Development Management – Delegated Officer Report

Application Number: NOTICE/0013/22 **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 at rear of the property to 1no. two person one bedroom flat (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 rear of the ground floor to form a 1 bed flat.

The proposed floor plan shows a bedroom, bathroom and open plan kitchen/living/dining room accessed from the rear of the building. The front half of the ground floor and the upper floor is shown as remaining in commercial use. No external changes are proposed.

There are two other separate applications under consideration which are set out in the next section.

Relevant Planning History

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 – under consideration

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) – under consideration

Consultations:

WSCC Highways

The application subject of this consultation response could theoretically get implemented alongside either NOTICE/0014/22 or AWDM/0922/22.
The proposed flat would not be provided any off street car parking provision. As such any parking associated with the dwelling would need to park either in a paid for provision or safely on street taking into consideration any existing Traffic Regulation Orders.
The site is located in a sustainable location in close proximity to public services, amenities and employment options. As such it is not anticipated that the occupiers of these dwellings would be reliant on the use of a private motor car.
It is also appreciated that the existing quantum of commercial floorspace lost as part of this application (circa 75 sqm) could have generated its own car parking demand. It would be anticipated that the existing commercial floorspace could have generated parking demand for circa 2 / 3 spaces as per current WSCC parking guidance for E Class Financial Institutions. This is likely more than the anticipated parking demand created by 1 x 1 bed flats in this location. As such it is not anticipated that the proposed will result in any noticeable impact towards on in street car parking demand / capacity.
The flat is to be provided with an internal storage area that could be used to accommodate cycle parking.
The Local Highways Authority does not consider that the proposal would have and an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal.

Southern Water

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.

Adur and Worthing Councils

EHO (Public Health): Internal noise With this specific proposal, commercial uses (of planning use Class E) will remain above and adjacent to the proposed residential dwelling. This planning use class allows a large range of potential uses to occupy these commercial units without the need for planning approval. To protect residential amenity and help future proof this development I would recommend a condition to protect the development from noise from the commercial unit above and adjacent
External noise

It is noted that there is a car repair garage to the rear of this site, I have concerns about noise from this use could negatively affecting amenity. It is noted that the garage has windows along the eastern facade, which directly face the proposed residential units on all three applications for 73 - 75 North Rd. As the glazing will allow greater levels of noise to escape from the garage than a solid wall, I believe it would be appropriate to request a noise assessment for external commercial noise prior to granting permission as the applicant may need to consider alterations to the layout etc if noise levels are too high.

Asbestos
As this application seeks to convert commercial to residential, I would recommend an informative relating to asbestos:

Contaminated Land
This site is located adjacent to land which has been identified as potentially contaminated. If any ground works are involved with this application, I would recommend a condition.

EHO (Private Sector Housing): The PSH team would object to the proposed development on the grounds that the outlook from the main habitable room is onto a very narrow alleyway and, although a rooflight is indicated, there would be insufficient natural light exacerbating the very poor outlook. In addition, the bedroom is an inner room. Although the window could be adapted to fire escape window requirements, the very small yard to the rear and side of commercial buildings have safety and security issues. The waste storage for the building is also directly under this window and the window also has a poor outlook and poor natural light.
If the officer is minded to approve the application, please could an informative be placed indicating that action under the Housing Act 2004 is likely due to the above issues

Technical Services: 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: Members noted the request for further information on the application and deferred comment until such information is made available

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.

It is not clear where refuse storage would be kept. The plans show 2 bins at the top of the external staircase at first floor level but it is not clear if this is for

the commercial use. Their position on the stairs is not practical either. There is a lack of outside space for such provision.

(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 that areas in the vicinity area 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 has been asked to confirm threshold depths at the property, so that flood risk can be considered further. 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 and the front of the ground floor (and possibly the first floor) would remain in commercial use. There is a car repair garage immediately to the rear. The Environmental Health Officer has raised concerns about noise from the garage and requires a noise assessment to be carried out prior to determination. Noise protection from commercial uses above and adjacent to the proposed flat is also recommended.

(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 rear of the ground floor of the building into a 1 bed flat. The bedroom is served by a window on the west side. The living room/kitchen/dining room is served by a door and two high level windows.

The Environmental Health Officer has objected to the application on the grounds that the outlook from the main habitable room is onto a very narrow

alleyway and, although a rooflight is indicated, there would be insufficient natural light exacerbating the very poor outlook. In addition, the bedroom window looks onto a very small yard to the rear and side of commercial buildings where there is waste storage and parking and general activity connected to the garage use to the rear. The window therefore also has a poor outlook and poor natural light.

(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 reasons:

1. The proposed development, by reason of its close proximity to a commercial vehicle repair garage at the rear, is likely to result in unacceptable levels of noise and disturbance detrimental to the residential amenities of future occupiers. The proposal is therefore contrary to policy 34 of the Adur Local Plan and paragraph 185 of the NPPF
2. The proposed development would result in unsatisfactory living environment for future occupiers by reason of poor outlook and inadequate natural light to habitable rooms, lack of external amenity space and inadequate refuse storage facilities. 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: 5 July 2022

Authorised by: Gary Peck Date: 5 July 2022