Expiry Date - 30/01/2024

Development Control – Delegated Officer Report

Application Number: NOTICE/0022/23 **Recommendation – PRIOR APPROVAL REQUIRED AND GRANTED**

Site: **5 Broadwater Street East Worthing West Sussex BN14 9AA**

Proposal: **Application for permitted development for prior approval for change of use from Class E (c) (ii) at first floor to 3no. 1 bed dwelling (Class C3).**

Date of site visit: 21.12.2023 & 25.01.2024

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The application relates to a vacant, 2-storey building fronting directly onto the North side of Broadwater Street East, close to its junction with Broadwater Street West. The older front part of the building has a pitched, gabled roof. Attached to the rear is a part single/part 2-storey, flat-roofed component. The 2-storey element spans roughly half the width of the property and extends rearward adjoining the eastern site boundary following its alignment, dog-legging inward and dropping to single-storey where it adjoins the rear site boundary. A single-storey rear component infills the wedge-shaped area between the north side of the 2-storey, flat-roofed element and the site boundary leaving a small open yard area to the rear (North) on this side.

The front and rear components of the building are brick-built, the former under a slate roof. Windows are UPVC replacements. The front façade is rendered above a modern, tiled shopfront.

The property was formerly in use as a Nat West bank with ancillary offices and staff facilities on the first-floor.

It is attached on its west side to an irregular-shaped, single-storey, flat-roofed shop unit occupied by Tesco Express. Beyond is The Broadwater public house. An alleyway between the pub and Tesco Express leads to the pub garden with outdoor tables and seating, and adjoins the rear boundary of the application site.

Adjoining to the east is 7 Broadwater Street East, a Listed, 2-storey end-of-terrace property in retail use on the ground-floor.

The property is located within the Broadwater District Shopping Centre and the Broadwater Conservation 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 floor from commercial, business and service use (Class E) to provide 3no 1-bedroom flats units.

The submitted drawings indicate cycle storage for 2 cycles within an existing store and a further 4 cycles within a 'proprietary covered semi-vertical cycle store' to the rear of No.7 Broafwater Street East. Bin storage is shown within a redundant garage building attached to the East side of the building.

Planning History

AWDM/0181/23 Removal of ATM, existing signage and proposed works of making good. Permitted 27.04.2023.

Consultations

WSCC: No objection, commenting:-

"This proposal seeks prior approval for the change of use from Use Business (Class E) to residential (C3 Use), to be converted into three one bedroom flats. The site is located on Broadwater Street East, a C classified road subject to 30mph speed restrictions.

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 parking provision is proposed 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 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. From observation of the WSCC parking demand calculator it is anticipated that the site could generate the requirement for 3 parking spaces. A garage does exist at the site currently, the access to the garage is narrow and would require a reverse manoeuvre to be accommodated. Similarly the dimensions of the existing garage do not meet the most recent WSCC specifications for a garage space in order to accommodate an average sized vehicle- there it is considered this many not

be viable for parking. The garage is proposed to become a bin store and two cycle storage locations are to be positioned within the courtyard area.

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 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 two cycle stores within the site for residents to use, which appear of suitable size to accommodate cycle parking provision in accordance with WSCC Parking Standards. These should be secure and covered and a suitably worded condition is advised to be sealed alongside any permission to secure this.

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."

West Sussex Fire & Rescue Service (Water & Access Manager):

"Evidence is required to show all parts inside each dwelling within 45 metres of the fire appliance location, measured along the hose lay route and not in a direct line or arc measurement as these measurements often cannot be met due to obstructions.

Any area not within the 45-metre distance from the fire appliance will need to be mitigated by the installation of domestic sprinkler or water mist system complying with BS9251 or BS8458 standard. With the access route being a considerable distance a suitable turning facility for an attending fire appliance will be required complying with the requirements of AD-B volume 1 B5 section 13."

Southern Water:

Further to your recent prior approval request for the above site, Southern Water have the following observations to make in respect of the proposed development:-

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

If the Applicant has not already provided documentation demonstrating compliance with the surface water hierarchy reflected in Part H3 of the Building Regulations, SW will require this to be provided where surface water is being considered for discharge to the SW network. Whilst reuse does not strictly form part of the hierarchy SW encourage the consideration of reuse for new developments:-

- Reuse
- Infiltration
- Watercourse
- Storm Sewer
- Combined Sewer.

WSP: No objection.

Adur and Worthing Councils:

EHO (Public Health):

"*The DAS states in paragraph 3.5.1 "The change of use of the building from a use in Class E to a use in Class C3 would not result in any impacts of noise from commercial premises on the intended occupiers of the development as the surrounding uses are not noise generating uses."*

There is a Tesco Express immediately adjacent to the site. The premises are open 7am to 11pm. I am not aware if there are any restrictions on the times for deliveries to or collections from this store. Clearly if there are none then these activities may adversely affect residential amenity of this building. The effects of this could be mitigated by appropriate design, internal configuration and sound insulation.

A Noise Assessment we be required…….. as we do not know how noisy the Tesco operations are and this could influence the final building design (windows etc).”

The EHO recommends the following conditions to address noise concerns:-

1. Works for implementing the development shall not commence until an impact assessment of noise from existing adjacent commercial premises has been submitted to and approved by the local planning authority. The assessment shall follow the principles of BS 4142:2014+A1:2019 and include noise from deliveries, operation of adjacent developments and any fixed plant. The assessment shall include a scheme for protecting the proposed noise sensitive development from external commercial noise. The scheme shall achieve the indoor ambient noise levels for dwellings specified in BS:8233:2014. Following approval of the scheme and prior to first occupation of any dwelling unit, a test shall be undertaken and the results submitted to the local planning authority to demonstrate that the

attenuation measures proposed in the scheme are effective and protect the residential unit from noise.

2. Sound insulation of the floor/ceiling between the ground and first floor shall be undertaken to achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB). Before any residential unit is first occupied a test shall be undertaken and the results submitted to the local planning authority to demonstrate compliance with this level.

Private Sector Housing:

The Private Sector Housing team recommends the following Informative is attached to any consent:

The Private Sector Housing team of Adur & Worthing Councils has identified that some aspects of the development may result in hazards that require action under the Housing Act 2004. Typical hazards can include 'inner' rooms (where the only means of escape in the case of fire is through another risk room i.e. bedroom, living room, kitchen, etc.) or where there are inadequate windows or outlook from habitable rooms.

In this case, units 1 and 3 have access to the bedrooms through other habitable rooms and so are inner rooms.

Fire escape windows at first floor level are not accepted by PSH under the Housing Act 2004

Compliance with Building Regulations will not necessarily address the hazards identified and you should contact the Private Sector Housing team to confirm that the layout of the property is acceptable prior to commencing the development in order to avoid the need for any formal intervention or the requirement of retrospective works

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 building has been empty for well over 3 months prior to the submission of the current application.

MA.1(b) The building was formerly in use as a bank within Use Class E (since at least 2004).

MA.1(c) The floor area of the first floor is approximately 135sqm 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 in easy walking distance of the various shops and services available within Broadwater District shopping centre, and with good public transport links by bus (up to 5 per hour) to destinations including Worthing Town Centre, Crawley, Durrington, Midhurst and Lancing.

The development would be a car-free development. Cycle storage provision for 6 bikes is shown on the East side of the building.

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

Bin storage is shown within a redundant garage building attached to the East side of the building.

Contamination risks

The proposals involve a change of use on the upper floor of the building with no breaking of ground. There would be no external amenity space available to the proposed flats. No contamination risks are envisaged.

Flooding risks

The area is within EA Flood Zone 1. No food risks are anticipated.

Impact of noise from commercial premises in the intended occupiers

The property is located next to a Tesco Express store open between the hours of 07.00-23.00. There are no planning restrictions on hours of delivery. There are some condenser units located within a small yard to the rear of the shop.

Beyond the Tesco Express is The Broadwater Public House. There is a pub garden with outdoor tables and chairs to the rear (east) adjoining the rear boundary of the application site.

The potential exists for noise from nearby commercial premises to impact the intended future residential occupiers. The application is not accompanied by a Noise Impact Assessment. However, in this case the EHO is satisfied that noise impacts can be adequately addressed by a condition.

The EHO has also recommended a condition to provide insulation between the proposed residential accommodation and the ground floor. There is potential for the full range of Class E uses to occupy the ground-floor, some of which could generate noise, with that noise potentially continuing into the evening. However, as the ground-floor of the building is currently vacant it considered that this matter should more appropriately form the subject of an Informative rather than a planning condition.

The provision of adequate natural light to all habitable rooms

All habitable rooms would be provided with an adequate standard of natural light.

Article 3(9A)

Following the receipt of an amended plan, the GIA of the proposed accommodation (2no 1-bed 1-person units and 1no 1-bed 2 person unit) would meet the relevant minimum standard as set out in the Government's Technical Housing Standards.

Other

The building is within a Conservation Area. The majority of the ground-floor of the building would be retained in commercial (Class E) use other than an existing entrance door and stair access to the first-floor from Broadwater Street East. There would be no adverse impacts for the sustainability of the Conservation Area.

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.

Recommendation

Prior Approval is Required and Granted subject to Conditions:-

1. Approved plans
2. Cycle parking to be agreed/provided prior to first occupation
3. Bin storage to be provided prior to first occupation

4. Works for implementing the development shall not commence until an impact assessment of noise from existing adjacent commercial premises has been submitted to and approved by the local planning authority. The assessment shall follow the principles of BS 4142:2014+A1:2019 and include noise from deliveries, operation of adjacent developments and any fixed plant. The assessment shall include a scheme for protecting the proposed noise sensitive development from external commercial noise. The scheme shall achieve the indoor ambient noise levels for dwellings specified in BS:8233:2014. Following approval of the scheme and prior to first occupation of any dwelling unit, a test shall be undertaken and the results submitted to the local planning authority to demonstrate that the attenuation measures proposed in the scheme are effective and protect the residential unit from noise.

Informative

- Hours of construction
- Southern Water – advice
- New Address
- Private Sector Housing Advice
- It is advised that sound insulation of the floor/ceiling between the ground and first floor should be undertaken to achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB).

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

Case Officer: Jo Morin Date: 30.01.2024

Authorised by: Gary Peck Date: 30 January 2024