

Recommendation Report for

REF NO: LU/82/22/PD

LOCATION: 38/40 High Street
Littlehampton

PROPOSAL: Prior notification under Schedule 2, Part 3, Class G for the change of use of upper floors to 2 No flats.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application seeks confirmation of whether the prior approval of the Local Planning Authority is required in respect of the change of use of the upper floors of the commercial unit of 38/40 High Street (Use Class E) to two flats, under Schedule 2, Part 3, Class G of the General Permitted Development Order (GPDO) 2015 (as amended).

It is proposed that the first and second floor be converted to two flats. Unit 1 would include an ensuite bedroom, W.C. and an open plan kitchen/living/dining room at first floor level in addition to four further bedrooms and two bathrooms at second floor level. Unit 2 would include four ensuite bedrooms and an open plan kitchen/living/dining room at first floor level and two bedrooms with additional communal space at second floor level.

SITE CHARACTERISTICS

The total GIA of Unit 1 is 118.6sqm and Unit 2 is 151.6sqm.

The site comprises a three-storey commercial building in use as clothing shop at ground floor with ancillary offices, storage and staff facilities within the upper floors. There is a service yard to the rear with a separate access from Sparks Court. The building includes a single storey flat roof extension and a hipped roof two storey section to the rear elevation with a dormer window to the rear roofslope.

CHARACTER OF LOCALITY

The site is located in the town centre within the main retail area.

RELEVANT SITE HISTORY

LU/507/86	Change of use from office to photographic studio	ApproveConditionally 19-12-86
LU/565/83	Change Of Use To Both First And Second Floors Of The Premises From Residential To Offices	ApproveConditionally 01-02-84 REPORT_1011(ODB)

REPRESENTATIONS

Littlehampton Town Council - Objection
The proposals constitute an overdevelopment of the site.

COMMENTS ON REPRESENTATIONS RECEIVED:

Overdevelopment cannot be considered as part of a Prior Approval request as it is not included in the impact tests of Class G of the GPDO. Any approval for a unit of shared occupation is restricted to a maximum of 6 people living as a family.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No Objection.
Concerns that internal noise levels may not meet the criteria stipulated in BS8233:2014 due to the building's historic retail use and location in the High Street. Recommend imposition of conditions in respect of noise and construction.

Environmental Health (public sector housing) - No Objection.
Consideration has been given to HMO legislation.
Unit 1: The proposed second floor communal bathroom located nearest to the staircase does not appear to be of an adequate size or layout.
Unit 2: All the ensuite bathrooms, possibly with the exception of one, appear to be inadequate in terms of size and layout.
Any property that has 5 or more people sharing facilities will require a licence from the Council and the property must meet minimum standards.
Based on the proposed plans, unit 1 has the potential to accommodate up to 9 occupants and unit 2 up to 12 occupants.

County Highways - No Objection
The application does not propose any parking provision or vehicular access to the dwellings.
However the site is sustainably located, situated close to local shops, bus services and a train station, reducing the reliance upon the private car. A minimum of 6 parking spaces could be provided for a development of this size and location. Whilst on-street car parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be detriment to highway safety. Highway safety would not be detrimentally affected through the proposed nil car parking provision. Cycle parking could be conditioned.

COMMENTS ON CONSULTATION RESPONSES:

Comments addressed in Conclusions section of report.

POLICY CONTEXT

Designation applicable to site:
Within Built Up Area Boundary

Within Town Centre
Flood Zone 1

DEVELOPMENT PLAN POLICIES

POLICY COMMENTARY

The application is determined under the provisions of Class G of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) in respect of a development consisting of conversion of upper floors to 2 flats.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application falls to be determined under the provisions of Schedule 2, Part 3, Class G 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) a use falling within Class A1 (shops) of the Schedule of the Use Classes Order to up to 2 flats.

In August 2021 Class G was altered to required the need for a Prior Approval application to be submitted to the local authority. The proposals will be assessed against contamination, flood risk, impacts of noise from commercial premises, natural light to all habitable rooms and the storage of domestic waste.

The principle of the development is not in dispute as Class G allows for development consisting of a change of use of a building -

- (a) from a use within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a mixed use for any purpose within that Class and as up to 2 flats;
- (c) from a use within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order, to a mixed use for any purpose within Class E (commercial, business and service) of Schedule 2 to that Order and as up to 2 flats;
- (e) from a use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order to a mixed use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order and as up to 2 flats.

Development is not permitted as set out in G1 if:

- (a) some or all of the parts of the building used for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat;
- (b) where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat;
- (c) a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)
 - (i) by a single person or by people living together as a family, or
 - (ii) by not more than 6 residents living together as a single household (including a household where care is provided for residents);
- (d) before beginning 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 -
 - (i) contamination risks in relation to the building;
 - (ii) flooding risks in relation to the building;
 - (iii) impacts of noise from commercial premises on the intended occupiers of the development;
 - (iv) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
 - (v) arrangements required for the storage and management of domestic waste.

The Local Planning Authority may refuse an application where, in its opinion:

- (a) the proposed development does not comply with, or
- (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified.

The Local Planning Authority must, when determining an application:

- (a) take into account any representations made to them as a result of any notice given under sub-paragraph (5) and any consultation under sub-paragraph (6) or (8); and
- (b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

In respect of compliance with Class G - commercial, business and service or betting office or pay day loan shop to mixed use Permitted Development criteria as set out above the proposal falls within the use. The application unit comprises the first and second floors of 38/40 High Street, Littlehampton which is of a lawful retail use (Use Class E). The site is currently in use as retail (M&Co.) and business rates records from 2010 and 2017 list the site as 'shop and premises'. The lawful use of the planning unit is therefore not in question and the unit benefits from the rights set out in Class G.

Conditions

G.1 Development permitted by Class G is subject to the following conditions:

- a) some or all of the parts of the building used for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat;

The existing retail use (class E) at ground floor level will be retained below the upper floors of the building to be converted to flats.

- (b) where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat;

The ground floor of the premises has a display window and this would be retained as no part of the ground floor would be used as a flat.

- (c) a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)
 - (i) by a single person or by people living together as a family, or
 - (ii) by not more than 6 residents living together as a single household (including a household where care is provided for residents).;

Although one flat has 5 bedrooms capable of occupation by 9 people and the other has 6 bedrooms capable of occupation by 12 people the total number of occupants of each flat can be conditioned to ensure compliance with G.1 (c). This would ensure both flats would be occupied by no more than 6 residents living together as a single household. The Nationally Described Space Standards require a minimum gross internal floor area (GIA) of 116sqm for a six-bedroom two storey unit, a minimum floor

area of 7.5sqm and a minimum width of 2.15m for a single bedroom, and a minimum floor area of 11.5sqm and a minimum width of 2.55m (with at least one room with a width of 2.75m) for a double bedroom. The submitted accommodation schedule demonstrates compliance with this standard.

(d) before beginning 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

(i) contamination risks in relation to the building;

Environmental Health have no concerns regarding any contamination issues associated with the application site. The retail use of the site is unlikely to have caused any contamination of the land.

(ii) flooding risks in relation to the building;

The site is categorised by Environment Agency mapping as Flood Zone 1 and is therefore at low risk of flooding. The accommodation is also located above ground floor level. The Environment Agency have been consulted, but have not responded. The risk is therefore acceptable.

(iii) impacts of noise from commercial premises on the intended occupiers of the development;

The site is located in the town centre with a rear access yard where noise will result from nearby commercial uses from delivery vehicles and there is a public house garden located to the south of the site. However with imposition of an appropriate noise condition harmful disturbance to occupiers would not result. The environmental health officer has expressed concern that internal noise levels may not meet the criteria stipulated in BS8233:2014 due to the building's historic retail use and location in the High Street, but has no objection if levels are controlled by a suitably worded conditions in respect of noise and construction. Construction activities cannot be considered as part of this proposal and this suggested condition has not been included in the recommendation.

(iv) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

Both open plan living/kitchen/dining rooms would be served by bay windows and secondary windows. All bedrooms would have vertical windows, and therefore would have natural outlook. All habitable rooms would benefit from a good standard of natural light. The environmental health officer has no objection to the proposal in terms of natural light to habitable rooms.

(v) arrangements required for the storage and management of domestic waste;

Refuse and recycling storage would be provided for both units within the rear amenity area as indicated on the ground floor plan. Cycle storage would be secure being located behind an access gate.

SUMMARY

The proposal is compliant with the requirements of Class G and it is recommended, having considered the content of the NPPF, that no objection is raised to the details submitted in respect of prior approval as set out above subject to conditions in relation to noise and number of occupants.

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 total number of occupants in each flat shall not exceed 6.

Reason: To ensure compliance with the provisions of Schedule 2, Part 3, Class G of the General Permitted Development Order (GPDO) 2015 (as amended) and to prevent an over intensive use of the site..
- 2 Prior to occupation of the flats hereby approved, a scheme to demonstrate that the internal noise levels within the residential units will conform to the 'Indoor ambient noise levels for dwellings' guideline values specified within Table 4 under section 7.7.2 of BS 8233:2014 which shall be complied by a competent acoustician on sound insulation and noise reduction for buildings, shall be submitted to and approved in writing by the Local Planning Authority. The scheme should take into account the correct number of air changes required for noise affected rooms. The development shall proceed in accordance with the works specified in the approved scheme and be retained thereafter.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan.
- 3 For the avoidance of doubt the approved details are the Block Plan, Proposed Floor Plans, Elevations, Sections 03
Existing Sections and Elevations 02 submitted on 23-03-2022.
- 4 INFORMATIVE: The applicant should consider the comments of the HMO Officer and to have regard to the requirements of the Arun District Council Houses in Multiple Occupation Standards (2020), the requirements of The Management of Houses in Multiple Occupation (England) Regulations 2006, the requirements of The Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) Regulations 2006 (as amended) and the requirements of any other associated Housing and/or Houses in Multiple Occupation legislation or regulations if applicable to the property/site.