Recommendation Report for Prior Notification

REF NO: R/148/25/PD

LOCATION: 55-57 Sea Lane
Rustington
BN16 2RQ

PROPOSAL: Prior approval under Schedule 2, Part 3, Class MA for the change of use of first and second floors from office use to 1 No maisonette.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application is a prior notification under the Town and Country Planning Act (General Permitted Development) Order 2015 Part 3 Class MA to determine whether the Local Planning Authority have any objections in relation to the change of use of the first and second floor of a property from commercial, business and service uses to residential use.
SITE CHARACTERISTICS	The site is a two and a half storey terraced property, with a flat roofed dormer on the front elevation.
CHARACTER OF LOCALITY	The area has a mix of residential and commercial uses and is in close proximity to Rustington village centre. The ground floors of immediate neighbouring properties are in commercial use.

RELEVANT SITE HISTORY

R/183/16/PL	New shopfront	ApproveConditionally 09-09-16

Planning history noted.

REPRESENTATIONS

No representations have been received from nearby occupiers.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Environmental Health - No objection.

West Sussex County Council Highways - No objection.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
Built Up Area Boundary

DEVELOPMENT PLAN POLICIES

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application is to be determined under the provisions of Schedule 2, Part 3, Class MA 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 from a use falling within Class E (commercial, business and service) of Schedule 2 of the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

CLASS MA TESTS -
Condition MA.1 - Development is not permitted by Class MA -

(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

OFFICER COMMENT:
From review of historical imaging, applications, and the submitted information, the application site has accommodated a relevant use class identified by Class MA for more than 2 years. Additionally, the application form confirms the use remained within a relevant Use Class for the last 2 years.

(d) if land covered by, or within the curtilage of, the building;
(i) is or forms part of a site of special scientific interest;
(ii) is or forms part of a listed building or land within its curtilage;
(iii) is or forms part of a scheduled monument or land within its curtilage;
(iv) is or forms part of a safety hazard area; or
(v) is or forms part of a military explosives storage area;

(e) if the building is within;
(i) an area of outstanding natural beauty;
(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;
(iii) the Broads;
(iv) a National Park; or
(v) a World Heritage Site;

OFFICER COMMENT:
The site does not fall under any of the designations set out above.

(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

OFFICER COMMENT:
As confirmed by the application form, this is not applicable.

(g) before 1 August 2022,
(i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

OFFICER COMMENT:
N/A.

CONDITIONS MA.2
(1) Development under Class MA is permitted subject to the following conditions.

(2) Before beginning development under Class MA, 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 impacts of the development, particularly to ensure safe site access;
(b) contamination risks in relation to the building;
(c) flooding risks in relation to the building;
(d) impacts of noise from commercial premises on the intended occupiers of the development;
(e) where;
(i) the building is located in a conservation area, and
(ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;
(h) where the development involves the loss of services provided by-
(i) a registered nursery, or
(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost;

OFFICER COMMENT:
Criteria (a), (c), (d), and (f) will be assessed below in the Conclusions section of the report. Following consultation responses and review of the site, criteria (b), (e), (g), and (h) are not of relevance to this site or proposal.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

OFFICER COMMENT:
This criterion is not applicable in this case as the building is not 7 storeys or more, nor 18m in height.

(3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

OFFICER COMMENT:
Meets criterion - application made after August 2021.

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if -
(a) for paragraph (e) of sub-paragraph (2) there were substituted
"(e) where-
(i) sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;
(ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,";
(b) in the introductory words in sub-paragraph (5), for "and highways impacts of the development" there were substituted "impacts of the development, particularly to ensure safe site access";
(c) after sub-paragraph (6) there were inserted
"(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.";
(d) in sub-paragraph (7) for "(5) and (6)" there were substituted "(5), (6) and (6A)";

OFFICER COMMENT:
As set out in sub-paragraph 6 of paragraph W (prior approval), the Environment Agency consultation and sumission of an appropriate Flood Risk Assessment is only required where the development is within Flood Zone 2 or 3, or if it is in an area of Flood Zone 1 which has critical drainage problems and which has been notified to the Local Planning Authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order. The building is not in Flood Zones 2 or 3 and the area has not been identified as having critical drainage problems by the Environment Agency (EA), as such, they have not been consulted. The building does not meet the fire safety condition and as such, no fire safety statement was required nor was the Health and Safety Executive consulted.

MA.3
(5) Development must be completed within a period of 3 years starting with the prior approval date.
(6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.

OFFICER COMMENTS -
(5) and (6) are for compliance purposes only and a requirement of the development post determination.

The Town and Country Planning (General Permitted Development (England) (Amendment) Regulations 2020 provides an amendment as follows:

Regulation 3 amends article 3 of the GPDO as follows:

Amendment in relation to space standard.
3. In article 3, after paragraph (9) insert "(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouses
(a)where the gross internal floor area is less than 37 square metres in size; or
(b)that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.

OFFICER COMMENT:
Compliance with space standards will be addressed in the conclusions section of the report.

PRIOR APPROVAL PROCEDURE
The GPDO 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 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, 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, 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, and
(ii)if they determine that the site will be contaminated land, refuse to give prior approval.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

KEY ISSUES FOR CONSIDERATION
Condition MA.2 of Class MA states
(1) Development under Class MA is permitted subject to the following conditions.
(2) Before beginning development under Class MA, 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;

TRANSPORT IMPACTS AND SITE ACCESS
(a) transport impacts of the development, particularly to ensure safe site access; As part of the prior approval, the LHA can consider only 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.

The site is in a sustainable location in walking distance to Rustington village centre and sustainable transport methods. WSCC highways have been consulted on the application and raise no objection. The proposals would not result in a material increase or change in the character of traffic.

The development would have an acceptable impact on transport and provide safe site access, in compliance with test (a) of Condition MA.2 of Class MA.

CONTAMINATION
(b) contamination risks in relation to the building;

The site is not on contaminated land and is an existing building with no alterations proposed.

Environmental Health have no objection to the application and have provided no specific comment

regarding contamination.

The application complies with this requirement of test (b) of Condition MA.2 of Class MA.

FLOODING
(c) flooding risks in relation to the building;

The site does not fall within a flood risk area.

The application complies with this requirement of test (c) of Condition MA.2 of Class MA.

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

The site is in a retail setting with some office uses. These uses are unlikely to result in adverse noise impacts upon the future occupiers of the proposed residential unit. Environmental Health have no objection to the application.

The proposal complies with test (d) of Condition MA.2 of Class MA.

HERITAGE
(e) where;
(i) the building is located in a Conservation Area, and
(ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the Conservation Area;

Not relevant to this site.

NATURAL LIGHT TO HABITABLE ROOMS
(f) the provision of adequate natural light in all habitable rooms of the dwellinghouse;

The drawings indicate the use of each room and the position and dimensions of windows, doors and show the provision of adequate natural light to all habitable rooms (i.e. living rooms and bedrooms).

The application complies with this requirement of test (f) of Condition MA.2 of Class MA.

IMPACT ON INTENDED OCCUPANTS FROM USES IN AREA
(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

The surrounding area is mixed with some residential and some retail units to the ground floor. The area is not characterised by or considered important by the Local Planning Authority as an area for general/heavy industry, waste management, storage and distribution or a mix of such uses. The impact on the intended occupants of the development would be acceptable in this respect, and the application complies with test (g) of Condition MA.2 of Class MA.

The application complies with test (g) of Condition MA.2 of Class MA.

IMPACT ON HEALTH SERVICES
(h)where the development involves the loss of services provided by-
(i)a registered nursery, or

(ii)a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost;

This proposal does not result in the loss of such a service or centre.

INTERNAL SPACE STANDARDS
Regulation 3 of the Town and Country Planning (General Permitted Development (England) (Amendment) Regulations 2020 amends article 3 of the GPDO, meaning that for any application for prior approval made after 6th April 2021 that relates to Class MA development, for new dwellinghouses, the gross internal floor area must comply with nationally described space standards (NDSS).

The dwelling would have a gross internal area of 73sqm and as such meets the minimum internal floor space required for a 2 bedroom property across 2 storeys, accommodating three people.

The proposal complies with the NDSS per the requirement of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

SUMMARY
The change complies with the requirements under Class MA of the GPDO.

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

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 For the avoidance of doubt the approved details are the application form and the Proposed Site Plan, Existing and Proposed Floor Plans and Elevations 038-P-20-001 REVP2.

2 This application is subject to the Community Infrastructure Levy (CIL) as levied under Arun District Councils CIL Charging Schedule as adopted on 15 January 2020. Please complete Form 5 Notice of Chargeable Development. This form should be submitted (along with 'in use'

proof) when a development is granted by way of general consent. Shortly after, if applicable, you will receive a Liability Notice informing you of any amount payable and any further forms required, prior to commencement.