

Recommendation Report for

REF NO: M/85/15/PD

LOCATION: 1 Middleton Court
57 Elmer Road
Middleton

PROPOSAL: Application for prior approval under Class M for change of use from solicitors office (Use Class A2) to dwellinghouse (Use Class C3)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application falls to be determined under the provisions of Class M, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 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 A2 (offices) of that schedule.

The principle of the development is not in dispute. Class M itself states that the consideration of the notification concerns only the following 5 issues

- a) transport & highway impacts,
- b) contamination risks,
- c) flooding risks,

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) on 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,

. However, 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:

" The local planning authority shall, when determining an application-

(a) take into account any representations made to them as a result of any consultation under paragraphs (5) or (6) and any notice given under paragraph (8);

(b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application;"

(c) in relation to the contamination risks on the siteâ€

(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 3 issues stated above. Advice has been received from the Department for Communities and Local Government (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 expires on 5th of October 2015.

The proposal involves the change of use of the

	ground floor class A2 office use (1 unit) to 2 single residential 1 bedroomed ground floor apartments.
SITE AREA	113 sq.metres floor space
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	N/A
SITE CHARACTERISTICS	The site comprises of the ground floor A2 estate agents office with display window. There are residential apartments to the first floor of the building.
CHARACTER OF LOCALITY	A local parade of 2 A2 offices in Middleton in a residential area adjacent to a public house. Middleton is located between Bognor Regis and Littlehampton

RELEVANT SITE HISTORY

None relevant

REPRESENTATIONS

Representations received:

N/A

Comments on Representations received:

N/A

CONSULTATIONS

WSCC Strategic Planning

Environmental Health

Environment Agency

Consultations responses received:

Environmental Agency:

The Environment Agency has no objection to the proposed development as submitted. It has given advice on pollution prevention which will be included in an informative.

Environmental Health:

No comments offered.

West Sussex County Council - Highways:

There would be no highway grounds to resist prior approval (residential use likely to generate less traffic than an office use).

Comments on Consultation responses:

Comments noted

POLICY CONTEXT

Designation applicable to site:
ADOPTED LOC PLN
CLASS C ROAD

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

PLANNING POLICY GUIDANCE

POLICY COMMENTARY

The application is determined under the provisions of Class M of the Town and Country Planning (General Permitted Development) Order 2015 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 A2 (offices open to visiting members of the public) of that schedule.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Class M of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) states that the only aspects that can be considered with regard to this prior approval application are transport & highway impacts, contamination risks, flooding risks, adequate provision of services of the sort that may be provided by a building in 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 and the design and appearance of the building. The Act also states that the provisions of Paragraph W shall apply in relation to any application and part (10) of paragraph W includes the following:

" The local planning authority shall, when determining an application-

- (a) take into account any representations made to them as a result of any consultation under paragraphs (5) or (6) and any notice given under paragraph (8);
- (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application;"
- (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.

However, the local planning authority is only able to have regard to the NPPF and representations in terms of the 3 issues stated above.

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 AND HIGHWAYS ISSUES:

The proposed change of use from A2 office to 2, 1 bedroom flats will not lead to a material increase in traffic generation or a change in its characteristics and parking provision at the site will remain unchanged.

No objection has been received from West Sussex County Council Highways department in relation to the proposed change of use.

CONTAMINATION RISKS

The site is not contaminated land and the proposed conversion of the building would have no associated contamination risks. No objection in relation to the proposal has been received from the Council's Environmental Health department.

FLOOD RISK:

The application site does not fall within a Flood Zone. Therefore, no objections to the proposal are raised in this regard.

ADEQUATE PROVISION OF A2 SERVICES OR EVIDENCE OF NON VIABILITY

The solicitors office has been vacant since November 2013 and there has been little or no interest in or demand from this commercial site separated as it is from any other commercial area.

DESIGN AND APPEARANCE OF THE BUILDING

There is not considered to be any adverse impacts from the changes to the design and appearance of the buildings.

REPRESENTATIONS FROM LOCAL RESIDENTS, ASSESSMENT AGAINST THE NPPF AND CONTAMINATION ISSUES.

It is only possible to have regard to the NPPF with regard to the 5 stated issues. However, in this case, no letters have been received from local residents and therefore there is no requirement to assess the proposal against the NPPF.

No contamination issues have been raised following consultation with the Environment Agency and the Council's Environmental Health team.

CONCLUSION

It is therefore considered that the siting and location of the proposed apartments are in accordance with Schedule 2, Part 4, Class M of the Town and Country Planning (General Permitted Development) Order 2015 and as such it is recommended that no objection is raised in

relation to the proposal.

RECOMMENDATION

NO OBJECTION

- 1 **INFORMATIVE:**The site lies on a principal aquifer. All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to our guidance 'PPG1 - General guide to the prevention of pollution', which is available on our website at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>
In the event of a pollution incident, all works should cease immediately and the Environment Agency should be contacted via the incident hotline 0800 807060.