

Development Control – Delegated Officer Report

Application Number: NOTICE/0002/25 Recommendation – APPROVE

Site: 1 Liverpool Buildings Liverpool Road Worthing West Sussex
BN11 1SY

Proposal: Application for Prior Approval for Proposed Change of use from
commercial office (Use Class E) at first floor level to residential
(Use Class C3) to create a 2 bed flat

Neighbours Checked: Y

Additional Neighbour Notifications N

Site and Surroundings:

The application property is a two-storey building which forms part of a retail terrace and parade “Liverpool Buildings” which is located to the south of Liverpool Road.

The property is currently vacant at first floor, the ground floor is occupied by an opticians.

The site is within Worthing town centre. As the site is within the retail centre, the site is surrounded by generally commercial uses.

The site is within the South Street Conservation Area.

Proposal

The application is for prior approval for change of use of the first floor to a two-bedroom, three-person dwelling.

Relevant Planning History

AWDM/1408/19: External alterations at ground and first floor, part change of use of first floor to Class C3 (residential); together with 2 storey roof extension to provide 7 no. residential units in total (3 x 1 bed, 3 x 2 bed, 1 x studio) with private terraces and communal decks at second and third floor; retention of 2no. existing parking spaces for commercial use, cycle store at first floor for 12 cycles; refuse store at ground floor. Refusal 05/12/2019

Consultations:

WSCC Highways

This proposal seeks prior approval for the change of use from commercial office (Use Class E) at first-floor level to residential (Use Class C3) to form a two-bedroom dwelling. The site is located on Liverpool Road, an unclassified road subject to a speed restriction of 20 mph in this location.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from office (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 GPDO 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, Class E uses tend to generate greater material movements than C3 residential. Therefore, the LHA does not anticipate that material movements associated with the site will exceed that of the existing.

No off-street vehicular parking provision is proposed – therefore, vehicular parking would have to be accommodated on-street or within nearby paid-for provision, as per the existing arrangement. Comprehensive parking restrictions are in place on nearby roads, prohibiting parking in places that would be detrimental to highway safety. The LHA does not anticipate that the existing nil car parking provision would result in a highway safety concern. However, the LPA may wish to consider the potential impacts on on-street parking from an amenity point of view.

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. Provision for the secure storage of bicycles has also been demonstrated.

In summary, the movements associated with Class E use have done so safely with no known safety highway concerns, and C3 residential uses are considered less intensive. West Sussex County Council in its role as LHA has therefore considered the proposal on that basis. 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.

Southern Water

Insufficient Information provided. The applicant has not provided details of the proposed means of disposal of foul/surface water drainage from the site. Southern Water is unable to comment fully on this Planning Consultation until such time as the relevant information is provided. Condition: Construction of the development shall not commence until details of the proposed means of foul/surface water drainage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

Adur and Worthing Councils

EHO (Public health): I believe it is an optician at the moment, but if they can change from a shop to a cafe without further planning permission then yes, please impose sound insulation condition. I was initially working on the basis that the opticians would not be open late.

I would recommend that the sound insulation between the business and the residential property above shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) and I would recommend a post completion sound insulation test to demonstrate this is achieved.

EHO (Private sector housing):

Please could the following comment be added as an informative to this application.

The layout of the proposed development creates a hazard, as defined by the Housing Act 2004 (The Act) and the Housing Health and Safety Rating System (HHSRS). If the development occurred as proposed, this would likely result in the Council having to take one or more enforcement actions, including prohibition of the whole dwelling or service of an Improvement Notice requiring works.

Either action could prove costly to an owner/developer. Enforcement action under the Housing Act 2004 is not time-barred and is tenure neutral.

The principle of the Act and the HHSRS is that if a property is suitable for the most vulnerable group, then it should be safe for anyone to occupy.

Layout

The proposed layout creates two bedrooms accessed from the high-risk kitchen-living area. This inner room arrangement places sleeping occupants at greater risk of harm or death in the event of a fire.

Compliance with Building Regulations i.e. reliance on an emergency egress window, will not be sufficient to mitigate the risk, as vulnerable householders are unlikely to be able bodied persons.

For fire safety this is older people who may have reduced mobility, although the Operating Guidance also considers the risk to young children, who are also the vulnerable group for falling between levels.

To avoid the need for enforcement action and/or retrospective work, the internal layout will need to be reconfigured so that bedrooms are not accessed from risk rooms. Alternatively, it may be possible to mitigate the risk of the open plan layout by installing a fire suppression system.

Following revised plans the following comments were received:

Unfortunately the issue remains the same, with both rooms accessed via the high risk kitchen/living area, and so enforcement action would still be likely.

To avoid the need for enforcement action and/or retrospective work, the internal layout will still need to be reconfigured so that bedrooms are not accessed from risk rooms. Alternatively, it may be possible to mitigate the risk of the open plan layout by installing a fire suppression system.

Plans were revised to divide off the kitchen living area from the hallway.

Drainage Engineer (WSP)

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

Representations:

None

Relevant Planning Policies

National Planning Policy Framework (2024)
Planning Practice Guidance

Worthing Local Plan

DM2 - Density
DM5 – Quality of the built environment
DM13 – Retail and town centre uses
DM16 – Sustainable design
DM20 – Flood risk and sustainable drainage
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;

Analysis: In 2019 at the time of the previous application the first floor of 1-4 Liverpool Buildings was indicated as being in office use for Hanover Care. The site visit showed an empty property which didn't appear to have changed use from offices in that time. However, it is not clear when it was last occupied.

(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: None of these apply

(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(a);
- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

Analysis: None of these apply

(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

Analysis: Doesn't apply

(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.

Analysis: No article 4 direction was in place

(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

Analysis: The site is occupied as Class E formerly Class B1a

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

Analysis: 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 applicant has demonstrated a cycle storage cupboard which will provide space for one bicycle. This will be conditioned to ensure it is provided prior to the first occupation.

(b) contamination risks in relation to the building,

Analysis: The development is at first floor. The building is not known to be contaminated.

(c) flooding risks in relation to the building,

Analysis: The site is located in Flood Zone 1. The application has been reviewed by the Council's drainage officer who has raised no objection on surface water grounds.

Southern Water has requested a condition to provide further information on foul drainage to protect against flooding. This will be attached.

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

Analysis: The NPPF and PPG promote a high standard of amenity for occupiers. 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 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).

This is underlined by policy DM22 of the Local Plan which states development should not result in pollution or hazards which prejudice the health and safety of the local community.

The site is located on a busy commercial street with activity throughout the day and into the evening. There is a commercial unit underneath. The service area and rear access to the commercial properties is to the rear. The Environmental Health Officer has advised that due to the possible uses within Class E for the unit below there is the potential for noise from the commercial operators on the proposed residents. A condition is therefore recommended for sound insulation.

(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: The development is first floor only

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

Analysis: The two bedrooms would have north facing windows towards the street. The living area has a large window facing to the south onto Bank Passage. All rooms are considered to have adequate natural light. It is noted that the plans have been revised to remove a proposed roof light given that building works are outside the scope of this type of application.

(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

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

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 in the introductory words in subparagraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”.

(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 201559

Analysis: Not applicable

Part 3 (9A) of the GPDO reads

(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(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

Analysis: The proposed unit would have a floor area of 66 sqm which is more than the 61sqm required. The room sizes meet the standards and adequate storage has been provided.

Recommendation

Prior Approval is Required and Granted subject to Conditions:

1. Approved plans
2. Cycle storage to be provided prior to first occupation.
3. Sound insulation to be provided and a test undertaken
4. Southern Water condition

Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. New Address
3. CIL

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

Case Officer: Louise Prew Date: 16/04/2025

Authorised by: Peter Barnett Date: 16 April 2025