parking is to be provided.
SITE AREA	188 sq.m.
TOPOGRAPHY	Predominantly flat
BOUNDARY TREATMENT	None relevant.
SITE CHARACTERISTICS	Three storey building forming part of Beach Road shopping parade. Restaurant at ground floor level with ancillary offices above. Timber framed shop front with red brick elevations above. Gable roof.
CHARACTER OF LOCALITY	Located within the principle shopping area of Littlehampton. Solicitors offices to south and betting office to the north. Various other retail and commercial uses noted within the locality.

RELEVANT SITE HISTORY

LU/57/92	Change of use from 1 No. 2 bedroom flat to offices to be used in connection with cleaning contractors	ApproveConditionally 06-04-1992
LU/195/14/PL	Change of use of 2nd floor office (ancillary to ground floor retail use) to Solicitors office (A2 Financial and Professional Services)	ApproveConditionally 21-08-2014
LU/325/16/PD	Prior notification under Class O for Change of Use from B1(a) office to 1 No.2 Bed flat (C3)	Objection 27-01-2017

LU/57/92 - Change of use from 1 No. 2 bedroom flat to offices to be used in connection with cleaning contractors.

LU/195/14/PL - It is noted that a previous planning application was granted to convert the use of

the property from B1 offices to A2 solicitors offices however the existing use is given as cleaning company offices and therefore it is assumed that no change of use occurred to A2.

LU/325/16/PD - The same application as here submitted, refused on grounds of insufficient information relating to flood risks on the site and impacts of noise from commercial premises on the intended occupiers of the development.

REPRESENTATIONS

Representations received:

None.

Comments on Representations received:

N/a.

CONSULTATIONS

Environment Agency
Environmental Health
WSCC Strategic Planning

Consultations responses received:

Environmental Health - No objection subject to informatives.

Environment Agency - No objection subject to an informative

WSCC - County Highways - No objection subject to a condition regarding bicycle parking.

Comments on Consultation responses:

Comments noted. However the prior notification procedure does not allow the imposition of conditions.

POLICY CONTEXT

Designation applicable to site:
NO PUBLIC SEWER
ADOPTED LOC PLN
CLASS A ROAD
BLDGS SPEC CHAR
PD RESTRICTION
Abutts cons area

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

PLANNING POLICY GUIDANCE

NPPG
NPPF

National Planning Practice Guidance
National Planning Policy Framework

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 2017 following publication of modifications to the Plan.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. 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).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Kingston; Littlehampton; Rustington; Yapton.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 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 paragraph O.2(1) in respect of the 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 immediately before 30th May 2013 or, if the building was not in use immediately before 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 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.

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

WHETHER PERMITTED DEVELOPMENT:

The first thing to consider is whether the proposed change of use complies with the terms of Class O.

Section 0.1 sets out the cases where development is not permitted. (as amended by the GDPO 2016 amendment).

Development is not permitted if;

- (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:";
- (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;
- (d) the site is, or forms part of, a safety hazard area;
- (e) the site is, or forms part of, a military explosives storage area;
- (f) the building is a listed building or is within the curtilage of a listed building; or
- (g) the site is, or contains, a scheduled monument.

It is accepted that the proposed change of use complies with the above paragraphs and is therefore permitted development subject to the following conditions set out in part 0.2 .

"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.

TRANSPORT AND HIGHWAY IMPACTS:

The Highway Authority have not raised any objections to the application. They comment that no parking is required due to the town centre location of the proposed apartment. They have requested a condition on cycle parking. This type of application does not provide for conditions to be imposed. An objection on this ground alone is not sustainable.

CONTAMINATION:

ADC Environmental Health Officers have not raised any objections or comments with regards to contamination issues and it is accepted that there are none as stated by the applicants.

FLOOD RISK:

The Environment Agency note that the site is in Flood Zone 3 and have accepted the Flood Risk Assessment submitted by the applicants and therefore have no objection to the scheme subject to an informative.

NOISE IMPACTS

The Councils Environmental Health Department have accepted the Acoustic Report submitted and have no objection to the scheme in terms of impacts of noise from commercial premises on the intended occupiers of the development.

SUMMARY:

It is considered that the proposed change of use is permitted development having regard to Class O.1 and O.2 of the Order and the local authority raises no objections to the granting of permitted development and no further prior approval is required.

No objection to the permitted development application is made and the application is approved.

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 SUBJECT TO CONDITIONS

- 1 **INFORMATIVE:**
Arun District Council Environmental Health Team - I refer to the Acoustic Report provided by Acoustical Control Engineers and Consultants: Residential Acoustic Assessment Ref B4633 2017 0411R, 11 April 2017. This Department has no objection to this development in so far as double glazing together with suitable trickle vents shall be provided, to allow ventilation of the lounge with the windows shut.

- 2 **INFORMATIVE:**

General
- Must meet the requirements of the Housing Act 2004 and be free of Category 1 and significant Category 2 Hazards; including sufficient ventilation and natural lighting to all habitable rooms.

Room Sizes
- Room sizes should meet the minimum standards for houses in multiple occupation if the flats are intended to be rented.

Fire Safety
- Appropriate fire precaution facilities and equipment must be provided of such type, number and location as are considered necessary. Guidance on fire safety is contained in the LACORS guidance document - "Housing - Fire Safety, Guidance on fire safety precautions for certain types of existing housing"

- 3 **INFORMATIVE:**
The following issues are not within our direct remit or expertise, but nevertheless are important considerations for managing flood risk for this development. Prior to deciding this application we recommend that due consideration by the Local Planning Authority is given to the issue(s) below and consultation be undertaken with the relevant experts where necessary.
Issues are:
 - Provision of and adequacy of a temporary refuge
 - Details and adequacy of an emergency plan
 - Adequacy of rescue or evacuation arrangements
 - Whether insurance can be gained or not