Expiry: 25/1

Development Control – Delegated Officer Report

Application Number: NOTICE/0021/23 **Recommendation: Prior Approval Required and Granted**

Site: **96a Montague Street, Worthing**

Proposal: **Application for Prior Approval for change of use from Commercial, Business (Use Class E) at First floor to be converted into 1 x three bed flat with shared kitchen and bathroom (Use Class C3 (c))**

Date of site visit: 12/12

Neighbours checked: y + SN

Additional neighbour notifications: n

Site and Surroundings

This application relates to the first floor of a vacant retail shop, formerly Oxfam bookshop, on the north side of Montague Street close to the junction with Graham Road and opposite New Street. The unit has a palladium style gabled roof. It has a separate rear access onto Buckingham Road with a small frontage behind a boundary wall. A metal staircase from a first floor rear door also leads down to this frontage.

To the west in Montague Street is a small retail unit with café beyond on the corner of Graham Road. To the east is a retail shop. At the rear is Buckingham Road with access to the multi storey car park with a restaurant on the opposite corner.

The site is in the Montague Street conservation area but is not a listed building. It is not in a flood zone and nor is it a surface water flood risk area.

Proposal

An application for Prior Approval is sought under the provisions of the Town and Country Planning GPDO 2015 Schedule 2 Part 3 Class MA for a change of use of the upper floors from commercial, business and service use (Class E) to provide 1 No. 3 bedroom flat.

The applicant has confirmed the proposed use to be a C3c use let to 3 tenants under a single tenancy agreement sharing a kitchen/diner and bathroom with separate WC.

Relevant Planning History:

139/83 – Installation of fire escape staircase and exit door on rear elevation of retail premises. Granted (96B)

851/82 – Change of use of first floor from retail to dry cleaners in conjunction with retail use on ground floor. Granted (96A and 96B)

201/82 – Erection of single storey at rear, internal alterations to convert 2 shops into 1 shop and alterations to front and rear elevations. Granted (96A and 96B)

Consultations:

Health:

Recommended conditions:

Flat above Commercial
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.

Construction Management Plan
No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate, but not necessarily be restricted to the following matters:
• the parking of vehicles by site operatives and visitors,
• the loading and unloading of plant, materials and waste,
• the storage of plant and materials used in construction of the development.

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of nearby occupiers during construction.

Private Sector Housing

No objections on PSH grounds, but should 2 or more units be occupied by 2 persons (i.e. 5 or more persons in total), the property will be licensable and the amenity provision is unlikely to meet licence requirements.

Highways:

'This proposal seeks prior approval for the change of use from Use Business (Class E) to residential (C3 Use), to be converted into one three bedroom flat with shared kitchen and bathroom. The site is located on Montague Street, an E classified pedestrianised road.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from Class E to 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 highway matters can be considered, namely 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 vehicular access is 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 material movements associated with the site will exceed that of the existing.

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 detriment 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.

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 applicant has demonstrated a cycle store within the building for residents to use, which appears of suitable size to accommodate cycle parking provision in accordance with WSCC Parking Standards. It is advised this provision is secured via planning condition.

In summary, the movements associated with Use Class E have done so safely with no known safety highways 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. The prior approval is therefore considered acceptable in highway terms.'

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:

None received.

Relevant Planning Policies

Worthing Local Plan: DM1, DM2, DM5, DM13, DM20, DM22, DM24
Revised National Planning Policy Framework (HCLG 2021)
National Planning Practice Guidance (CLG)

Legislation

The application is made under the Prior Approval procedure and the consideration is restricted to the limitations, restrictions and conditions set out in respect of Class MA, Part 3, Schedule 2 of the GPDO 2015 as amended and the provisions of Paragraph W.

Class MA allows for 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.

These provisions are subject to the limitations sets out in MA.1 and conditions set out in MA.2

Development not permitted

MA.1
(1) Development is not permitted by Class MA -
(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;
(b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

(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 198155;
(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

Conditions

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;
(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 Agency to be consulted, a site-specific flood risk assessment;
(ii) sub-paragraph (6A) requires the Health and Safety Executive 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)(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 201559 .

Planning Assessment

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

Limitations MA.1

MA.1(a) A Supporting Statement submitted with the application confirms that the floorspace is currently vacant and has been for over 3 months prior to the submission of the current application.

MA.1(b) Prior to the above-mentioned consolidation of the use, the upper floors were in use as ancillary retail floor space within Use Class E.

MA.1(c) The floor area of the first floor is approximately 105sqm and does not exceed 1,500 square metres.

MA.1(d) The building is not covered by or within an SSSI, a Listed building, a Scheduled Monument, within a safety hazard area, a military explosives area.

MA.1(e) The building is not within an AONB, a National Park, the Broads, or a World Heritage Site or area specified under Section 4(3) of the Wildlife and Countryside Act.

MA.1(f) The building is not occupied under an agricultural tenancy.

MA.1(g) The application post-dates 1 Aug 2022.

Conditions MA.2

Transport and safe site access

The site is sustainably located within the Town Centre with good public transport links by bus and train (within 20 minutes walking distance of Worthing rail station).

The development would be a car-free development. Cycle storage provision is shown in a separate lockable store at rear ground floor. Measures are in place locally (CPZ) to control on-street parking on nearby residential roads.

The local Highway Authority is satisfied that the proposal would have safe site access and raises no adverse transport impacts.

Bin storage is identified in the lockable ground floor store at the rear to be shared with cycle parking. There is potential alternative cycle parking on a first floor rear terrace.

Contamination risks

The proposals involve a change of use on the upper floor of the building with no breaking of ground. There is no external amenity space provision. No contamination risks are envisaged.

Flooding risks

The area is not within an EA Flood Zone. Nor is it at known risk of risk of surface water flooding. Living accommodation is at first floor only.

Impact of noise from commercial premises in the intended occupiers

The site is above one vacant retail unit and one occupied retail shop.

Environmental Health want to see sound insulation between the commercial ground floor and upper floor improved to protect future occupiers from any commercial noise intrusion. A suitable condition is recommended.

Impact on conservation area

The building is located in a conservation area, and involves a change of use of a small part of the ground floor area. This change will not impact on the character or sustainability of the conservation area;

The provision of adequate natural light to all habitable rooms

All habitable rooms would be provided with a window and would have an adequate standard of natural light.

Article 3(9A)

The proposed 3 bedroom (6 person) flat would have a floor area of approximately 105sqm. This exceeds the Government's Technical Housing Standards requirement of 95sqm for this size of unit.

Other

The building does not meet the fire risk condition (as it is not more than 18 metres tall).

The proposal does not involve the loss of a registered nursery or a health centre.

Private Sector Housing advises that should the flat be occupied by 5 or more persons the property will be licensable and the amenity provision is unlikely to meet licence requirements. An informative is added.

Recommendation

Prior Approval is Required and Granted subject to Conditions:-

1. Approved plans
2. Works for implementing the development shall not commence until the sound insulation of the floor/ceiling between the ground and first floor has been upgraded to achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB). On completion of the scheme and before the residential unit is occupied a test shall be undertaken to demonstrate compliance with this level with the test results submitted to the Local Planning Authority for approval. Thereafter the sound insulation shall be retained.
3. Details of Construction Management Plan
4. Bin storage/cycle storage to be provided prior to first occupation.

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. Private Sector Housing
3. SW connection
4. SW public sewer

Expiry: 25/1

5. New Address

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

Case Officer:	MOK	Date: 5/1/24
Authorised by:	Jo Morin	Date: 5.01.2024