Development Management – Delegated Officer Report

Application Number: AWDM/0045/17 **Recommendation:** APPROVE

Site: 158 Brighton Road, Lancing

Proposal: Retention of change of use of building from single dwellinghouse to two flats (retrospective).

Date of Site Visit: March 2017 (internal), viewed from outside on a number of occasions subsequently

Neighbours Checked: Y

Additional neighbour notification: N

Proposal, Site and Surroundings:

This application seeks retrospective permission for the change of use of the building from a single dwellinghouse to 2 flats.

The property is 2 storeys on the southern side of Brighton Road, not untypical of the surrounding area. The applicant states that around 2000 the property had been made into 2 flats by the previous owners.

This application has been held in abeyance pending the determination of a separate application to demolish the property and replace with a pair of semi detached houses which, following previously a refused application in 2018, was granted permission in June of this year.

Planning History:

As above, planning permission has been granted to demolish the property and replace with 2 semi detached houses (AWDM/0084/19).

Consultations:

Environment Agency:

Initial Comment:

Objection on the grounds of a lack of FRA

Upon receipt of an FRA

As previously stated, the safety of occupants at ground floor is likely to be reliant on flood warning and evacuation procedures. Unless safe refuge can be provided at first floor (and this area is demonstrated on a plan, and is demonstrated to be a suitable area for occupants to remain for the duration of a tidal flood event) then a warning and evacuation plan will need to be submitted by the applicant and agreed by the Local Authority in order for us to remove our objection.

I understand that this is application seeks to regularise a change of use that is claimed to have taken place over 15 years ago. Our comments are on the understanding that the application is meant to be assessed as if it were fresh.

Further comment:

Until we receive confirmation from the local authority that they consider the Flood Warning and Evacuation Plan makes the development safe, we will maintain our objection to the proposed development.

The Emergency Planning Officer then made the following comment:

Emergency Planning Officer

This is a question of proportionality. The location to my knowledge has never flooded. If it were to do so, this would be tidal lasting an hour at high tide .The flood zones and mapping are based on an undefended risk. In the event of flooding to any property a multi agency flood plan would be activated and residents flooded in any property would be encouraged to evacuate and attend an Emergency Assistance Centre. If we were to state no building or alterations to dwellings in flood zones, properties being changed or demolished would need to be left vacant for fear of flood thus creating large areas of housing unoccupied. I would find it hard to justify a decision not to allow any form of construction or alteration as there other properties in the area which acts as a precedent (if allowed)? From a legal point of view I am unsure whether my advice carries any weight in allowing or objecting to any planning proposals. I can only confidentially comment on response arrangements. If the EA objects to this I do not and would not challenge their authority on such matters. I know its a difficult one, but I will have to leave this to the experts and legislation

In response the Environment Agency then further commented:

Following the submission of comments from the Emergency Planning Officer, the Environment Agency have no further comments to add at this stage. The adequacy of the proposed Flood Warning Evacuation Plan must be confirmed by the Local Planning Authority (LPA). The Environment Agency does not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users. The Planning Policy Guidance (paragraph 057) places responsibilities on LPA's to consult their Emergency Planners with regard to specific emergency planning issues relating to new development. In all circumstances where warning and evacuation are significant measures in contributing to managing flood risk, we will expect LPA's to formally consider the emergency planning and rescue implications of new development in making their decisions. If the LPA is not satisfied, taking into account all relevant considerations, that the proposed development can be considered safe without the provision of safe access and exit then planning permission should be refused.

Southern Water

No objection subject to an informative

Technical Services

Could object technically as there is sleeping accommodation on the ground floor, but as this is retrospective and someone would be made homeless, would not wish to raise an objection. There are bungalows opposite and the Emergency Planning Officer has an Evacuation Plan.

Waste Services

No objection

Environmental Health

No objection

(Private Sector)

There are no apparent problems with the ground floor flat, but the only means of escape in the case of fire from the bedrooms in the first floor flat is through the lounge/dining room and so they are 'inner' rooms. I cannot see any easy way to mitigate the risk and so I must object to the development.

Lancing Parish Council

Supports the application

Representations:

None received

Relevant Planning Policies:

Adur Local Plan (2017):

Policies 3 (Housing Provision), 9 (Lancing Policy), 15 (Quality of the Built Environment and Public Realm) and 36 (Flood Risk and Sustainable Drainage).

National Planning Policy Framework (CLG 2019)

Planning Practice Guidance (CLG 2014)

Planning Assessment

This has been a long standing application and as outlined above has largely rested on the issue of flood risk. Although the applicant has not applied for a Certificate of Lawful Use, it does appear that the layout of the property has been unaltered for some time, having regard to the Environmental Health Officer's comments.

The Environment Agency originally objected on the basis of the lack of an FRA but as the application progressed, they confirmed that the views of the Emergency Planning Officer should be sought. In the event of an appeal, the Environment Agency are unlikely to support the council in the absence of a firm objection from the Emergency Planning Officer.

It is considered that from the information above, the acceptability of the development or otherwise is dependent upon the submission of a satisfactory Emergency Evacuation Plan. In the circumstances, it is felt that this is best controlled by condition. To refuse the application, given its retrospective nature, would require successful enforcement action to cease the use but, in the interim, would not provide any solution to the issue of flood risk. While this should not ordinarily dissuade the authority from taking action, it has long been known that the applicant is seeking to redevelop the site in any case. Planning permission was granted for such redevelopment last month. Clearly, if such redevelopment takes place, then the issue of flood risk in respect of the current situation would disappear.

It is concluded that the most appropriate course of action would be to grant a temporary permission, requiring the submission of a Flood Evacuation Plan, pending the implementation of the permission for the redevelopment of the site. Should the redevelopment not proceed and in the absence of an acceptable Flood Evacuation Plan, then it would be open to for the Council to serve a Breach of Condition Notice or refuse any subsequent extension of the temporary permission.

Recommendation

To GRANT permission subject to the following conditions:

01 Approved Plans
02 Temporary Permission...31 December 2020
03 Within 3 months of the date of this permission, a Flood Evacuation Plan shall be submitted to and approved by the Local Planning Authority and the approved details shall be maintained thereafter.

Informative

Connection to public sewerage system required

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

Case Officer: G Peck Date: 10/7/2019

Authorised by: [signature] Date: 10/7/2019.