Expiry Date - 07/11/2024

Development Control – Delegated Officer Report

Application Number: NOTICE/0018/24 Recommendation – REFUSAL

Site: Pharos House 67 High Street Worthing West Sussex

Proposal: Application for permitted development for prior approval for change of use from offices (Class E) to 10 residential dwellings (Class C3)

Neighbours Checked: Y

Additional Neighbour Notifications N

Site and Surroundings:

The application relates to a two storey detached building occupying a prominent site just off the roundabout at the junction of High Street, North Street and Lyndhurst Road. The building currently comprises a mixed use with a retail unit at ground floor and offices on the first floor.

The building is of modern construction dating from c.1996, with 'rusticated' painted render at ground floor with yellow brickwork at first floor with stone quoining and detailing. The building is proportioned at the frontage with a central forward projection with pillared entrance porch, feature first floor oval window and pitched roof. The windows either side are proportioned with larger windows at ground floor and smaller windows at first floor. The building is set back behind a shallow, landscaped frontage. The building is higher than the road. At the rear the building has service doors and small windows at ground floor and a run of windows at first floor.

The building forms part of a wider development scheme which included a single storey office building to the south, and supermarket (Lidl) to the northwest. Pharos House has its own car park to the rear (west) shown within the red edge of the application site, which is accessed from the adjacent car park to the Lidl store with a shared vehicular access off North Street. A footpath running obliquely across the northern part of the landscaped frontage of the site links High Street to the Lidl car park.

Adjoining the rear car park to the west is the partly two storey and partly three storey Amelia Court, a sheltered housing complex, accessed off Union Place.

This part of High Street consists of dual carriageway with a central refuge. Waitrose supermarket is located on the opposite side (east) of High Street.

The site is included within the designated North St/High St office area, along with the property to the south.

The Little High Street Conservation Area is situated to the north of site on the opposite side of North Street.

Description of Development

The application is for prior approval for change of use of

The application seeks prior approval for the change of use of the ground and first floor to create 10 flats with a breakdown as follows:
Ground Floor
Unit 1: 1B2P – 51m2 - Minimum required size 50m2
Unit 2: 1B2P – 52m2 - Minimum required size 50m2
Unit 3: 1B1P – 42m2 - Minimum required size 37m2
Unit 4: 1B2P – 55m2 - Minimum required size 50m2
Unit 5: 1B2P – 55m2 - Minimum required size 50m2
First Floor
Unit 6: 1B2P – 53m2 - Minimum required size 50m2
Unit 7: 1B2P – 52m2 - Minimum required size 50m2
Unit 8: 1B1P – 40m2 - Minimum required size 37m2
Unit 9: 2B3P – 63m2 - Minimum required size 61m2
Unit 10: 2B3P – 64m2 - Minimum required size 61m2

The application is supported by a location plan, block plan, existing and proposed floor plans and elevations, a planning statement.

An enclosed cycle store is shown on the ground floor and a bin store within the rear parking and service area.

Relevant Planning History

AWDM/0541/24- Creation of additional windows at ground floor level to the side and rear elevation with minor internal alterations- APPROVED

AWDM/0375/24- Creation of additional office space facilitated by the erection of a second-floor mansard roof addition, modifications to the principal elevation, and cycle provision. APPROVED

AWDM/1157/22- Creation of four (4) flats (C3) formed of 3 x 2 and 1 x 1 bed units, facilitated by the erection of a second-floor mansard roof addition, modifications to the principle elevation and refuse/cycle provision. REFUSED and DISMISSED on appeal.

1. By reason of its height, massing, siting, layout and design the proposed extension to form a mansard roof above existing two story development, plus the increased height of the forward staircase, associated facilities

and roof terrace, would have an adverse effect on the architectural form and integrity of this prominent building that would dominate the street scene and be harmful to the setting of nearby designated heritage assets and the Little High Street Conservation Area. The proposal is therefore contrary to policy 16 of the Worthing Core Strategy, policies DM5, DM24 of the Submission Draft Worthing Local Plan (As Modified), the Council's SPD 'Guide to Residential Development' and relevant policies within the National Planning Policy Framework**.**

2. Having regard to the constrained layout of the site and relationship to neighbouring occupiers the proposed development and associated access arrangements would lead to conflict between the proposed residential and existing commercial uses, detracting from the commercial attraction and viability of both Pharos House and nearby businesses. The proposal would not constitute sustainable development and would be contrary to the aims and objectives of policy 3 of the Worthing Core Strategy that seeks to deliver the right conditions for a diverse and sustainable economy, policy 8 of the Worthing Core Strategy which seeks the provision of high quality homes to address the needs of the community, policies DM2, DM11 and DM13 of the Submission Draft Worthing Local Plan (As Modified), saved policy RES7 of the Worthing Local Plan 2003, The Guide to Residential Development SPD 2013 and relevant paragraphs of the National Planning Policy Framework which requires new development to integrate effectively with existing businesses.

3. The proposed development by reason of its design, height, fenestration and roof terrace would be adversely overbearing, overshadow and result in unacceptable overlooking of neighbouring properties in the eastern block of Amelia Court to the detriment of their living conditions. As such it would be contrary to saved Worthing Local Plan policy H18, Policy 16 of the Worthing Strategy, the Guide to Residential Development SPD 2013, Policy DM5 of the Submission Draft Worthing Local Plan (As Modified) and relevant policies of the National Planning Policy Framework**.**

AWDM/2283/21- Two Storey upwards extension to create eight residential units with shared amenity space, refuse store and cycle parking. REFUSED on the following grounds:

1. By reason of its height, massing, siting, layout and design the proposed extension to form two additional floors, plus the increased height of the staircase, associated facilities and roof terrace, would have an adverse effect on the architectural form and integrity of this prominent building that would dominate the street scene and be harmful to the setting of nearby designated heritage assets and the Little High Street Conservation Area. The proposal is therefore contrary to policy 16 of the Worthing Core Strategy, policies DM5, DM24 of the

Submission Draft Worthing Local Plan (As Modified), the Council's SPD 'Guide to Residential Development' and relevant policies within the NPPF.

02. Having regard to the constrained layout of the site and relationship to neighbouring occupiers the proposed development and associated access arrangements would lead to conflict between the proposed residential and existing commercial uses, detracting from the commercial attraction and viability of both Pharos House and nearby businesses. The proposal would not constitute sustainable development and would be contrary to policy 3 of the Worthing Core Strategy that seeks to deliver the right conditions for a diverse and sustainable economy, policy 8 of the Worthing Core Strategy which seeks the provision of high quality homes to address the needs of the community, policies DM2, DM11 and DM13 of the Submission Draft Worthing Local Plan (As Modified), saved policy RES7 of the Worthing Local Plan 2003 and paragraph 187 of the NPPF which requires new development to integrate effectively with existing businesses.

03. The proposed development by reason of its design, height, fenestration and roof terrace would be adversely overbearing, overshadow and result in unacceptable overlooking of neighbouring properties in the eastern block of Amelia Court to the detriment of their living conditions. As such it would be contrary to saved Worthing Local Plan policy H18, Policy 16 of the Worthing Strategy, the Guide to Residential Development SPD 2013, Policy DM5 of the Submission Draft Worthing Local Plan (As Modified) and relevant policies of the National Planning Policy Framework.

AWDM/0761/22 Single Storey upwards extension to create four residential units with shared amenity space, refuse store and cycle parking. Refused 12/04/2023

0517/95. Demolition of existing buildings (on McDougall Rose site) and redevelopment of site with two no. Class A1 retail units and one Class B1 office unit with associated parking/servicing area and formation of new site access from North Street. Application Permitted. 20th December 1995.

96/00402/FULL. Installation of two Windows at First Floor Level on South Elevation (Building No.1). Application Permitted. 23rd July 1996.

Consultations:

WSCC Highways

West Sussex County Council (WSCC), in its capacity as Local Highway Authority (LHA), have been consulted on the prior notification application NOTICE/0018/24, The application is supported by way of a Planning Statement and associated plans. The prior notification application is for change of use of ground and first floor of Pharos House from commercial use / office (Class E) use to 10 nos. flats (Class C3) comprising 2 x studios, 6 x 1-bed flats and 2 x 2-bed flats.

The site was subject to change of use applications from office to residential of upper floors under references AWDM/2283/21 and AWDM/0375/24 for which no highway objection was raised. The Local Highway Authority (LHA) acknowledge the permitted change of use from commercial / office to residential subject first to prior approval being granted.

Site Context and Access Arrangements

The application site is located within Worthing Town Centre, towards southwest of the roundabout connecting A259 and Lyndhurst Road. The existing mixed-use building comprises of a retail unit on the ground floor, office use on the first floor along with associated parking and landscaping. The existing access arrangements from A259 will be retained for future uses. Bin stores are located to the southwest of the site which can be easily accessed through the neighbouring commercial car park for refuse collection.

Sustainable Transport Accessibility

The site is within short walking distances to shops, services, and amenities within the town centre, convenient for residents / visitors to travel sustainably such as walking and cycling. Bus stops and Worthing train stations are located within 10 - 15 minutes of walking, providing transport links to wider network such as London, Brighton etc. Therefore, the site is in a highly sustainable location.

Car and Cycle Parking

The proposed residential development is made car free, with the existing 5 spaces allocated at one space each for 2-bed flats and three spaces for visitors. The site is within a controlled parking zone; hence, future residents / visitors would benefit from resident permits or use nearby car parks.

WSCC Cycle Parking Standards require 0.5 space per flat for 1- and 2-bedroom flats. Safe and secure cycle parking provision for 10 nos. bicycles is made within a bike store located near to the building entrance.

Trip Generation and Highway Impact

No vehicular traffic generation information has been provided with the current application. However, from experience of other similar proposals, the LHA recognise that commercial / office uses generate greater vehicular movements compared with residential schemes. Therefore, there is no expectation for the proposed residential scheme to give rise to any increase or material change in the character of traffic in the vicinity of the site.

Conclusion

The Local Highway Authority (LHA) do not consider that this proposal would have an unacceptable impact on highway safety or result in ‘severe’ cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (NPPF), paragraphs 110 -113, as revised 20th July 2021. Therefore, there are no transport grounds to resist this proposal.

If the Local Planning Authority (LPA) mind to approve the application, the following condition should be applied:

CONDITION

Cycle Parking
No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the LPA.
Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

Southern Water

One of the public sewers is a combined system, receiving both foul and surface water flows, therefore no flows greater than are currently directly received can be accommodated in this system. However, it is possible that by removing some of the existing surface water entering the sewer, additional foul flows could be accommodated, i.e. no net increase in flows.
If the applicant wishes to investigate this option, the applicant will be required to provide Southern Water with a topographical site survey and/or a CCTV survey showing the existing impermeable areas draining to the sewer and their connection points, pipe sizes, gradients and calculations confirming the proposed flows will be no greater than the existing flows received by the sewer

Southern Water requires a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer.

UK Power Networks

Please note there are LV underground cables on the site running within close proximity to the proposed development. Prior to commencement of work accurate records should be obtained from our Plan Provision Department at UK Power Networks, Fore Hamlet, Ipswich, IP3 8AA.

All works should be undertaken with due regard to Health & Safety Guidance notes HS(G)47 (Avoiding Danger from Underground services). This document is available from local HSE office.

Should any diversion works be necessary as a result of the development then enquiries should be made to our Customer Connections department. The address is UK Power Networks, Metropolitan house, Darkes Lane, Potters Bar, Herts, EN6 1AG.

You can also find support and application forms on our website Moving electricity supplies or equipment.
https://www.ukpowernetworks.co.uk/i-already-have-electricity-commercial/moving-electricity-equipment

Adur and Worthing Councils

EHO (PH)

This application is coming up on our records in need of further ground contamination investigation. Please can we add the full condition.

There is commercial use next door with early morning deliveries. Therefore we will need a noise assessment to protect the new proposed residential property. The new homes are on a busy road with high noise levels so it would be helpful if they assess noise for the whole development and ensure glazing and ventilation is adequate to protect the new residential homes.

I note the permission was granted for new office space in this building in June. If this new space is to be used for residential property then any new windows need to be sufficient to mitigate road noise that will affect the new residential occupants. The permission is for additional office space and not new residential space. When we were consulted on this earlier application it was viewed from a commercial use perspective that would not be open at night time. The noise mitigation requirement standards for commercial use are lower than for residential. With this in mind any new windows should be of a higher specification to control external traffic noise to protect a residential development.

The conversion does not need to meet Approved Document O overheating criteria, but if residents are affected by noise they may close windows putting the new homes at risk of overheating.

I appreciate we are limited in what we can ask for under permitted development rights but this property is at high risk from noise.

EHO (PSH)

None received

Drainage Engineer

Following a review of the submitted information, we have no objection on surface water grounds. Due to the site, size, location, and type of development **we would recommend the approval of the application** with the following informative attached:
Informative 1: We have identified the site is adjacent to a surface water flood risk, therefore appropriate flood resistance and resilience measures, including the consideration of finished floor levels, should be considered within the development

Representations:

None

Relevant Planning Policies

National Planning Policy Framework (MHCLG 2023)
National Planning Practice Guidance (CLG)

Worthing Local Plan

DM1- HOUSING MIX
DM2 - DENSITY
DM5 - QUALITY OF THE BUILT ENVIRONMENT
DM13 - RETAIL AND TOWN CENTRE USES
DM16 - SUSTAINABLE DESIGN
DM22 - POLLUTION

Legislation

Permitted development

MA 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 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that order.

Development not permitted

MA.1.—(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;
(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;

(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
(g) before 1 August 2022, if—
(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.
(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

(i) Class A1 (shops);
(ii) Class A2 (financial and professional services);
(iii) Class A3 (food and drink);
(iv) Class B1 (business);
(v) Class D1(a) (non-residential institutions – medical or health services);
(vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
(vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Conditions

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

(2) Before beginning the 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—
(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; and

(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; and.

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

(3) An application for prior approval for development under Class MA may not be made before 1 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 Agency58 to be consulted, a site-specific flood risk assessment;
(ii) sub-paragraph (6A) requires the Health and Safety Executive59 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)";

(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.".

Interpretation of Class MA

MA.3. Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—
(a) contain two or more dwellinghouses; and
(b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

Procedure for applications for prior approval under Part 3

W.— (1) The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.
(2) The application must be accompanied by—
(a) a written description of the proposed development, which, in relation to

development proposed under Class C, M, N or Q of this Part, must in the same application include any building or other operations;

(b) a plan indicating the site and showing the proposed development;

(ba) in relation to development proposed under Classes M, MA, N, O, P, PA and Q of this Part, a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, “net increase in dwellinghouses” is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);

(bb) in relation to development proposed under Class Q of this Part, a statement specifying—

(i) the number of smaller dwellinghouses proposed;

(ii) the number of larger dwellinghouses proposed;

(iii) whether previous development has taken place under Class Q within the established agricultural unit and, if so, the number of smaller and larger dwellinghouses developed under Class Q;

(bc) in relation to development proposed under Class M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;

(c) the developer’s contact address;

(d) the developer’s email address if the developer is content to receive communications electronically; and

(e) where sub-paragraph (6) requires the Environment Agency to be consulted, a site specific flood risk assessment, together with any fee required to be paid.

(2A) Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

(3) The local planning authority may refuse an application where, in the opinion of the authority—

(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 except for conditions in paragraph M.2(1)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g), limitations or restrictions specified in this Part as being applicable to the development in question.

(4) Sub-paragraphs (5) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult—

(a) where the increase or change relates to traffic entering or leaving a

trunk road, the highway authority for the trunk road;

(b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and

(c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

(6) Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency58 where the development is—

(a) in an area within Flood Zone 2 or Flood Zone 3; or

(b) in an area within 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.

(7) The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

(8) The local planning authority must give notice of the proposed development—

(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—

(i) describes the proposed development;

(ii) provides the address of the proposed development;

(iii) specifies the date by which representations are to be received by the local planning authority; or

(b) by serving a notice in that form on any.

(i) on any adjoining owner or occupier; and

(ii) where the proposed development relates to part of a building, on any owner or occupier of the other part or parts of the building".

Assessment against the legislation

The starting point for consideration of the proposal is whether it can lawfully take advantage of the procedures under Class MA

The building has been used as a commercial uses for at least 2 years prior to the date of the application and as such complies with MA.1 (1) (b).

The application site is within the safety hazard area of the former gas works site on Lyndhurst Road at as such it would not comply with MA.1. (d)

The building is not within an SSSI, a Listed building, a Scheduled Monument, a military explosives area, an AONB, a National Park, the Broads, a World Heritage Site or area specified under Section 4(3) of the Wildlife and Countryside Act.

The limitations set out in MA.1(1)(e)(f) and (g) do not apply.

Consideration of the planning merits of the proposal is restricted to those matters set out in MA.

(a) transport impacts of the development, particularly to ensure safe site access

The site is sustainably located within easy walking distance of the various shops and services available within the town centre, and with good public transport links to other parts of the town and destinations further afield.

The LHA do not consider that highway safety would be detrimentally affected through the proposed nil car parking provision. The LHA anticipate that the level of traffic generated by the proposed dwelling would be of a similar nature to the existing.

The applicant has demonstrated a cycle store within the property, which will provide secure cycle parking provision in accordance with WSCC Parking Standards and requirements

(b) contamination risks on the site,

The site has been identified as potentially contaminated. The Environmental Health Officer has requested a condition.

(c) *flooding risks on the site*,

The EA Flood Map identifies the development site to lie within Flood Zone 1, where the chance of flooding in any given year is less than 1 in 1000 (0.1%).

The NPPF Paragraph 173 of the NPPF states "When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment[59]. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (the sequential and exception tests, as applicable) it can be demonstrated that:
a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
b) the development is appropriately flood resistant and resilient;
c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
d) any residual risk can be safely managed; and
e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan".
Footnote 59 states "A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use".

Furthermore paragraph 30 of the Planning Practice Guide on Flood Risk and Climate Change states "A site-specific flood risk assessment is carried out by (or on behalf of) a developer to assess the flood risk to and from a development site. Where necessary, the assessment should accompany a planning application submitted to the local planning authority. The assessment should demonstrate to the decision-maker how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users.
The objectives of a site-specific flood risk assessment are to establish:

- whether a proposed development is likely to be affected by current or future flooding from any source;
- whether it will increase flood risk elsewhere;
- whether the measures proposed to deal with these effects and risks are appropriate;
- evidence for the local planning authority to apply (necessary) the Sequential Test, and;
- whether the development will be safe and pass the Exception Test, if applicable".

Continuing paragraph 31 of the Planning Practice Guidance quotes "The information provided in the flood risk assessment should be credible and fit for purpose. Site-specific flood risk assessments should always be proportionate to the degree of flood risk and make optimum use of information already available, including information in a Strategic Flood Risk Assessment for the area, and the interactive flood risk maps available on the Environment Agency's web site.

A flood risk assessment should also be appropriate to the scale, nature and location of the development. For example, where the development is an extension to an existing house (for which planning permission is required) which would not significantly increase the number of people present in an area at risk of flooding, the local planning authority would generally need a less detailed assessment to be able to reach an informed decision on the planning application. For a new development comprising a greater number of houses in a similar location, or one where the flood risk is greater, the local planning authority would need a more detailed assessment".

DM20 of the Worthing local Plan states:

b) A site specific Flood Risk Assessment must be submitted with planning applications for:
i) sites of 1 hectare or greater in Flood Zone 1;
ii) all new development (including minor development and change of use) in Flood Zones 2 and 3;
iii) development that would introduce a more vulnerable class on land at increased flood risk in future or subject to other sources of flooding identified by the Strategic Flood Risk Assessment.

A FRA has not been submitted with the application but the drainage consultant has not raised any issues with the proposal.

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

An unacceptable level of amenity would be contrary to the National Planning Policy Framework (and Planning Practice Guidance) which states at para 135 that planning decisions should ensure (amongst other things) that developments:

- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is underlined SPD Guide for Residential Development and the Policy DM22 of the Worthing Local Plan.

The Noise PPG further indicates noise needs to be considered when development would be sensitive to the prevailing acoustic environment. Good acoustic design needs to be considered early in the planning process to ensure that the most appropriate solutions are identified from the outset. Decision making needs to take account whether or not a significant adverse effect is occurring or likely to occur, and the significant observed adverse effect level – this is the level of noise exposure above which significant adverse effects on health and quality of life occur.

The Worthing Local Plan policy DM22 states amongst other things:

(a) Development should not result in pollution or hazards which prejudice the health and safety of the local community and the environment, including nature conservation interests and the water environment.

(d) Where appropriate, air quality and/or noise assessments will be required to support planning applications. These should be undertaken in accordance with the most up to date guidance and have regard to any relevant action plans.

The National Planning Policy Framework makes it clear that the onus for successful noise control/protection is the responsibility of the ‘agent of change’ (the developer).

The NPPF specifically advises at paragraph 191 That Planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

The site is located on a busy commercial street with activity throughout the day and into the evening. There are commercial units to the north west, south and east.

The Environmental Health Officer has raised concerns about noise citing the commercial use next door with early morning deliveries and the busy road. They

consider that a noise assessment should be submitted to protect the new proposed residential property and assess noise for the whole development and ensure glazing and ventilation is adequate to protect the new residential homes.

Although the applicant has provided a paragraph in relation to noise, it is not considered that it adequately covers the change from commercial to residential on this busy road with commercial development to the north, south and east.

The National Planning Policy Framework makes it clear that the onus for successful noise control/protection is the responsibility of the developer and/or landowner. Adequate information has not been provided.

(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;

The building is not within a conservation area.

(f) *the provision of adequate natural light in all habitable rooms of the dwellinghouses,*

The application proposes the conversion of the building into 10 flats. Planning permission was granted for additional windows to be inserted into the property under application AWDM/0541/24. These windows have not been inserted. At the timing of the application there would not therefore be light to all the rooms and as such natural light would not be provided. The principle has however been accepted and can be accommodated in the building without impact to amenity and would provide all units with natural light. An appropriate condition to ensure they are provided prior to occupation would be appropriate.

(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; and*

N/A in this case

(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(a), the impact on the local provision of the type of services lost.

NA in this case.

Expiry Date - 07/11/2024

Recommendation

Prior Approval is required because of the relevant issues raised above and is Recommended for REFUSAL on the following grounds:

1. The application site is within a 'Safety Hazard Area' and therefore the proposal does not benefit from permitted development rights under the provisions of the prior approval procedure under Part 3 Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. The proposed change of use from commercial to residential and the resulting layout would result in the creation of dwellings in close proximity to a range of commercial uses including supermarkets and drinking establishments, on a busy street. Owing to the noise created by these uses with no noise assessment having been submitted the Local Planning Authority is not satisfied that satisfactory living conditions would be provided for the future occupiers of the residential dwellings. As a result the proposed development would be contrary to policy DM22 of the Worthing Local Plan 2023 and the provisions of the National Planning Policy Framework (NPPF). As such the application does not accord with requirements of Paragraph MA (2) (d) and therefore the conditions of Schedule 2, Part 3, Class MA of the Town & Country Planning (General Permitted Development) Order 2015 (as amended) have not been met.

Is recommendation contrary to letter(s) of representation? N

Case Officer: Jackie Fox Date: 23.10.24

Authorised by: Louise Prew Date: 06/11/2024