Development Control – Delegated Officer Report

Application Number: NOTICE/0009/25 Recommendation – APPROVE

Site: 39 Brighton Road Worthing West Sussex BN11 3EF

Proposal: Application for Prior Approval for Proposed partial change of ground floor commercial unit from Use Class E to Use Class C3 (residential)

Neighbours Checked: Y

Additional Neighbour Notifications N

Site and Surroundings:

The application property is located on the northern side of Brighton Road. It contains a mid-terrace three storey building with commercial at ground floor. The upper floors contain two self-contained flats, one on the first floor and one on the second floor.

The site is within Worthing town centre in the Warwick Street / Brighton Road character area.

The site is within the Steyne Gardens Conservation Area.

Proposal

The application is for prior approval for change of use of part of the rear of the ground floor to residential. The first floor flat would be enlarged with accommodation at ground floor with an additional bedroom and rear access.

Relevant Planning History

AWDM/1762/23: Partial demolition of the front balcony terrace structure and first floor balcony, following partial collapse of the structure. Remedial works involve re-forming the balcony terrace structure and first floor bay balcony, and reinstating all finishes and detailing to match original. Permitted 09/04/2024

Consultations:

<u>WSCC Highways</u>

This proposal is for prior approval for partial change of use of ground floor commercial unit (Class E) to residential (C3) to be amalgamated with the first-floor dwelling. The 2nd floor dwelling will remain as current. The site is located on

Brighton Road, an A classified road in Worthing subject to a speed restriction of 30 mph.

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 matters 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 vehicular access appears to be associated with this 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 movements associated with the site will exceed that of the existing use.

WSCC Parking Demand Calculator outlines that a property of this size in this location would generate the requirement for 2 parking spaces. The applicant proposes a nil car parking provision - consequently, parking would have to be accommodated on-street.

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 or parking capacity issue in this instance. Due to the location of the development within a sustainable location in Worthing, it is not considered that occupants would be reliant on the use of a car. The LPA may wish to consider securing a secure and covered cycle parking provision, if there is space within the site to do so.

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.

Southern Water

From reviewing the submitted documents, if the applicant is proposing to use the existing connection, Southern Water will have no objections to the works proceeding.

Worthing Society:

Thank you for your email in respect of the aforementioned application. I am writing to advise you that we do not have the expertise to comment on 'Permitted Development Determinations,' so this is outside our remit.

Adur and Worthing Councils

EHO (Public health): There are no adverse EH comments for this application.

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
DM24 – Historic environment

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: Streetview indicates that the property has been in use as "Bespoke" a hairdressers since March 2019. The unit appears to have been closed following damage to the first floor canopy but no change of use has occurred.

(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 A1

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 has stated that "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".

The ground and first floor unit will be accessed from the rear. There is space for cycle parking and details will be required by condition.

(b) contamination risks in relation to the building,

Analysis: The site is not in an area known to be potentially contaminated.

(c) flooding risks in relation to the building,

Analysis: The site is not at risk of flooding from sea or rivers. In relation to surface water flooding, the application has been reviewed by the Council's drainage officer who has raised no objection. Southern Water has also confirmed they have no objection.

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

Analysis: The front of the ground floor will be retained as commercial premises. In some cases sound insulation is requested but in this instance given the separating

bathroom, and toilet within the commercial premises it is considered that insulation to building regulations will be sufficient.

(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 within Steyne Gardens Conservation Area. The proposal retains a commercial unit reducing the impact on the conservation area. The commercial unit would be small, 37.6m2, but would likely be sufficient for a small business. The shop retains access to the rear service yard. The unit is small but not of a level which would warrant refusal of prior approval on this basis.

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

Analysis: The only new habitable room is a bedroom at ground floor. It has a west facing window. While it would be overshadowed by the adjacent outrigger it is of a scale that is considered to provide sufficient light for this single bedroom.

(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.

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 sub-paragraph (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 85 sqm which is more than the 70sqm 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.

Informatives

1. CIL

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

Case Officer: Louise Prew Date: 24/07/2025

Authorised by: Peter Barnett Date: 25 July 2025