Development Management – Delegated Officer Report

Application Number: NOTICE/0033/22 **Recommendation – Prior Approval Required and Refused**

Site: **73 - 75 North Road, Lancing**

Proposal: **Application for permitted development for prior approval for change of use from Commercial, Business and Service (Use Class E) on ground floor to 2no. one person studio flats (Use Class C3)**

Neighbours Checked: Y

Additional Neighbour Notifications N

Site and Surroundings:

The application relates to a two storey, flat roofed vacant building which was previously occupied by Nationwide Building Society (Use Class E). It has a flat roofed ground floor extension at the rear.

The site is within the primary shopping frontage where there is a mix of commercial and residential uses at ground and upper floor levels. Immediately to the rear there is a car repair garage which abuts a narrow passageway which runs between the sites.

Description of Development

The application is for prior approval for change of use of the ground floor to form 2no. studio flats.

The proposed floor plan shows one of the flats having its entrance from the front (North Road) with the other accessed from the rear (off Culver Road). No external changes are proposed.

A separate application has been submitted for a first floor rear extension (to provide additional space for the approved first floor rear flat) which is still under consideration (AWDM/1921/22).

Relevant Planning History

NOTICE/0013/22 - Application for permitted development for prior approval for change of use from Commercial, Business and Service (Use Class E) on ground floor at rear of the property to 1no. two person one bedroom flat (Use Class C3) – refused

NOTICE/0014/22 - Application for permitted development for prior approval for change of use from offices (Use Class E) at first floor to 2no. one person one bedroom flats (Use Class C3) – refused

AWDM/0922/22 - First floor rear extension and conversion of first floor into two one bedroom (two person) self contained flats together with internal and external alterations – refused

NOTICE/0018/22 - Application for permitted development for prior approval for change of use from Use Class E at first floor to 2no. one bedroom flats (Use Class C3) – approved

AWDM/1921/22 - First floor rear extension (to provide additional space for the approved first floor rear flat)– under consideration

Consultations:

WSCC Highways: 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 prior notification process does not enable parking provision or other matters relating to accessibility to be considered. Nevertheless, the WSCC Car Parking Demand Calculator indicates that a development of this size in this 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. 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. However, the LPA may wish to consider the potential impacts on on-street parking from an amenity point of view.
Regarding cycle parking, both flats will be provided with wall hinged bicycle stands. The inclusion of cycle parking will help promote the use of sustainable transport methods. The site is situated in a sustainable location within walking/cycle distance of local services, amenities, and public transport links.
In summary, the movements associated with Class E use 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. 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: Requires a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer.

EHO (Public Health): I appreciate it is limited what we can comment on with this application but I echo the PSH team's concerns about this conversion. Hopefully, building regulations will deal with the ventilation and thermal insulation of the property, otherwise the large glass frontage could be susceptible to chronic condensation during the winter months. The only means of natural ventilation for the property is the open windows at the rear adjacent to the garage. The acoustic report that has been submitted with this application is for the upstairs development and cannot be applied to the ground floor conversion.

Vehicles will be manoeuvred in and out of the garage within a few metres of the only openable windows for the property and could lead to nuisance complaints. As an agent of change the developer should be looking at this in detail and providing adequate noise attenuation and ventilation where windows need to be kept closed. It should be noted that the noise from the garage will be sporadic and therefore any noise impact assessment should be performed over a sufficient period to capture a realistic picture of the garage activity. The current survey was only carried out over a few hours during the day at first floor level and there is no description of what activity was taking place at the garage at the time when the specific source was being assessed. The acoustician reports not hearing any noise from the garage at the time of the assessment and it is unclear what commercial activity was being assessed.

Furthermore, although outside the scope of this application, it may be appropriate to brick up the front of the property and give it a more traditional home frontage as this will provide better noise reduction from the street, particularly at night when the home is more susceptible to noise.

EHO (Private Sector Housing): The outlook to the rear is poor with views only into a narrow back alleyway.
The outlook to the front is poor onto a busy commercial pavement.
There are privacy issues and related security issues
There is insufficient natural ventilation as there are no opening windows at the front.
There is unsympathetic stacking with the proposed flats upstairs

Subsequent comments: As noted the windows to the rear of the units open into small enclosed alleys or backyards - there will be little light distribution from the glazing in this area.
At the same time, the large glazed area to the front of the former shop will need to be treated or supplied with coverings to allow privacy and security.
The access to natural light will therefore be limited by the practicalities of using the shop as a habitable space.
The overall effect will be equivalent to basement dwelling with the added disadvantages of poor ventilation, heat gain and reduced security.

Technical Services: Not received. Previous comments - Flood risk- The application is within flood zone 1, but has areas in the vicinity shown to be at

risk from surface water flooding in the 1 in 100 year and 1 in 100 year plus climate change rainfall events. Please can the applicant confirm threshold depths at the property, so that flood risk can be considered further.
Surface water drainage- the application includes no/minor increase in impermeable area. Due to the scale and location of development we have no conditions to request. Any alterations to surface water drainage must be designed and constructed in accordance with building regulations.

Lancing Parish Council: No objections

Representations:

None

Relevant Planning Policies

Adur Local Plan 2017 policies 9, 15, 27
Sustainable Energy SPD (August 2019)
Lancing Vision 2012
WSCC Guidance on Parking at New Developments (Sept 2020).
National Planning Policy Framework (July 2021)
Technical Housing Standards – nationally described space standard (DCLG 2015)

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 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(a), the impact on the local provision of the type of services lost.

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 site was previously in use as a building society and Google Street View shows that use as being present since at least 2009.

The application form states that the property has been vacant for at least 3 months.

The proposals relate to a floor area of 55sqm and does not exceed 1,500 square metres. It meets the nationally described space standard.

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, an AONB, a National Park, the Broads, a World Heritage Site or area specified under Section 4(3) of the Wildlife and Countryside Act.

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 do not consider that highway safety would be detrimentally affected through the proposed nil car parking provision. The LHA anticipate that the level of traffic generated by the proposed dwelling would be of a similar nature to the existing.

Cycle storage is shown on the plans as being within the living room on a wall mounted stand. There is no outdoor amenity space capable of providing external storage.

Refuse storage would be provided in a lobby off the entrance to each flat.

(b) contamination risks on the site,

The land to the rear (the garage) has been identified as potentially contaminated and that includes this site. No ground works are proposed however.

(c) *flooding risks on the site*,

The site is within flood zone 1, but the Engineer has advised (on the previous application) that areas in the vicinity are shown to be at risk from surface water flooding in the 1 in 100 year and 1 in 100 year plus climate change rainfall events. The applicant should confirm threshold depths at the property, so that flood risk can be considered further. However, as there are other concerns with the application, this has not been pursued further at this time.

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

The site is located on a busy commercial street with activity throughout the day and into the evening. There are commercial units both sides. There is a car repair garage immediately to the rear. A Noise Survey has been submitted which has found that noise from the garage is below background noise levels and is therefore likely to have a low adverse impact. The garage is also closed at 5.30pm and will not cause a nuisance at night. Public Health have previously accepted the findings of this report.

(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 not within a conservation area

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

The application proposes the conversion of the ground floor of the building into two studio flats which are open plan from front to rear. The existing shopfront windows at the front provide good levels of light but at the rear light is less adequate, with a single west facing window towards the rear of the northern unit and no other openings. The southernmost flat has two windows at the rear but these face a narrow alleyway between the building and the garage. There is also a rooflight though which does provide some additional light.

The Environmental Health (Private Sector Housing) Officer has objected to the application on the grounds that the outlook to the rear is poor, with views only into a narrow back alleyway, and is also poor to the front with outlook onto a busy commercial pavement.

There is also considered to be insufficient natural ventilation as there are no opening windows at the front.

This part of the prior approval process only refers to natural light so the other concerns relating to ventilation and outlook cannot be taken into account.

With regard specifically to natural light, it is considered that the rear of the flats will receive limited light, particularly the western flat. At the front the large glazed area to the front of the former shop is likely to need some form of covering for privacy and security which also has the potential to reduce the amount of light available.

The Council's Environmental Health (Private Sector Housing) Officer has advised that the overall effect will be equivalent to a basement dwelling with the added disadvantages of poor ventilation, heat gain and reduced security. The standard of accommodation is therefore considered to be poor in this respect.

(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 because of the relevant issues raised above and is recommended for REFUSAL for the following reason:

1. The proposed development would result in an unsatisfactory living environment for future occupiers by reason of poor outlook and inadequate natural light to habitable rooms. The proposal is therefore contrary to policies 15, 20 and 22 of the Adur Local Plan and paragraph 130 of the NPPF

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

Case Officer: Peter Barnett Date: 11 January 2023

Authorised by: Gary Peck Date: 11 January 2023