

Development Management – Delegated Officer Report

Application Number: NOTICE/0014/25 Recommendation – APPROVE

Site: 131 Montague Street Worthing West Sussex BN11 3BP

Proposal: Application for Prior Approval for Proposed change of use from commercial, business and service (Use Class E) to two residential flats (Use Class C3)

Neighbours Checked: Y

Additional Neighbour Notifications N

Site and Surroundings:

The application relates to a two-storey terraced building on the south side of Montague Street on the pedestrianised area close to Crescent Road. The building currently comprises a retail unit at ground floor and retail and offices on the first floor.

The property has a flat roof with an inverted shopfront on the ground floor and two windows at first floor. There is an alley to the rear proving servicing and parking. The property has door and two windows at ground floor to the rear and three windows above.

The site is within the Town Centre within the secondary Shopping Frontage.

The site is within the Montague Street Conservation Area.

Description of Development

The application seeks prior approval for the change of use of the first floor from use class E to 2 flats.

Front flat (street facing) - 41.1sqm - Minimum required size 37m²
Rear flat- 40.6sqm- Minimum required size 37m²

The units would be accessed via a staircase from the rear alley. The application indicates that there are no external changes.

The ground floor is shown as a retail shop with store and utility as existing access from Montague Street.

The application is supported by a location plan, existing and proposed floor plans and elevations

Relevant Planning History

None

Consultations:

WSCC Highways

This proposal seeks prior approval for the change of use from Use Class E to residential (C3 Use), to form two residential flats. The site is located on Montague Street, an E-class pedestrianised street in this location.

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 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 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 WSCC Car Parking Demand Calculator indicates that a dwelling of this size and location would require at least two car parking spaces. The applicant proposes a nil car parking provision - consequently, parking would have to be accommodated on-street or within nearby paid-for provision. 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, but the LPA may wish to consider amenity implications.

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 LHA would request that secure and covered cycle storage for at least one bicycle per unit be provided, 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

Due to the exterior of the development being unaltered, if the applicant is proposing to utilise the existing connection, Southern Water will have no objections to the proposed works.

If not, Southern Water will require a formal application for a connection to the public sewer to be made by the applicant or developer. To make an application visit Southern Water's Get Connected service:

<https://developerservices.southernwater.co.uk> and please read our New Connections Charging Arrangements documents which are available on our website via the following link: <https://www.southernwater.co.uk/developing-building/connection-charging-arrangements>

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

Adur and Worthing Councils

EHO (PH)

The use hereby permitted shall not commence unless and until an insulation scheme for protecting the upper floor residential units from noise has been submitted to and approved by the local planning authority. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors, have regard to the principles contained within the World Health Organisation community noise guidelines and ensure the standards within Table 4 of BS8233:2014 are achieved in the residential units above. Following approval and implementation of the scheme, a test for compliance shall be undertaken. All works, which form part of the approved scheme, shall be completed before the use commences

Drainage Engineer (WSP)

The applicant is applying for the prior approval for proposed change of use from commercial, business and service (Use Class E) to two residential flats (Use Class C3). The application is to Worthing Borough Council.

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

Relevant Planning Policies

National Planning Policy Framework (2024)
National Planning Practice Guidance (CLG)

Worthing Local Plan

DM1- HOUSING MIX

DM2 - DENSITY

DM5 - QUALITY OF THE BUILT ENVIRONMENT

DM13 - RETAIL AND TOWN CENTRE USES

DM15 – SUSTAINABLE TRAVEL AND ACTIVE TRANSPORT

DM16 - SUSTAINABLE DESIGN

DM20 – FLOOD RISK AND SUSTAINABLE DRAIANGE

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;

(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 1981;
- (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 2.

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;
- (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) and (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 2015

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 in the same application 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, MA, 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 subparagraph, “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);

(bb) in relation to development proposed under Class Q of this Part, a statement specifying—

(i) the number of smaller dwellinghouses proposed;

(ii) the number of larger dwellinghouses proposed;

(iii) whether previous development has taken place under Class Q within the established agricultural unit and, if so, the number of smaller and larger dwellinghouses developed under Class Q;

(bc) in relation to development proposed under Class M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;

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

(2A) Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

(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 except for conditions in paragraph M.2(1)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g), 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 Agency⁵⁸ 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.

(i) on any adjoining owner or occupier; and

(ii) where the proposed development relates to part of a building, on any owner or occupier of the other part or parts of the building".

Assessment against the legislation

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

The building has been used as a commercial uses for at least 2 years prior to the date of the application and as such complies with MA.1 (1) (b).

The building is not within an SSSI, a Listed building, a Scheduled Monument, a military explosives area, an AONB, a National Park, the Broads, a World

Heritage Site or area specified under Section 4(3) of the Wildlife and Countryside Act.

The limitations set out in MA.1(1)(e)(f) and (g) do not apply.

Consideration of the planning merits of the proposal is restricted to those matters set out in MA.

(a) transport impacts of the development, particularly to ensure safe site access

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 would request that secure and covered cycle storage for at least one bicycle per unit be provided, if there is space within the site to do so.

(b) contamination risks on the site,

The site has not been identified as potentially contaminated.

(c) flooding risks on the site,

The EA Flood Map identifies the development site to lie within Flood Zone 1, where the chance of flooding in any given year is less than 1 in 1000 (0.1%).

The NPPF Paragraph 173 of the NPPF states “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment⁵⁹. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan”.

Footnote 59 states “A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as

being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use".

Furthermore paragraph 30 of the Planning Practice Guide on Flood Risk and Climate Change states "A site-specific flood risk assessment is carried out by (or on behalf of) a developer to assess the flood risk to and from a development site. Where necessary, the assessment should accompany a planning application submitted to the local planning authority. The assessment should demonstrate to the decision-maker how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users.

The objectives of a site-specific flood risk assessment are to establish:

- whether a proposed development is likely to be affected by current or future flooding from any source;
- whether it will increase flood risk elsewhere;
- whether the measures proposed to deal with these effects and risks are appropriate;
- evidence for the local planning authority to apply (necessary) the Sequential Test, and;
- whether the development will be safe and pass the Exception Test, if applicable".

Continuing paragraph 31 of the Planning Practice Guidance quotes "The information provided in the flood risk assessment should be credible and fit for purpose. Site-specific flood risk assessments should always be proportionate to the degree of flood risk and make optimum use of information already available, including information in a Strategic Flood Risk Assessment for the area, and the interactive flood risk maps available on the Environment Agency's web site.

A flood risk assessment should also be appropriate to the scale, nature and location of the development. For example, where the development is an extension to an existing house (for which planning permission is required) which would not significantly increase the number of people present in an area at risk of flooding, the local planning authority would generally need a less detailed assessment to be able to reach an informed decision on the planning application. For a new development comprising a greater number of houses in a similar location, or one where the flood risk is greater, the local planning authority would need a more detailed assessment".

DM20 of the Worthing local Plan states:

- b) A site-specific Flood Risk Assessment must be submitted with planning applications for:
 - i) sites of 1 hectare or greater in Flood Zone 1;
 - ii) all new development (including minor development and change of use) in Flood Zones 2 and 3;

iii) development that would introduce a more vulnerable class on land at increased flood risk in future or subject to other sources of flooding identified by the Strategic Flood Risk Assessment.

The drainage consultants WSP have not raised any objections to the proposal.

There is no ground floor residential accommodation.

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

An unacceptable level of amenity would be contrary to the National Planning Policy Framework (and Planning Practice Guidance) which states at para 135 that planning decisions should ensure (amongst other things) that developments:

- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is underlined SPD Guide for Residential Development and the Policy DM22 of the Worthing Local Plan.

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 Worthing Local Plan policy DM22 states amongst other things:

(a) Development should not result in pollution or hazards which prejudice the health and safety of the local community and the environment, including nature conservation interests and the water environment.

(d) Where appropriate, air quality and/or noise assessments will be required to support planning applications. These should be undertaken in accordance with the most up to date guidance and have regard to any relevant action plans.

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).

The NPPF specifically advises at paragraph 191 That Planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

The site is located on a busy commercial street with activity throughout the day and into the evening. There are commercial units surrounding the site and the ground floor will remain in commercial use.

The Environmental Health Officers have requested a condition to protect the the flat from noise from the ground floor unit.

(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;*

The building is within a conservation area however the ground floor will not change so as to impact the conservation area with only internal works required.

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

The application proposes the conversion of the building into 2 flats. The living rooms and bed space have natural light from the windows to the front or to the rear.

(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*

N/A in this case

(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.*

NA in this case.

Recommendation

Prior Approval is required and APPROVED subject to the following conditions:

1. The use hereby permitted shall not commence unless and until an insulation scheme for protecting the upper floor residential units from noise has been submitted to and approved by the local planning authority. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors, have regard to the principles contained within the World Health Organisation community noise guidelines and ensure the standards within Table 4 of BS8233:2014 are achieved in the residential units above. Following approval and implementation of the scheme, a test for compliance shall be undertaken. All works, which form part of the approved scheme, shall be completed before the use commences

Reason: To protect future occupiers from noise disturbance in accordance with the relevant policies of the NPPF and policy DM22 of the Worthing Local Plan.}

2. Cycle parking

Informatives

Change of address

SW connection

Party wall act

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

Case Officer: Jackie Fox Date: 02.09.25

Authorised by: Jo Morin Date: 04.09.2025