Development Control – Delegated Officer Report

Application Number: NOTICE/0014/24 **Recommendation: Prior Approval Required and Granted**

Site: **Wicker House, High Street Worthing**

Proposal: **Application for permitted development for prior approval for change of use of existing building from commercial (Class E) to residential (Class C3), creating 29no. new dwellings.**

Date of site visit: 17.09.2024

Neighbours checked: Y

Additional neighbour notifications: N Site notice posted 29.08.2024

Site and Surroundings

The application site is located on the corner of High Street at its junction with Upper High Steet and Little High Street, on the south east corner. It contains a two storey purpose-built office building built in the 1990's. The building is roughly L-shaped in its form, set back from the street frontage at its west side with car parking and vehicular access to this western frontage. Its north elevation roughly aligns with the street frontage with a narrow landscaping strip widening at its eastern end as the building staggers in its alignment. There is further car parking to the east and south sides with a second vehicular access onto High Street.

The site is within the Little High Street Conservation Area and is within an Archaeological Notification Area. Tree Preservation Order No.40 of 1997 applies to a group of trees and an individual tree to the west of the building. Part of the site is identified as potentially contaminated land. The site is also within a Key Office Location where policy DM11 applies.

Proposal

An application is for Prior Approval is sought under the provisions of Class MA of the GPDO as amended.

The application proposes 29 new dwellings comprising of twenty-eight 1-bedroom flats and one 2-bedroom flat. Wicker House shares car parking with Eagle House to the east (73 car parking spaces) and it is proposed that 30 allocated car parking spaces would be used by occupants of Wicker House although additional parking remains on site. No external alterations are proposed.

A covering letter with a supporting statement has been provided.

Relevant Planning History:

WB/0522/91/BC Notification under Regulation 5 for office development (Class B1) (Outline proposals) Approved 03.10.1991 – no removal of PD rights

WB/0002/92 Erection of two storey office building with 79 car spaces & associated external works and road alterations (Approval of reserved matters subject to outline consent WB/91/0522/BC) Approved 18.02.1992 – no removal of PD rights

WB/0467/92 Change of use from vacant plot to car parking and soft landscaping associated to adjacent office development

Consultations:

West Sussex Couty Council – Lead Local Flood Authority has commented as follows:

Thank you for your consultation on the above site, received on 15th August 2024. We have reviewed the application as submitted and wish to make the following comments.

This is an application for permitted development for prior approval for change of use of existing building from commercial (Class E) to residential (Class C3) creating 29 no. new dwellings
.
We have no objection to this application as long as the informative recommended by WSP is on any decision.

Southern Water has commented as follows:

Our investigations indicate that Southern Water can facilitate foul sewage /surface water run off disposal to service the proposed development. Southern Water requires 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.

Please see the attached extract from Southern Water records showing the approximate position of our existing sewer in the vicinity of the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.

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

The **Highway Authority** has raised no objection and has provided the following advice:

Prior Notification application
No changes are proposed to the outside of the building, the shared parking areas or the access. 30 car parking spaces are to be provided which are existing. 15 cycle parking spaces are proposed which will need to be secure and covered.

Cycle parking
No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.
Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

Following receipt of additional information in a site plan which includes secure and covered cycle storage, the Highway Authority has confirmed that this is acceptable.

The Council's **Drainage Consultant** has commented as follows:

Thank you for your consultation on the above site. We have reviewed the application as the drainage consultant acting on behalf of the Council and wish to make the following comments.

The applicant is applying for the application for permitted development for prior approval for change of use of existing building from commercial (Class E) to residential (Class C3), creating 29no. new dwellings. 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 with the following informative attached:

Informative 1: We have identified the site is adjacent to a flood risk, therefore the applicant should consider creating an emergency plan in case of the event of a flood. The Flood Evacuation Plan should be created in line with 'Flood risk emergency plans for new development' as produced by ADEPT and EA and demonstrate safe access and egress in accordance with NPPF.

The Council's **Environmental Health Officer** has requested the full contaminated land condition, and with no other adverse EH comments confirmed.

The Worthing Society has confirmed no comments.

West Sussex Fire and Rescue Service has made the following comments:

Having viewed the plans for the planning application no. NOTICE/0014/24 for permitted development for prior approval for change of use of existing building from

commercial (Class E) to residential (Class C3), creating 29no. new dwellings; evidence is required to show that all points inside all dwellings are within 45 metres of a fire appliance location or a dry riser outlet in accordance with Approved Document B Volume 1 2019 Edition B5 section 13. This is to be measured along the hose lay route, not in a direct line or arc measurement, as this type of measurement is very rarely achievable due to obstructions. Any areas not within the 45-metre distance will need to be mitigated by the installation of domestic sprinkler or water mist system complying with BS9251 or BS8458 standard.

Representations:

Four letters of representation have been received from nearby residents objecting to the application on the grounds as summarised below:

- Overlooking/Loss of privacy – increased usage throughout day/night and weekends, screening required for privacy
- Noise – screening required/landscaping to reduce noise
- Lights shining directly into rooms/gardens, will be exacerbated, and causes problems for wildlife
- Parking – if street parking permits are granted this will further reduce the limited parking availability
- Loss of green space for car parking
- Impact on air quality from this and nearby developments at the gas works and Union Place

Relevant Planning Policies

Worthing Local Plan policies (WBC 2023):
SP1 (Presumption in Favour of Sustainable Development)
SS1 (Spatial Strategy)
DM1 (Housing Mix)
DM2 (Housing Density)
DM5 (Quality of the Built Environment)
DM15 (Sustainable Transport and Active Travel)
DM16 (Sustainable Design)
DM17 (Energy)
DM20 (Flood Risk and Sustainable Drainage)
DM22 (Pollution)

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

Planning Assessment

The application is made under the Prior Approval procedure and consideration is restricted to the limitations, restrictions and conditions as 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 sub-paragraph (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 1981(a);
(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 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.

(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 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 sub-paragraph, "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".

(9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—

(a)assessments of impacts or risks;

(b)statements setting out how impacts or risks are to be mitigated; or

(c)details of proposed building or other operations.

(10) The local planning authority must, when determining an application—

(a)take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);

(b)have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(3), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and

(c)in relation to the contamination risks on the site—

(i)determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(4), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(5), and

(ii)if they determine that the site will be contaminated land, refuse to give prior approval.

(11) The development must not begin before the occurrence of one of the following—

(a)the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(b)the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or

(c)the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
(12) The development must be carried out—

(a)where prior approval is required, in accordance with the details approved by the local planning authority;
(b)where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1),
unless the local planning authority and the developer agree otherwise in writing.

(13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

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 original outline (0522/91) and full permission (0002/92) permitted the office building and at that time would have been a B1 office use prior to the September 2020 changes when it would have been re-classified under the new class E. Neither permission removed permitted development rights for future changes of use.

The application form states that the use of the building has been in continuous use as an eligible use for at least 2 years prior to the date of the application. At the time of visiting the building was partially vacated but with no apparent change of use since the original permission. On that basis it is considered that its use has fallen within class E for at least 2 years prior to the date of the application and as such complies with MA.1 (1) (b).

The application forms state that 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.

The Hazardous Substance Consent relation to the former gasworks site within 100m of the site to the south east has recently been revoked by the Secretary of State and the safety zones surrounding this area has now been removed. The applicant has kept the application on hold until this was confirmed.

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

Consideration of the planning merits of the proposal is restricted to those matters set out in MA.2.

Local residents have raised concerns including privacy, light and noise from the proposed flats, loss of green space, wildlife impacts and air quality. However, these are not matters that can be considered under the provisions of MA.2 and so it is not possible to require screening, biodiversity or mitigation against air quality impacts as this is outside the scope of the prior approval application considerations.

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

The site is in a sustainable location within easy walking distance of the town centre facilities and services and with public transport providing connections to the wider area. Future occupants need not be reliant on the use of the private car. Nevertheless the supporting statement indicates that 73 car parking spaces already exist and these are shared with Eagle House to the east currently. 30 allocated spaces and an additional 9 unallocated spaces have been indicated for Wicker House. A condition will be attached ensuring these are retained for the use of residents. No alterations are proposed to the existing vehicular or pedestrian entrances to/from the site. The Highway Authority has raised no objection to the proposals on parking or highway safety grounds. Cycle parking has been indicated on a revised site plan demonstrating that this can be accommodated within the site and can be secured by condition to encourage alternative modes of transport.

(b) contamination risks in relation to the building

The site is identified as potentially contaminated land. The Council's Environmental Health Officer has commented that further investigation is needed on the ground conditions and therefore recommends the full contamination condition which would require a scheme to adequately deal with the risks associated with contamination. The applicant's agent has confirmed agreement to a pre-commencement condition.

(c) flooding risks in relation to the building,

No objection or concerns have been raised by the Council's Drainage Consultant or WSCC Lead Local Flood Authority subject to the recommended informative. A Southern Water condition will be attached ensuring that the means of foul sewerage and surface water disposal are agreed to prevent future flooding of the site.

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

The site is within a predominantly residential area with a public house to the west and Eagle House to the east which is a vacant office building and also subject to a prior approval application to a change of use to class C3 (NOTICE/0013/24). The Council's Environmental Health Officer has raised no objection on noise grounds.

(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 site is within the Little High Street Conservation Area. The Conservation Area Appraisal notes that Wicker House is a new office development and has high design quality (WBC award winner 1991/91) which contributes considerably to the attractive appearance and special architectural interest of the core of the conservation area.

Given that the site lies within a residential street to the north and that no external alterations are proposed to the building, it is considered that there would be no

detrimental impact on the character or sustainability of the conservation area. The principle of the loss of office space is not a consideration under MA2.

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

The application proposes the conversion of both floors of the building. Although bathrooms and several kitchens would not contain windows, each of the habitable rooms would receive natural light from the existing windows.

(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.

Not applicable in this case.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

Article 9A:

(3) The height condition is that—

(a)the building is 18 metres or more in height; or

(b)the building contains 7 or more storeys.

The building is below these thresholds and therefore the fire risk condition does not apply.

The comments from West Sussex Fire and Rescue are dealt with under the Building Regulations and have nevertheless been brought to the attention of the applicant during the course of the application and it is recommended that this is also included as an informative.

In addition, Article 2(9a) and (9b) of the GPDO states the following:

9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(a)where the gross internal floor area is less than 37 square metres in size; or

(b)that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.

The proposed dwellings would all have an overall GIA of 37 square metres or more and would meet the overall requirements of the Nationally Described Space Standards and with adequate bedroom sizes and built in storage areas indicated.

Recommendation

Prior Approval is required because of the relevant issues raised above and is recommended for APPROVAL subject to the following conditions:-

1. Approved Plans
2. Contamination investigation
3. Drainage details to be agreed
4. Cycle parking details to be agreed
5. Bin storage details to be agreed
6. Car parking spaces to be retained for use of residents

Informative

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. Hours of works
3. WSFR advice
4. Flood risk – emergency plan
5. PSH – hazards
6. Southern Water application
7. Southern Water sewer position
8. CIL
9. New address

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

Case Officer: Rebekah Hincke Date: 19.06.2025

Authorised by: Louise Prew Date: 26/06/2025