Expiry Date - 18/07/2024

Development Control – Delegated Officer Report

Application Number: NOTICE/0009/24 Recommendation – APPROVE

Site: 56 Montague Street Worthing West Sussex

Proposal: Application for permitted development for prior approval for change of second floor from Class E to 11 residential units (Class C3) (part ground and first floors for access only)

Date of site visit: 16/07/2024

Neighbours consulted: Y, site notice

Additional neighbour notifications: N

Site and Surroundings

The site is located on the northern side of Montague Street in Worthing. The property is three storeys in height with commercial on the ground floor. The site is located within the town centre of Worthing.

Proposal

A prior approval application for the conversion of a commercial building at second floor into flats. This application is six of six creating a total of 32 flats.

Planning history

NOTICE/0003/24: Application for permitted development for prior approval for change of part first floor from Class E to four residential dwellings (Class C3) (part ground floors for access only) Pending

NOTICE/0004/24: Application for permitted development for prior approval for change of part first floor from Class E to three residential dwellings (Class C3) (part ground for access only) Pending

NOTICE/0005/24: Application for permitted development for prior approval for change of part first floor from Class E to 3 residential dwellings (Class C3) (part ground floor for access only). Pending

NOTICE/0006/24: Application for permitted development for prior approval for change of third floor from Class E to 3 residential dwellings (Class C3) (part ground, 1st and 2nd floors for access only) Pending

NOTICE/0008/24: Application for permitted development for prior approval for change of part first floor from Class E to 8 residential dwellings (Class C3) (part ground floor for access only) Pending

Expiry Date - 18/07/2024

Consultations:
Environmental Health:
“I refer to the above applications. The proposal is for change of use (permitted development) from commercial retail to 32 new residential units over the first, second and third floors, retaining commercial use at ground floor and part first floor.

The Noise Impact Assessment by Quantum Acoustics dated 23 April 2024 looks to assess noise impacts from commercial sources. Interestingly it fails to assess the impacts from the ground and first floor commercial uses, which I would expect to have been completed. I should also point out that there are a number of commercial units that receive deliveries during the very early morning. The environmental noise assessment was carried out over two weekdays and may not have captured the impacts of any such deliveries.

The report refers to several items of plant, mainly condenser units, in paragraphs 7.1, 7.2 and 7.3 and states "We understand the plant in this area is proposed to be relocated or appropriately treated to adhere with the local authority plant noise emission criteria.". However there is a degree of uncertainty about this and this needs to be clarified.

In paragraph 9.0 the report recommends mitigation in order to achieve acceptable internal noise levels as a result of the impact of commercial noise outside.

Whilst having no objections in principle, I make the following comments.

1. An assessment of noise from the ground and first floor commercial uses should be completed to ensure these do not adversely impact residential amenity. I cannot see any lifts in the property, but if there are any then the noise from these must also be assessed;
2. The adjacent plant referred to in paragraphs 7.1-7.3 must be either relocated or acoustically treated - this could be by condition;
3. Mitigation as per paragraph 9.0 shall be implemented before any residential units are occupied. The following should be incorporated into a condition of any permission granted.

The residential units hereby approved shall not be occupied unless and until a scheme has been submitted to and approved by the local planning authority which implements the mitigation measures proposed in paragraph 9.0 of the Noise Impact Assessment by Quantum Acoustics dated 23 April 2024. All works, which form part of the scheme, shall be completed before any part of this noise sensitive unit is occupied. The scheme shall achieve the indoor ambient noise levels for dwellings specified in BS8233:2014. Following approval and completion of the scheme, a test shall be undertaken to demonstrate that the mitigation measures in the scheme achieve the design criteria and protect the residential units from noise.

I also recommend the following to protect residential amenity from noise the ground floor commercial use

The sound insulation of the floor/ceiling between the ground and first floor shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB). Before the residential unit is occupied a test shall be undertaken to demonstrate compliance with this level."

Environmental Health Private Sector Housing: No Objections subject to the noise mitigation measures identified in the acoustic consultants report being required by a suitable planning condition.

WSP:
The applicant is applying for permitted development for prior approval for change of part 1st floor from Class E to Class C3 (part ground floors for access only). The application is to Worthing Borough Council.

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 condition attached:

Condition 1: Prior to the first use of the development a Flood Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The Flood Evacuation Plan should be created in line with 'Flood risk emergency plans for new development' as produced by ADEPT and EA and demonstrate safe access and egress in accordance with NPPF.

Reason: To ensure the flood risk is adequately addressed, not increased and users remain safe for the lifetime of the development in accordance with NPPF and Policies of Worthing Borough Council.

WSCC Highways:
This proposal seeks prior approval for the change of use from Use Class E to residential (C3 Use), to form eleven one-bedroom flats. The site is located on Montague Street, an E-class pedestrianised street in this location.

This application is accompanied by five other separate submissions, which when combined represent a change of use of 2099 sqm of commercial floor space to 32 residential flats. A Transport Statement prepared by Crosby Transport Planning has been submitted, which considers the applications as one combined development. For the purposes of this consultation response, I am assessing each application individually on their own merits, whilst also bearing in mind the potential wider cumulative impacts as well.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from Class E to residential (Class C3) subject first to prior approval being granted. As part of the prior approval process, there are a number of matters to be considered. This includes matters relating to highways and transport. However, the GDPO is quite clear

as to what highways matter can be considered, namely whether the proposal is likely to result in a material increase or material change in the character of traffic in the vicinity of the site.

No traffic flow information has been provided with the current application; however, given that Class E uses tend to generate greater material movements than C3 residential and taking into account the car-free nature of the application proposals, the LHA does not consider that the development would result in a significant increase in vehicular trips to/ from and in vicinity of the site. Consequently, no detrimental impact to the capacity of the nearby road network is anticipated as a result of the change of use.

Whilst I acknowledge the wider site submissions involves six separate applications, this individual application would create a car parking demand for three parking spaces under WSCC Parking Standards. The applicant proposes a nil car parking provision - consequently, parking would have to be accommodated on-street or within nearby paid-for provision.

Comprehensive parking restrictions are in place on nearby roads, prohibiting parking in places that would be detriment to highway safety. The LHA does not anticipate that the proposed nil car parking provision would result in a highway safety concern or parking capacity issue in this instance, but the LPA may wish to consider the potential amenity impacts on on-street parking. Weight is given to the fact that the site is situated in a sustainable town centre location within walking/cycle distance of local services, amenities, and public transport links. Due to the location of the development within a sustainable location, it is not considered that occupants would be reliant on the use of a car. The site's promotion as a car-free development would also be a factor for potential residents to consider. Secure cycle parking is proposed for each of the units in accordance with WSCC Parking Standards, which would promote the use of alternative modes of transport.

In summary, the proposal is not anticipated to result in a material increase or change in the character of traffic. Consequently, no highway concerns would be raised. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms.

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 | UK Power Networks.

Southern Water:

Connection application required. Surface water to be drained in accordance with H3 of the B Regs. Public sewer may cross the site.

Representations: N/A

Planning Assessment

Principle

The proposal will be viewed against the criteria of permitted development, as laid out within The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Consideration

Schedule 2, Part 3 – Changes of Use

Class MA – commercial, business and service uses to dwellinghouses

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—

(a) . . . . . .

(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;

Analysis: The last existing use of the property was A1 and has been derelict since then. The site is considered to be Use Class E.

(c) . . . . . .

(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;

Analysis: Not applicable.

(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;

Analysis: None of the above apply.

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

Analysis: N/A.

(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 been cancelled in accordance with the provisions of Schedule 3.

Analysis: N/A

(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 has 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.

Analysis: The site was in use as a Class E (previously A1 (shops)) prior to 2020.

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;

Analysis: With the provision of 32 Flats in total there would be a requirement to provide 3 car parking spaces, however, due to the existing use there will be some traffic flow and the development would not result in a significant increase in vehicular trips to and from the site.
Cycle spaces are shown on the plans and within the Transport Statement. These will be secured by condition.
Overall there would not be any highways concerns raised.

(b) contamination risks in relation to the building;

Analysis: The previous uses of the building as Class E (A1) it is not considered to be on land which has been exposed to contaminants. Beneath the site there are cables which will need to be avoided and permission obtained relating to any works relating to them.

(c) flooding risks in relation to the building;

Analysis: Following a review of the submitted information there is no objection to the proposal on terms of surface water flooding. With the application there will be a condition attached to secure a Flood Evacuation Plan prior to the first use.

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

Analysis: Due to the location and the proposed retaining of Class E use within the building there will be impacts from the existing use and the neighbouring units having deliveries. Submitted as part of the application is a Noise Impact Assessment which outlines some of the potential issues and the mitigation measures that would need to be taken. However, there needs to be further assessments undertaken to cover the impact of the Class E use below to ensure there is no unacceptable impact there will be further details to be collected via condition. A further condition is attached to ensure that the plant outlined as a noise concern is relocated or assessed and the mitigation in paragraph 0.9 is implemented prior to the occupation of the units.

(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;

Analysis: Not Applicable

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

Analysis: Submitted with the application is a daylight and sunlight report which outlines the minimum values of daylight that each of the residential rooms will receive. These are above that of the minimum required by policy and as such are acceptable. It is noted that the building does not currently have any windows but has assessed the proposal with those which were approved under AWDM/1329/21. A condition will be attached requiring the approved windows to be completed prior to occupation of any of the units.

(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;

Analysis: Not Applicable

(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

Analysis: Not Applicable

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

Analysis: Not Applicable

(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—

Recommendation

Prior Approval is Required and Granted subject to Conditions:

1. Approved plans
2. Bin storage/cycle storage to be provided prior to first occupation.
3. Floor Evacuation Plan prior to first occupation
4. Noise Mitigation Measures
5. Sound insulation
6. Implementation of AWDM/1329/21 prior to first occupation

Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. SW connection
3. New Address
4. UK Power

Case Officer: Finlay Gardner Date: 16/07/2024

Authorised by: Louise Prew Date: 17/07/2024