

Recommendation Report for

REF NO: R/205/19/PD

LOCATION: 66 The Street
Rustington
BN16 3NR

PROPOSAL: Notification for Prior Approval under Class PA for change of use from Premises in Light Industrial Use (Class B1(c)) to dwellinghouses (Class C3) to provide self contained flats (4 one bed flats & 2 two bed flats)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	181.1 sq.m.
TOPOGRAPHY	Predominantly flat
SITE CHARACTERISTICS	The site is a small industrial unit set around a courtyard to the rear of a parade of shops in Rustington.
CHARACTER OF LOCALITY	The area is mixed commercial with residential properties to the rear.

None relevant.

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Rustington Parish Council
None received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Environmental Health
WSCC Strategic Planning
Environment Agency

CONSULTATION RESPONSES RECEIVED:

WSCC - No overriding concerns in relation to the principle of development. Request for further information relating to car parking.

Environmental Health - No objection subject to conditions. The site exists on the Council's Contaminated

Land Database.

Environment Agency - No response received.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

CLASS B ROAD

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The application is determined under the provisions of Class PA 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 from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PRINCIPLE:

This application falls to be determined under the provisions of Class PA 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 from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

The principle of the development is not in dispute. Class PA allows for the change of use (and limited building operations) as long as certain criteria are met. As such, the Arun Local Plan and Littlehampton Neighbourhood Development Plan do not apply.

Development is not permitted by Class PA if:

- (a) an application under paragraph PA.2(1) in respect of the development is received by the local planning authority on or before 30th September 2017;
- (b) the building was not used solely for a light industrial use on 19th March 2014 or, 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 prior approval date falls on or after 1st October 2020;
- (d) the gross floor space of the existing building exceeds 500 square metres;
- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord

and the tenant has been obtained;

(f) less than 1 year before the date the development begins:

(i) an agricultural tenancy over the site has been terminated, and

(ii) the termination was for the purpose of carrying out development under this Class, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes;

(g) the site is, or forms part of:

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area;

(h) the building is a listed building or is within the curtilage of a listed building; or

(i) the site is, or contains, a scheduled monument.

The above criteria are considered to have been met.

Class PA (paragraph PA.2 (b) states that an application must be made to determine whether or not the prior approval of the Council will be required in respect of:

(i) transport and highways impacts of the development,

(ii) contamination risks in relation to the building,

(iii) flooding risks in relation to the building,

(iv) where the authority considers the building to which the development relates is within an area that is important for providing industrial services or storage or distribution services or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building), whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Development under Class PA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

The Order also state the provision 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 1990⁵⁵, 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 2012⁵⁶, 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 no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

TRANSPORT & HIGHWAY IMPACTS:

Highways do not object to this application and have no overriding concerns regarding Highway issues. Further information was requested confirming the layout of parking spaces however this is not considered to warrant an objection to the application within the time scale allowed.

The site is considered to be a sustainable location where residential occupiers can easily access shops, services and facilities without the need to own a car.

CONTAMINATION RISKS:

There have been no objections relating to contaminated land. The Council's Environmental Health Team have made no objection to the application however they have requested that conditions be applied relating to a Site Investigation Scheme & Verification Report and asbestos removal.

FLOOD RISK:

The site is located within low risk Flood Zone 1 and there are no policy objections to the location of a dwelling in Flood Zone 1.

IMPACTS ON PROVISION OF INDUSTRIAL SERVICES OR STORAGE AND DISTRIBUTION:

The application proposes to introduce residential use into an industrial unit located to the back of a parade of shops. There are no significant other industrial services or storage and distribution uses at the site. The retail uses at the back of the shops are not industrial or storage & distribution uses and therefore no reason for denying prior approval exists on this basis.

REPRESENTATIONS FROM LOCAL RESIDENTS & ASSESSMENT AGAINST THE NPPF:

No objections or representations have been received from local residents. Therefore, there is no requirement to assess the proposal against the NPPF.

SUMMARY:

It is considered that the proposed change of use is permitted development having regard to Class PA of the Order. No objections on the grounds of highways, contamination, flooding and impact on other industrial or storage and distribution uses could be sustained and therefore the local authority raises objections to the granting of permitted development.

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 Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1. A 'Site Investigation Scheme', based on the Phase 1 Desk Study Report ref no PH1-2019-000050 to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The extent of intrusive site investigation to be agreed with the Local Planning Authority prior to commencement of works.

2. Based on the 'Site Investigation Scheme' and the detailed risk assessment (1), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

3. A 'Verification Report' providing details of the data that will be collected in order to demonstrate that the works set out in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Note: Any changes to these components, (1) to (3) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation

shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a 'long-term monitoring and maintenance plan' for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification report, and for the reporting of this in writing to the Local Planning Authority.

Reason: To protect the amenity of local residents in accordance with Policy QE DM4 of the Adoption Arun Local Plan 2011 - 2031

- 2 The owner(s) of any commercial property (warehouses, offices, etc.) built before 2000 are legally obliged to hold a copy of an asbestos register for each property in their portfolio. As the proposed development is being converted into residential, the Council need to be satisfied that if any asbestos previously identified is still present, it is either removed or suitably managed to minimise risk to human health as there is no safe threshold for asbestos exposure. A copy of the asbestos register and any remedial strategy (where appropriate), must be provided in writing to the Local Planning Authority prior to any works commencing.

Reason: To protect the amenity of local residents in accordance with Policy QE DM4 of the Adopted Arun Local Plan 2011 - 2031

- 3 For the avoidance of doubt the approved details are the following documents:
Site Location Plan - Dwg.no. SLPO1 dated 25-06-19
Block Plan - Dwg.no. BP01 dated 25-06-19
Proposed Plans - Dwg.no. PO1 dated 10-06-19