

Recommendation Report for

REF NO: LU/376/19/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 building from an office (Class B1a) to dwellings (Class C3) - conversion of existing offices into 2 x No. self contained units

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. Proposed floor plans show new 1 x 2 bedroom flat occupying part of the ground floor (other part occupied by B1(a) office) and new 1 x 2 bedroom flat occupying the entire first floor. Access to the ground floor flat would be to the front (north-east) of the building from East Street. Access to the first floor flat would be to the side passageway to the north. The remaining part of the building consists of 3 existing residential units (2 x 2 bed maisonettes and 1 x 3 bedroom house).
BOUNDARY TREATMENT	The building is open and unenclosed to the front on East Street and the side on Church Street, and the building directly abuts the footway. To the rear of the building there is a brick and flint boundary wall at a height of around 1.5-2m.
SITE CHARACTERISTICS	The site consists of a detached, 2 storey building, which was a former public house and is a locally listed building. It is located on a corner site at the junction between East Street and Church Street. The building has painted brick and tile hung elevations, a tile roof and painted timber windows and doors. It has gable end roof features with black timber barge boards detailing. Part of the building has already been extended and converted into 2 x 2 bed maisonettes and 1 x 3 bed house and the remaining part of the building is in use as serviced offices 'Littlehampton Business Centre' and 'Microexpert', a digital security firm.
CHARACTER OF LOCALITY	The site is located within the Built-Up Area Boundary, in Littlehampton town centre. The site is also within the East Street Conservation Area. The site is within EA Flood Zone 3. The character of the area is urban, with a mix of commercial and residential uses. The adjacent property, 1 Church Street (Vine Cottage) is Grade II listed.

In 2009, the site was granted planning permission (ref. LU/364/09) for the conversion and extension of the vacant former public house to serviced offices and three new residential units (2 x 2 bed maisonettes and 1 x 3 bed house) and also the erection of 3 x 3 bed houses on land to the north of the existing building.

The property does not appear to have any planning conditions removing permitted development rights. There is also no Article IV Direction on the property removing permitted development rights for Class O i.e. B1(a) office to C3 residential.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Littlehampton Town Council

Objection. If approved, more people would be living in the building. The Town Council Committee supports the Environment Agency in its objection that more work is needed to mitigate the flood risk.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. Prior Approval is to be with held and the current application refused, due to flood risk impacts.

CONSULTATIONS

WSSC Strategic Planning

Environment Agency

Environmental Health

CONSULTATION RESPONSES RECEIVED:

WSSC HIGHWAYS:

No objection, subject to condition regarding cycle parking. if approving application

The current GPDO is quite clear as to what highways matters can be considered, namely whether the proposal is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site.

Conclusion - the proposal is not anticipated to generate an increase in movements compared to the potential that could arise from the existing office use. The current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highways terms.

ADC ENVIRONMENTAL HEALTH:

No objection regarding contamination risks and noise impacts, subject to planning conditions. Recommend condition requiring copy of asbestos register and remedial strategy (where appropriate) must be provided in writing to the Local Planning Authority prior to the works commencing. Recommend condition requiring a scheme of insulation to protect the new residential units adjacent to the existing commercial unit from noise to be submitted to and approved by the LPA.

ENVIRONMENT AGENCY:

Objection raised.

Comments (received 22/01/2020) on initial Flood Risk Assessment (received 09/01/2020):

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the Planning Practice Guidance (PPG). The FRA does not therefore adequately assess the development's flood risks. In particular, the FRA fails to:

- Accurately state the flood zone. The application site is located wholly within flood zone 3 as shown on the EA Flood Map for Planning.
- Take the impacts of climate change into account.
- Consider how people will be kept safe from the identified flood hazards.
- Consider how a range of flooding events (including extreme events) will affect people and property.
- Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.

Comments (received 24/03/2020) on revised Flood Risk Assessment (received 13/03/2020):

The application is for a change of use from offices to residential dwellings in flood zone 3 (High Risk). Although the new FRA correctly states that the application site is in flood zone 3, it still states that it is low risk which is incorrect. It also states that the site is not within the flood extent with breaching, when the site is within the 2115 flood extent in both defended and undefended scenarios.

The FRA also states that there is no site specific modelling data available for the site, whereas there is data available and was provided to ARK Environmental Assessment on 13/03/2020. We have no record of request for product 4 data prior to this. Although there is mention of evacuation, this is insufficient due to the vulnerability of the dwelling and the site being in flood zone 3 (high risk).

Therefore, the applicant must submit a full flood evacuation plan with the FRA.

As a result we are holding our objection and request that the applicant utilises product 4 information with flood levels and depths for the site, demonstrates that occupants will remain safe for the lifetime of the development and produce a full evacuation plan for occupants to use in case of a flood event.

In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application and recommend that planning permission is refused.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted - to be dealt with under 'Conclusion' section of report.

POLICY CONTEXT

Designation applicable to site:

Locally Listed Building

Built-up Area Boundary

Conservation Area

Flood Zone 3

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

QEDM1	QE DM1 Noise Pollution
QEDM4	QE DM4 Contaminated Land

TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The application is determined under the provisions of Schedule 2, Part 3, 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.

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.

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;
- (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; and
- (f) the site is or contains a scheduled monument.

The building and site in question complies with the criteria above; the building is not on Article 2(5) land, the site is not nor forms part of a safety hazard area or military explosives storage area, the building (whilst it is a locally listed building) it is not a (nationally/statutorily) listed building nor within the curtilage of a listed building (although adjacent to Grade II listed Vine Cottage at 1 Church Street), and the site is not and does not contain a scheduled monument.

In terms of use, a recent site visit in February 2020 confirmed that this part of the building was in use as offices (serviced offices 'Littlehampton Business Centre' and 'Microexpert', a digital security firm). Historic street view imagery shows this part of the building was in use as a Locksmith business and serviced offices in June 2012, and that in June 2018 it was in use as a digital security firm and serviced offices. The Council's Revenues & Benefits team have confirmed that, for the purposes of business rates, the property description for this premises is 'Offices and Premises' and that this has been the case since it was set up in 2012. From the notes on the account in 2012 this indicates the property is a series of rooms which are/can be occupied by different businesses (serviced offices). As such, it is concluded that the building was is use for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes

Order (i) on 29th May 2013.

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. This period began on 8th January 2020, the 56 days expired on 4th March 2020, and a further extension of time was agreed between the applicant and LPA until 26th March 2020.

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:

WSCC Highways have confirmed that the Prior Approval application is acceptable in transport and highways terms and do not raise any objections. The proposed residential use is not anticipated to generate a material increase in vehicle movements nor a material change in the character of traffic in the

vicinity of the site in comparison to the potential that could arise from the existing office use.

There are no highways safety concerns with regard the existing access. Given there is currently no car parking provision on site, that the site is located in a sustainable location, and that the proposed residential use is not anticipated to generate a material increase in vehicle movements in comparison to the existing office use, the proposed nil parking provision does not present a highway safety concern. WSCC have advised that if the application were to be approved then cycle parking provision should be secured by a planning condition.

CONTAMINATION RISK:

ADC Environmental Health have not raised any objections with regards to contamination risk. However, they have recommended adding a planning condition requiring that a copy of the asbestos register and a remedial strategy (where appropriate) must be provided in writing to the Local Planning Authority prior to the works commencing. However, this requirement would be dealt with under separate Environmental Health legislation and therefore a planning condition is not deemed to be warranted in this respect. In the event of the application being approved, an informative could be added instead, to remind the applicant of this requirement.

FLOOD RISK:

The site is located within Flood Zone 3 (high risk of flooding).

The Environment Agency have raised objections on two separate occasions, to the first Flood Risk Assessment (received 09/01/2020) and the revised Flood Risk Assessment (received 13/03/2020).

They have advised that the submitted (revised) FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the Planning Practice Guidance (PPG). The FRA does not therefore adequately assess the development's flood risks. In particular, the FRA fails to:

- Utilise product 4 flood level and depth data for the site
- Accurately state the flood risk at the site. The site is located wholly within flood zone 3, therefore is at high risk of flooding.
- Take the impacts of climate change into account.
- Consider how people will be kept safe from the identified flood hazards.
- Consider how a range of flooding events (including extreme events) will affect people and property.
- Provide a flood emergency and evacuation plan given the risk of the site and the vulnerability of the development.

In the absence of an acceptable Flood Risk Assessment (FRA) the EA object to this application and recommend that planning permission is refused.

On this basis, the flooding risks on the site are objected to, Prior Approval is withheld, and the application is to be refused.

IMPACTS OF NOISE FROM COMMERCIAL PREMISES ON NEW OCCUPIERS:

The immediate area comprises a mix of commercial and residential uses. In terms of commercial premises in the immediate vicinity of the site, part of the building would still be retained for office use and would share adjoining walls with the new residential units.

ADC Environmental Health have not raised any objection with regard to noise impacts. However, they have recommended a planning condition requiring a scheme of insulation to protect the new residential units adjacent to the existing commercial unit from noise to be submitted to and approved by the LPA. All works which form part of the scheme shall be completed prior to occupation. Testing shall then be undertaken by a competent acoustician and submitted to the LPA. If the test shows the specified noise criteria have not been met, a further scheme of attenuation measures shall be submitted to and agreed with the LPA and completed within 3 months of the installation. In the event of the application being approved, this would be added as a planning condition to ensure the noise impacts of the proposals would be acceptable.

REPRESENTATIONS FROM LOCAL RESIDENTS & ASSESSMENT AGAINST THE NPPF:

No objections or representations have been received from individual residents. Littlehampton Town Council have objected to the application, on the basis of the EA's objection to the FRA.

SUMMARY:

There are no objections, subject to appropriate planning conditions, in respect of the transport/highways impacts of the development, contamination risks on the site, and the impacts of noise from commercial premises on the intended occupiers of the development. However, in the absence of an acceptable Flood Risk Assessment (FRA), there is an objection with regard to the flooding risks on the site. As such, the proposals fail to comply with Schedule 2, Part 3, Class O, paragraph O.2 (c) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). It is recommended that Prior Approval is withheld and the application refused on this basis.

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), there is an objection with regard to the flooding risks on the site. As such, the proposals fail to comply with Schedule 2, Part 3, Class O, paragraph O.2 (c) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). It is recommended that Prior Approval is withheld and the application refused on this basis.
- 2 INFORMATIVE: If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.