

Recommendation Report for

REF NO: LU/202/20/PD

LOCATION: Gratwicke House
10 East Street
Littlehampton
BN17 6AW

PROPOSAL: Notification for Prior Approval under Class O for change of use of part of the building from a use falling within Class B1(a)(offices), to a use falling within Class C3 (dwellinghouses) - conversion of existing office to 2 No. self contained units. This application is Not CIL Liable as flats within Zone 4.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. This application for prior approval for change of use from offices to residential relates to the ground and first floor of the north wing of the building. The resultant change of use would provide for 2 new self-contained residential units comprising one-bedroom apartments (C3).
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The premises is located on the back edge of the pavement.
SITE CHARACTERISTICS	The site is a former public house which was extended and converted in 2010 to provide ground and part first floor serviced office together with conversion of upper parts and eastern wing to form three new residential units as 2 x 2 bed maisonettes and 1 x 3 bed house. 3 new 3 bed houses were erected on land to the north of the existing building.
CHARACTER OF LOCALITY	Town centre location. Residential to east and north west. Retail and business uses to west and south.

REPRESENTATIONS

Littlehampton Town Council - No Objection

COMMENTS ON REPRESENTATIONS RECEIVED:

None

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

County Highways - No Objection

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Vehicular access currently exists to the site via a vehicle crossover supplying access to a hardstanding area large enough to accommodate 1 car. Visibility at the existing access appears sufficient for the anticipated road speeds in this location. Any displacement of cars onto the local network would already be a common practice from the existing use.

There is no evidence to suggest that the existing access is operating unsafely or that the change of use would exacerbate an existing safety concern.

The site is in sustainable location, situated within close proximity to local shops, bus services and a train station, and there are viable options for sustainable modes of transport to reduce the reliance upon the private car..The level of traffic generated by this proposal would not result in an increase over the potential traffic generated through the office use.

Consideration should be given to cycle parking.

Environment Agency - No Objection subject to imposition of a condition.

The proposed development will only meet the National Planning Policy Framework's requirements if the suggested planning condition is imposed. Without this condition we would object to this proposal due to flood risk.

Flood Warning and Emergency Response

One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, local planning authorities are advised to formally consider the emergency planning and rescue implications of new development in making their decisions.

Environmental Health - No Objection

Fire safety, room sizes, ventilation and hazards should be considered.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

Conservation Area

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/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 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 within an area of high flood risk and as such a condition requiring compliance with submitted FRA has been imposed in accordance with Environment Agency's comments.

NOISE AND DISTURBANCE

In respect of noise from commercial premises this is limited as there are mostly dwellings in the vicinity. The commercial premises are not known to be high noise generators and much of the former public house has been converted to residential use.

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 compliance with the submitted FRA and provision of cycle parking.

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 No part of the development shall be first occupied 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.
- 2 The development shall be carried out in accordance with the submitted flood risk assessment (submitted May 2020 by ARK Ltd) and the following mitigation measures it details:

· Finished floor levels shall be set no lower than existing
· Flood resilience measures shall be implemented as set out in section 10.3 of the flood risk assessment, with special importance for the 600mm high floodgates

These mitigation measures shall be fully implemented prior to occupation of the dwellings and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants, especially to those with bedrooms on the ground floor.
- 3 For the avoidance of doubt the approved details are the Block and Site Location Plan TA 1224/01 rev X received 29/07/2020.
- 4 INFORMATIVE: Please note that this decision relates solely to the change of use of the office building to two dwellings. This decision does not authorise any associated external alterations which may require the submission of a separate application for planning permission.
- 5 INFORMATIVE: The applicant will need to comply with current Housing Legislation. This is

separate to Planning permission and Building Regulations. The applicant should contact the Private Sector Housing Department at Arun District Council should they not be aware of the requirements of the current Housing Legislation.