Development Management – Delegated Officer Report

Application Number: NOTICE/0021/19 **Recommendation – PRIOR APPROVAL REQUIRED AND GRANTED**

Site: **35 - 37 High Street, Shoreham-By-Sea**

Proposal: **Application for permitted development for prior approval for change of use from offices (Use Class B1a) to 8no. residential units (Use Class C3) on first and second floors**

Date of site visit: 12 November 2019

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The application site relates to the first and second floor former offices above a vacant A2 unit, formerly occupied by Santander, on the south side of the High Street. The upper floors are currently vacant. The supporting statement submitted with the application states:

"Evidence is available to demonstrate the current use of the upper floors date from 2010 when the property, in its entirety, was leased by Alliance and Leicester, later absorbed by Santander. A lease exists showing that the first and second floors of the property were subleased by Alliance and Leicester to independent companies from 2012 onwards."

The building is within the Shoreham Conservation Area.

Proposal

The application seeks prior approval for a change of use from offices (Use Class B1a) to 8no. studio flats (Use Class C3). The proposed floor plans show an existing separate entrance at the front of the building. No external alterations are proposed at this stage.

Relevant Planning History:

None

Consultations:

West Sussex County Council: The **Highways** Officer has no objection. Comments that, taking into account the existing permitted B1 (a) usage in

terms of highway safety and level of activity of the site, it is unlikely that this proposal to change to C3 would have an adverse impact on the local highway network. From experience of other similar proposals, the LHA (Local Highway Authority) recognise that offices generate more vehicle movements compared with residential developments. As such, there is no expectation for this proposal to give rise to any increase or material change in the character of traffic in the vicinity of the site.

It is unclear how many of the spaces to the rear of the site are assigned to the use of the flats, details have not been included. The LHA has therefore based this response on a nil parking provision. Should any of the spaces be assigned to future residents it is observed that the vehicle parking at the rear of the property would probably have space to turn to exit in a forward gear.

Given the sustainable location of the proposed development it is not anticipated that future residents would be reliant on the use of a car for transportation to shops and amenities. Regular bus services are available within walking distance of the site and regular routes run along the A259 offering services to Worthing, Littlehampton and Brighton. Shoreham Railway Station is located a 7 minute walk from the site which offers alternative means for commuters to Portsmouth, Brighton and London.

The National Planning Policy Framework states that plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site. In these respects, the site is located within a good walking distance of the village shops and passenger transport infrastructure.

West Sussex County Council in its role as LHA (Local Highway Authority) has therefore considered the proposal on that basis. 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.

Taking into account the existing permitted B1 (a) usage in terms of highway safety and level of activity of the site, it is unlikely that this proposal to change to C3 would have an adverse impact on the local highway network. The LHA would not wish to raise any highway capacity concerns to this application. The applicant may wish to consider secure and covered cycle parking provisions given the sustainable nature of the site. This can be accommodated within the flats individually or in a communal internal/external location.

Adur & Worthing Councils: The **Environmental Health** Officer (Private Sector Housing) advises 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.

The **Public Health** Officer comments that High Street is severely affected by noise and is an Air Quality Management Area. Although, I would not have any

objections to the development I would want to ensure that a scheme to protect the dwellings from noise and poor air quality was incorporated into the redevelopment.

I understand the restrictions for permitted development, but if there are any external alterations necessary that require planning permission then I would like to use this as a hook to require these improvements.

Therefore all I can ask is that a scheme is included in the permission to protect the upstairs residential property from the commercial noise below. For this purpose I would like to see the following condition attached to any permission:

A sound insulation scheme shall be submitted to protect the new residential property from the commercial use below. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB). Following implementation of the insulation scheme, a test shall be undertaken to demonstrate that the attenuation measures carried out has achieved the minimum airborne sound insulation criteria. The use of the development shall not commence until test results, demonstrating the minimum sound insulation criteria has been achieved, has been submitted to and approved by the local planning authority.

Google maps show mechanical plant on the roof of the property and at the rear. An acoustic assessment may be necessary for these unless they are being removed.

Further comments following receipt of Noise Assessment: I am happy with the mitigation proposals. The air intake for the MVHR should be at roof level or at the rear, so that cleaner air is brought into the property.

The glazing and ventilation specification detailed in the acoustic assessment, undertaken by Anderson Acoustics, that supported the application shall be implemented prior to the property being occupied.

The **Engineer** has no objections.

Representations:

ADCAG – No objection

Relevant Planning Policies

Adur Local Plan 2017 Policies 3, 11, 15, 16, 17, 18, 20, 27, 28, 36
National Planning Policy Framework 2019

Planning Assessment

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 O, Part 3, Schedule 2 of the GPDO 2015, as amended, and the provisions of Paragraph W.

Permitted development

O. ***Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.***

Development not permitted

O.1 Development is not permitted by Class O if—
(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—
(i) on 29th May 2013, or
(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
(d) the site is, or forms part of, a safety hazard area;
(e) the site is, or forms part of, a military explosives storage area;
(f) the building is a listed building or is within the curtilage of a listed building; or
(g) the site is, or contains, a scheduled monument.

Conditions
O.2 Development under Class O is permitted subject to the condition that 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 and highways impacts of the development;
(b) contamination risks on the site; and
(c) flooding risks on the site,
(d) impacts of noise from commercial premises on the intended occupiers of the development,

and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

Interpretation of Class O
O.3. For the purposes of Class O, “commercial premises” means any premises normally used for the purpose of any commercial or industrial undertaking which existed on the date of application under paragraph O.2(1), and includes any premises licensed under the Licensing Act 2003 or any other place of public entertainment.

Paragraph ‘W’ outlines the procedures for applications for prior approval under Part 3. A number of the provisions relate to the validation, consultation and processing, however, parts 5, 6 and 10(c) address the assessment for transport, flooding and contamination impacts respectively. These are addressed below.

Part 10(a) and (b) states that local planning authority shall, when determining an application (a) take into account any representations made to them as a result of any consultation and (b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019 as if the application were a planning application.

Assessment under 0.1 criteria (b)

(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order—
(i) on 29th May 2013, or
(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

A site inspection was carried out inside the building on 12 November 2019 and the upper floors were vacant. The applicant’s agent has advised that the previous occupants used the first floor as offices until a few weeks before the application was submitted. There was signage on the separate entrance door which suggests separate office use at first floor. As such, it is considered that the existing use falls into Use Class B1(a).

Turning to the other tests under O.1:-

(d) the site is, or forms part of, a safety hazard area;
(e) the site is, or forms part of, a military explosives storage area;
(f) the building is a listed building or is within the curtilage of a listed building; or
(g) the site is, or contains, a scheduled monument.

- The site does not form part of a safety hazard area; a military explosives storage area; nor is the building listed or a scheduled monument under d, e, f and g.

Consideration of the planning merits of NOTICE/0021/19 is restricted to those matters set out in O.2.

(a) transport and highways impacts of the development

The site is very sustainably located on the High Street with amenities, a bus route and train station within easy walking distance.

There is no parking provision on site. West Sussex Highways do not consider that the proposed use as flats would generate significantly greater traffic or demand for parking than the previous office use.

There is limited space within the entrance lobby to provide bike storage but it may be possible to provide secure, covered bike storage at the rear of the building. It is recommended that a condition be added to require details to be submitted prior to first occupation.

Given the above, it is not considered that 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.

(b) contamination risks on the site

The site is not identified as potentially contaminated land.

(c) flooding risks on the site

The site falls just outside flood zones 2 or 3 and there are no identified critical drainage problems.

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

The site lies within a shopping street with retail and other commercial uses prevalent.

At ground floor level, directly below, is a vacant A2 premises which is not expected to create unacceptable noise levels when occupied. To the east, separated by an access road, is The Crown & Anchor Pub which may generate some noise and disturbance. However, the site lies in a busy High Street area where residential uses and commercial uses are commonly in close proximity. It is not considered that any surrounding commercial uses would create unacceptable levels of noise which would make a residential use unpleasant to occupy, provided the conversion is carried out to a sufficient standard with appropriate sound insulation as per the Building Regulations.

The Environmental Health Officer has confirmed that the site is severely affected by road traffic noise and is within an Air Quality Management Area. The development should incorporate a scheme to protect the dwellings from noise and poor air quality but the restrictions of the permitted development regime mean that this is not possible within this prior approval application.

Nevertheless, the applicants have submitted a Noise Assessment which identifies traffic noise from High Street and pubs/restaurants to the east and west as the main noise sources. The report states that noise from Tosca Restaurant results in a level +9dB above the typical background level, indicating an adverse impact on future occupants. Noise from amplified music and patrons at the Crown and Anchor pub was also identified. Without

mitigation, noise from the existing commercial premises is likely to result in a harmful living environment for future residents.

The Noise Assessment recommends that the existing glazing is upgraded (secondary glazing) to include adequate ventilation (MVHR) so that opening windows is not a necessity.

In addition, protection of the flats from the commercial noise below can also be secured by condition.

It is considered that, with appropriate noise protection, the impact of noise from nearby commercial premises will be adequately mitigated.

Recommendation

The proposal requires Prior Approval and this should be GRANTED, subject to Conditions:-

1. Drawing Numbers
2. Standard time limit
3. A sound insulation scheme shall be submitted to protect the new residential flats from the commercial use below. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB). Following implementation of the insulation scheme, a test shall be undertaken to demonstrate that the attenuation measures carried out has achieved the minimum airborne sound insulation criteria. The use of the development shall not commence until test results, demonstrating the minimum sound insulation criteria has been achieved, has been submitted to and approved by the local planning authority.
4. The proposed glazing and ventilation specification detailed in the Planning Noise Assessment, undertaken by Anderson Acoustics, dated December 2019 shall be implemented prior to the flats being occupied.
5. Secure, covered cycle parking shall be provided, in accordance with details to be submitted to and approved in writing by the LPA, prior to commencement of occupation of the flats hereby approved and shall thereafter be retained permanently solely for such purposes.

Informative:

1. The applicant is advised that any external alterations to the building, including replacement windows, will require planning permission.

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

Case Officer: Peter Barnett Date: 9 December 2019

Authorised by: Gary Peck Date: 9 December 2019