Development Control – Delegated Officer Report

Application Number: NOTICE/0014/17 **Recommendation REFUSE**

Site: **6A Station Parade, South Street, Lancing, BN15 8AA**

Proposal: **Application for permitted development for prior approval for change of use from office (Use Class B1) to one bedroom flat (Use Class C3)**

The site and surroundings

The property is a mid-terrace, 2-storey commercial building. Currently the ground floor is still within retail use as an opticians. There is a separate door at the front with 6A printed on it, which appears to lead up to the first floor. There is a sign next to the door which reads "Practical Resourcing Solutions". Companies House indicates that the company is now dissolved. There are 2 no. windows at the front on the first floor, and the unit appears to be vacant.

Adjoining units to the south is 'Jade Garden' a Chinese take away; Sussex Kitchens and others. To the north is 'Bacon' Estate Agents; 'Lancing & Sompting Lions charity shop; a solicitors, and others.

Access to the upper floors is from an independent entrance at the front.

The site is opposite Lancing Railway Station and is on a bus route.

The site in not located within a Flood Zone.

Site Visit 29.08.2017

Relevant Planning History

L/158/79/TP/8060 Change of use from Dental Surgery to Offices **Approved 09.07.1979**

Preapp/0409/17 Change of use from first floor offices to residential **Closed**

Proposal:

The proposal relates to the first floor of the property and has been validated as a Prior Approval notification for the change of use of an existing office to residential dwelling. This application will be considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 : Schedule 2 : Part 3 : Changes of use.

Consultations:

WSCC: The Highway Authority comments:

"The Local Highway Authority acknowledges the permitted change of use from offices to residential subject first to prior approval being granted. As part of the prior approval, the LHA can consider only whether the proposal is likely to result in a material increase or a 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 from experience of other similar proposals, the Local Highways Authority recognises that offices generate more vehicle movements compared with residential developments. As such, there is no expectation for this proposal to give rise to any increase or material change in the character of traffic in the vicinity of the site.

The prior notification process does not enable parking provision or other matters relating to accessibility to be considered. Nevertheless it does appear that there will be no net change in parking provision with the existing offices operating with a nil provision.

There would be no highway grounds to resist the prior approval."

Southern Water:

"Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer. The applicant should assure himself that he has adequate rights to utilise the private surface water drainage systems.

Southern Water requires a formal application for a connection to the foul sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent:
"A formal application for connection to the public sewerage system is required in order to service this development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove,Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk"."

Adur and Worthing Councils: The Environmental Health Officer has identified Asbestos as a potential source of contamination.

Representations:

Lancing Parish Council: Objection on the grounds that it is not in keeping with the existing local environment and involves the loss of an existing shopping provision which detracts from the character and vitality of the area. Concerns were also raised in regard to precedent setting for future developments in the vicinity.

Planning Assessment

Part O of the General Permitted Development Order states:

Class O – offices to dwellinghouses

Permitted development
O. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

O.1 Development is not permitted by Class O if—
(a) the building is on article 2(5) land;
(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—
(i) on 29th May 2013, or
(ii) 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 use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 30th May 2016;
(d) the site is, or forms part of, a safety hazard area;
(e) the site is, or forms part of, a military explosives storage area;
(f) the building is a listed building or is within the curtilage of a listed building; or
(g) the site is, or contains, a scheduled monument.

Analysis

a) The building is not on article 2(5) land;
b) Planning permission was gained to use the first floor as offices in 1979, there is no evidence to show that the use as offices had ceased on 29th May 2013. Indeed Google Street Scene shows that the office use signage for 'Practical Resourcing Solutions', was in place for both 2012 and 2016;
c) There is no history relating to if and or when the first floor was used for residential purposes;
d) The site is not part of a safety hazard area;
e) It is not a military explosives storage area;
f) It is not a listed building or within the curtilage of a listed building; or
g) It is not, nor contains, a scheduled monument

Conditions

O.2 *Development under Class O is permitted subject to the condition that 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 and highways impacts of the development;
(b) contamination risks on the site; and

(c) flooding risks on the site,
(d) impacts of noise from commercial premises on the intended occupiers of the development,

and the provisions of paragraph W (prior approval) apply in relation to that application.

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

Interpretation of Class O O.3. For the purposes of Class O, "commercial premises" means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2(1), and includes any premises licensed under the Licensing Act 200347 or any other place of public entertainment.

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 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, 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);
(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(**a**) to be consulted, a site specific flood risk assessment, together with any fee required to be paid.*

(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, 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 Agency(b) 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 adjoining owner or occupier.

(9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—
(a) assessments of impacts or risks;
(b) statements setting out how impacts or risks are to be mitigated; or
(c) details of proposed building or other operations.
(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 Department for Communities and Local Government in March 2012(**a**), 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 1990(**b**), 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 2012(**c**), and*

(ii) if they determine that the site will be contaminated land, refuse to give prior approval.
(11) The development must not begin before the occurrence of one of the following—
(a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
(b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
(c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
(12) The development must be carried out—
(a) where prior approval is required, in accordance with the details approved by the local planning authority;
(b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1), unless the local planning authority and the developer agree otherwise in writing.
(13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

Assessment:

The application has been validated as an application for Prior Approval notwithstanding that the submitted forms seek full planning permission.

However, the application is not accompanied by:

- a plan indicating the site and showing the proposed development;
- a statement specifying the net increase in dwellinghouses proposed by the development.

Although the applicant has been contacted (by both phone and email) he has failed to give further or explanatory information.

The provisions of paragraph W state that the local planning authority may refuse an application where, in the opinion of the authority the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

Conclusions

The application should be refused as the requirements of Condition O.2(1) of Schedule 2, Part 3, Class O of the Town & Country Planning (General Permitted development) Order have not been met.

DELEGATED

Case Officer: Eve Hearsey Date: 25.09.2017

Authorising Officer: Jo Morin Date: 26.09.2017