Expiry Date - 11/12/2023

Development Control – Delegated Officer Report

Application Number: NOTICE/0017/23 **Recommendation – APPROVE**

Site: **Site Of 1 And 1A And 2 To 3 New Broadway Worthing West Sussex**

Proposal: **Application for permitted development for prior approval for change of use from first floor offices to residential C3 to form 2no flats. (2 x 1 bedroom)**

Date of site visit: 31/10/23

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The site is located on a prominent crossroads at the junction of Tarring Road and South Street, adjacent to the railway crossing and within the Tarring Road - Medium Scale Local Centre. The property comprises of a two storey, flat roof building at the western end of a terrace of shops and businesses, with brick and render banding to the upper front elevation, render to the side and shopfronts at ground floor. The building was formerly three separate units that have been amalgamated into one at ground floor. The building has two elevations facing the street to the south and west and the rear (north elevation) backs onto the railway line. West Worthing train station is located approximately 80m to the west of the site.

The building is within an area of mixed use consisting of commercial and business uses at ground floor, some with residential flats above and some with offices above.

The property is not a listed building and it is not within a conservation area.

The site is located within Flood Zone 1

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 first floor from commercial, business and service use (offices) (Class E) to residential (C3) to form 2no. flats. (2 x 1 bedroom).

The building is currently vacant but the first floor was previously in use as offices. The application proposes 2 flats at first floor:

Flat 1 – 1 bedroom flat, with a double bedroom, lounge/diner, separate kitchen and a shower room – internal floor area 50.6m3

Flat 2 – 1 bedroom flat, with a double bedroom, kitchen/lounge/diner and bathroom – internal floor area 68.6m3

The ground floor does not form part of the application for consideration and access to the first floor will remain as existing via the stairs and separate entrance at ground floor.

The existing windows would provide the openings for the proposed flats and no external changes are proposed to the elevations.

The application has been accompanied by a Planning Statement, Noise Impact Assessment and a Flood Risk Assessment.

The plans have been amended to alter the door position to the bedroom for Flat 1 to avoid the creation of an inner room.

Relevant Planning History:

NOTICE/0016/23 - Application for permitted development for prior approval for change of use from use of first floor offices to residential C3 to form 2no flats. (1x 1 bedroom and 1 x 2 bedroom) – Pending Consideration

NOTICE/0018/23 - Application for Prior Approval for construction of one additional storey upward extension to form an additional storey to provide 2x flats – Pending Consideration

Consultations:

WSP - Following a review of the submitted information, we would recommend that the application is not approved until a Flood Risk Assessment is completed in order to assess the risk of the surface water flow path that is in close proximity to the site. This should also include an evacuation plan that demonstrates safe access and egress in accordance with NPPF, prior to the habitation of the development.

Officer response – An FRA has now been provided and has been approved by WSP.

Southern Water - Southern Water's records show that there is public foul sewer within the proposed development site.
- No new development or tree planting should be carried out within 3 metres of the external edge of the 100mm public gravity sewer without consent from Southern Water.
- 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.
- In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations.
    - Reuse
    - Infiltration
    - Watercourse
    - Storm Sewer
    - Combined Sewer

Guidance on Building Regulations is here:
gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h
Southern Water requires a formal application for a connection to the public water main to be made by the applicant or developer.
For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).
Website: southernwater.co.uk or by email at: SouthernWaterPlanning@southernwater.co.uk

WSCC Highways - This application seeks prior approval for the change of use of ground floor office to residential (Class C3) to form two flats, (2 x 1 bed). The site is located on the A2031 Tarring Road, an A-classified road subject to a speed restriction of 30 mph.

Under the current General Permitted Development Order (GPDO), it is permitted development to change use from Office 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.

Generally, the change of use from office to residential would generate a reduction in material use at the site. The existing use would create a certain number of movements throughout the day, whereas the movements associated with residential use would be anticipated within network peaks. Therefore, although the nature of trips would change, the frequency would likely not exceed that of the potential of the current use.

The WSCC Car Parking Demand Calculator indicates that two residential units of this size in this location would require three car parking spaces. No vehicular access or parking is associated with this site and as such, parking would have to be accommodated on-street or within nearby public car parks.

Whilst on-street parking is limited in the area, there are comprehensive parking restrictions in place prohibiting vehicles from parking in places that would be a detriment to highway safety. The LHA does not anticipate that the proposed nil car parking provision would result in a detrimental highway safety impact, nor

lead to a parking capacity issue. However, the Local Planning Authority (LPA) may wish to consider the potential impacts on on-street parking from an amenity point of view.

The site is within a location close to a variety of shops and amenities, West Worthing railway station is situated a short walk from the site and regular bus services operate along Tarring Road, making public transport a viable alternative to future residents and alleviating reliance on the use of a car for some journeys.

The applicant has not provided details of cycle parking provision. Cycling is a viable option in the area, the LPA may wish to secure covered cycle parking provision be provided in accordance with WSCC Parking Standards, if there is space within the site to do so.

In summary, the movements associated with the office 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. The prior approval is therefore considered acceptable in highway terms.

Private Sector Housing - The following informative should be placed on any planning permission that may be granted:

The Private Sector Housing team of Adur & Worthing Councils have 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 the bedroom in Flat 1 is an inner room. In this case, the bedroom for Flat 1 is only accessed through the lounge diner and so it is an inner room. The layout should be altered so that the door from the bedroom accesses the lobby.

Compliance with Building Regulations will not necessarily address the hazards identified and the applicant 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.

Officer Response – The plans have been amended to avoid the creation of an inner room to satisfy the above comments.

Environmental Health - There are no EH objections to this application subject to the ventilation and glazing specified in the acoustic report being implemented.

Network Rail - Network Rail is the statutory undertaker for maintaining and operating railway infrastructure of England, Scotland and Wales. As statutory undertaker, NR is under license from the Department for Transport (DfT) and Transport Scotland (TS) and regulated by the Office of Rail and Road (ORR) to maintain and enhance the operational railway and its assets, ensuring the provision of a safe operational railway.

Due to the close proximity of the proposed works to Network Rail's land and the operational railway, Network Rail requests that, where applicable, the applicant / developer follows the attached Asset Protection informatives which are issued to all proposals within close proximity to the railway.

Should you wish to discuss any of the informatives, please contact our Asset Protection team via AssetProtectionWessex@NetworkRail.co.uk.

Representations:

None received

Relevant Planning Legislation and Policies

Worthing Local Plan: DM1, DM2, DM5, DM13, DM15, DM20, DM22
Revised National Planning Policy Framework (HCLG 2021)
National Planning Practice Guidance (CLG)

Legislation

The application is made under the Prior Approval procedure and 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.

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.*

These provisions are subject to the limitations set 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;
(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) The submitted Planning Statement confirms that the first floor of the building has been vacant for at least 3 months, since March 2023.

MA.1(b) Prior to becoming vacant the first floor of the building had been in office use (under Class B1 (business)) for a continuous period of at least 2 years prior to the date of this application.

MA.1(c) The floor area for the first-floor measures approximately 125sqm 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 August 2022.

Conditions MA.2

Transport and safe site access

The site is sustainably located within close proximity to a variety of shops and amenities, West Worthing railway station is situated a short walk from the site and regular bus services operate along Tarring Road, making public transport a viable alternative to future residents and alleviating reliance on the use of a car for some journeys.

There is no parking provision for the development as there is no external space associated with the building. On consideration of this point the LHA confirmed that the change of use to residential would be unlikely to result in a material intensification of use and did not anticipate that the proposed nil car parking provision would result in a detrimental highway safety impact, nor lead to a parking capacity issue.

Parking would therefore have to be accommodated on-street or within nearby public car parks. There is unrestricted parking in nearby roads and it is not considered that there would be any harm to amenity as a result of the nil parking provision.

There is no external space associated with this development and therefore it would not be possible to provide secure covered cycle parking for the flats.

The movements associated with the office use have done so safely with no known safety highways concerns, and the C3 residential use is considered less intensive. The prior approval is therefore considered acceptable in highway terms with no adverse transport impacts.

Contamination risks

The application involves a change of use of the first floor of the building with no breaking of ground or access to any external amenity space provision. The unit would be served by existing services to the building (e.g. water supply). Therefore no contamination risks are envisaged.

Flooding risks

The site lies within Flood Risk Zone 1 and is at low risk of flooding from the rivers and the sea. Surface water flood risk is medium, and the site is adjacent

to a high surface water flood risk area. No other flood risks likely to affect the site have been identified.

The proposed dwellings would be located at first floor level and future residents would not be at high risk of flooding.

Following consultation with WSP, an FRA was requested and submitted in order to assess the risk of the surface water flow path that is in close proximity to the site. The FRA sets out the recommendations and measures to be taken in the event of flooding and has been agreed by WSP. There are no identified flooding impacts to prevent the development.

Impact of noise from commercial premises on the intended occupiers of the development

The application is supported by a Noise Impact Assessment by Acoustic South East (Project J3699 Issue: 1, dated 30.08.2023).

All habitable rooms would overlook Tarring Road, with lobbies, corridors and bathrooms occupying the rear façade closest to the railway track.

A Class 1 sound level meter survey of the location was undertaken during 17th to 22nd August 2023. In accordance with the ProPG 2017 Guidance, the initial site risk assessment identified sound pressure levels at the site fall within a low to medium risk category. Recommendations have been made to ensure that the current Building Regulations (Approved Document E) criterion for existing dwellings are exceeded.

Openable windows should not be relied upon for ventilation purposes and an alternative means of background ventilation would be needed to provide fresh air into the property. There is no suggestion of fixed closed windows being required and tenants should keep a connection to the external environment and open these at their choosing.

The recommendations within the NIA included upgraded glazing, through wall passive ventilators and sound Insulation between the commercial ground floor and residential first floor uses.

The report concluded that Planning permission for the proposed change of use for the first floor, should not be withheld on noise grounds.

The EHO has advised that there is no objection subject to the ventilation and glazing recommendations specified in the acoustic report being implemented.

The provision of adequate natural light to all habitable rooms

All habitable rooms would be served by large/multiple windows which will provide high levels of light. This situation is enhanced by the fact that all habitable rooms would be south facing. The proposals would therefore be acceptable in this regard.

Article 3 (9A)

The proposal includes the creation of 2 x 1 bed units (2 person), Flat 1 with a GIA of 50.6sqm and Flat 2 with a GIA of 68.6sqm. The proposed units would therefore meet the relevant minimum standard as set out in the Government's Technical Housing Standards and are considered to provide adequate living space in accordance with Section (9A) of Article 3 of the Order.

Other

The building is not within a Conservation Area.

The external appearance of the building at first floor would not be altered. Consequently it is considered there would be no material effect on the external appearance of the building as a result of the proposed change of use.

The building is not a 'relevant' building for the purposes of Part 3, Class MA (2) (i) i.e. the fire risk condition, as the height from the top-most occupied floor FFL to the lowest ground level is less than 18 metres.

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

Recommendation

Prior Approval Required and Granted subject to Conditions:-

1. Approved plans

2. The development must be carried out in accordance with the recommendations set out in the Noise Impact Assessment by Acoustic South East (Project J3699 Issue: 1, dated 30.08.2023) in relation to glazing, ventilation and sound insulation.
   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.

3. The development must be carried out in accordance with the recommendations of the Flood Risk Assessment by EAS ltd dated January 2024.
   Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with the relevant policies of the NPPF and policy DM20 of the Worthing Local Plan.

Informatives

- Application approved following revisions
- Southern Water Sewer Connection
- Asbestos

- New Address
- Network Rail (Please attach Network Rail Informatives (saved in folder) with decision)

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

Case Officer:	Amanda Haslett	Date:	07/02/24
Authorised by:	Louise Prew	Date:	07/02/2024