Development Management – Delegated Officer Report

Application Number: NOTICE/0005/25 Recommendation – Refuse

Site: **2 and 4 Tarmount Lane, Shoreham**

Proposal: **Application for Prior Approval for change of use from Commercial, Business and Service (Use Class E) to 2no. 1-bedroom flats (Class C3) on first floor**

Neighbours Checked: Y

Additional Neighbour Notifications N

Site and Surroundings:

The application relates to a two storey flat-roofed building on the corner of Tarmount Lane and Brunswick Road. The ground floor is occupied by a coffee shop and the first floor was previously in use as a children's nursery, in connection with Sunshine Nursery to the east. The site forms part of Tarmount Studios which contains a number of small commercial premises.

To the south is Vintage Emporium with an outdoor seating area. To the west are a mix of commercial and residential properties in East Street which back on to the site. There is an electrical substation close to the south side of the building.

The site lies within the Shoreham Conservation Area.

Description of Development

The application is for prior approval for change of use of the first floor from its previous use as a children's nursery to 2no. one-bedroom flats.

No alterations to the exterior of the building are proposed. The entrance to the flats is via an existing doorway at the side of the building off the entrance to Tarmount Studios. As amended, Flat 1 has its kitchen/dining room on the south side facing the outdoor seating area at the Tarmount Studios Vintage Emporium. The living room and bedroom are on the north side facing Tarmount Lane and Brunswick Road. Flat 2 has its bedroom on the north side with an east facing window towards Tarmount Lane and the kitchen/dining/living room on the south side with windows facing south and west.

The application is made under Schedule 2, Part 3, Class MA - commercial, business and service to residential – of The Town and Country Planning (General Permitted Development) (England) Order (GPDO).

Relevant Planning History

ADC/0426/09 - Change of use to mixed uses within Classes A1 (shop), A3 (cafe), B1 (offices) and sui generis (beauty and reflexology/massage therapy) (No's 2 and 8 Tarmount Lane) - approved

Consultations:

WSCC Highways: No traffic flow information has been provided with the current application; however, Class E uses tend to generate greater material movements than C3 residential. Therefore, the LHA does not anticipate that material movements associated with the site will exceed that of the existing. No off-street vehicular parking provision is proposed – therefore, vehicular parking would have to be accommodated on-street or within nearby paid-for provision, as per the existing arrangement. Comprehensive parking restrictions are in place on nearby roads, prohibiting parking in places that would be detriment to highway safety. The LHA does not anticipate that the existing nil car parking provision would result in a highway safety concern. However, the LPA may wish to consider the potential impacts on on-street parking from an amenity point of view.

Weight is given to the fact that the site is situated in a sustainable location within walking/cycle distance of local services, amenities, and public transport links. The LPA may wish to secure cycle parking provision to promote sustainable travel.

In summary, the movements associated with Class E 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. In principle, the current GPDO gives limited ability to consider wider highway and transport impacts beyond those set out. The prior approval is therefore considered acceptable in highway terms.

Adur and Worthing Councils EHO (Public Health): Original Response: I object to this application. There is a clear Agent of Change issue here and I am not satisfied with the assessment or the conclusions. We have an electrical substation immediately below the bedroom window for the proposed development and given the proximity of this infrastructure to the building slab there is a risk of structure borne noise which has not been investigated. I would recommend that UK Power Networks are consulted on this proposal. It this case it would have warranted measuring the low frequency noise inside the bedroom with the window open rather than estimate what the low frequency ingress would be. These are sash windows not casements and the incidence of the sound is from underneath the window.

The acoustician is proposing secondary glazing with trickle vents, but this is a South facing room and how will excess heat be removed from the room in the summer time if windows have to remain closed to mitigate the low frequency

hum. As it would be reasonable for residents to want to open their bedroom windows in the summer, there is a high potential for nuisance complaints.

I would like to see further investigation, with internal low frequency noise measurement taken within the affected rooms with the windows open and closed and further investigation into the possibility of structural borne low frequency noise affecting the property.

Second EHO Response: Having considered the new acoustic information and the latest proposed layout I am concerned about the impact of low frequency noise from the substation on the room that is shown in the latest layout as a dining room. The vibration monitoring has picked up the 100Hz from the substation and this vibration reradiated into the room as airborne sound exceeds the NANR45 threshold level for this frequency. The room is shown as a dining room, but in reality the occupants could use this room for anything such as from a spare bedroom or home office. Furthermore what is preventing future users of the property from moving the stud wall making that room overlooking the electrical substation bigger. Regardless, the low frequency hum in this room is likely to be a nuisance to the occupants and the agent of change principle has to be considered here. You can see from the research contained in NANR45 that low frequency noise can have serious implications for occupiers of property affected by it and for this reason I am of the opinion that this application should not be permitted

Third EHO Response: The new layout doesn't negate the fact that there is a hum in that room, and the developers' proposals have not sufficiently mitigated the noise that has the potential to cause nuisance. Add to the fact that the windows need to be kept closed to mitigate the airborne hum from the substation, suggests the building is not is not really suited for residential use.

Have the owners of the sub station been consulted and what have they said?

EHO (Private Sector Housing): No comments received

Drainage Consultant: No objections on surface water grounds

Southern Water: No objection if applicant is planning on using the existing drainage.

UK Power Networks: The proposed development is in close proximity to our substations and have the following observations to make:

If the proposed works are located within 6m of the substation, then they are notifiable under the Party Wall etc. Act 1996. The Applicant should provide details of the proposed works and liaise with the Company to ensure that appropriate protective measures and mitigation solutions are agreed in accordance with the Act. The Applicant would need to be responsible for any costs associated with any appropriate measures required. Any Party Wall Notice should be served on UK Power Networks at its registered office: UK

Power Networks, Newington House, 237 Southwark Bridge Road, London SE1 6NP.

Our engineering guidelines state that the distance between a dwelling of two or more stories with living or bedroom windows overlooking a distribution substation should be a minimum of ten metres if the transformer is outdoor, seven metres if the transformer has a GRP surround or one metre if the transformer is enclosed in a brick building. It is a recognised fact that transformers emit a low level hum which can cause annoyance to nearby properties. This noise is mainly airborne in origin and is more noticeable during the summer months when people tend to spend more time in their gardens and sleep with open windows.

A problem can also occur when footings of buildings are too close to substation structures. Vibration from the transformer can be transmitted through the ground and into the walls of adjacent buildings. This, you can imagine, is very annoying.

In practice there is little that can be done to alleviate these problems after the event.

Representations:

None received

Relevant Planning Policies

Adur Local Plan 2017 policies 12, 15, 17,20, 22, 28, 34, 26
Sustainable Energy SPD (August 2019)
WSCC Guidance on Parking at New Developments (Sept 2020).
National Planning Policy Framework (December 2024)
Technical Housing Standards – nationally described space standard (DCLG 2015)

Legislation

Permitted development

Class 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 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;

Analysis: The first floor was previously in use as a children's nursery (Class E) and was therefore an acceptable specified use

(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;

Analysis: Does not apply

(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(1);

(iii)the Broads;

(iv)a National Park; or

(v)a World Heritage Site;

Analysis: Does not apply

(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.

Analysis: Does not apply

(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 2.

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;

Analysis: There are no transport impacts in this case. The site is within the town centre, close to the railway station, so is in a sustainable location. No off-street parking is proposed but there is a public car park close by in Tarmount Lane if needed. There does not appear to be space available for cycle parking on site.

(b)contamination risks in relation to the building;

Analysis: There are no groundworks associated with this development so this does not apply

(c)flooding risks in relation to the building;

Analysis: The site is at low risk of flooding and there are no surface water drainage concerns with the proposal

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

Analysis: A noise assessment was submitted with the application. There is an electrical substation located immediately to the south of the building, within the open area between the site and the unit to the rear. The assessment found that acceptable noise levels were met with windows closed and double glazed units with trickle vents are recommended.

However, the Council's EHO has objected to the proposal as he was not satisfied with the assessment or the conclusions of the noise report. The electrical substation is immediately below the proposed bedroom window (as originally proposed) and, given its proximity to the building, there is a risk of structure borne noise which had not been investigated. He was also concerned at use of secondary glazing with trickle vents to a South facing room, which is likely to overheat in the summer time if windows have to remain closed to mitigate the low frequency hum.

Following the objection, the layout was revised to move the bedroom and living room to the north side of the building, furthest from the substation. A revised noise report was also submitted.

The EHO has maintained his objection as the new layout does not alter the fact that there will be a 'hum' in that room, and in his view the developers' proposals have not sufficiently mitigated the noise that has the potential to cause nuisance. He also points out windows will need to be kept closed to mitigate the airborne hum from the substation, which suggests that the building is not suited for residential use.

This view is given further credence by the comments of UKPN who advise that the distance between a dwelling of two or more storeys with living or bedroom windows overlooking a distribution substation should be a minimum of ten metres if the transformer is outdoor. They also refer to the low level hum which can cause annoyance to nearby properties. This noise is mainly airborne in origin and is more noticeable during the summer months when people tend to spend more time in their gardens and sleep with open windows.

A problem can also occur with vibration when footings of buildings are too close to substation structures, as is the case here.

While the layout of Flat 1 has been amended to move living space to the north, there is still likely to be annoyance for future residents using the dining space and kitchen in that flat. Flat 2 has living room/dining/kitchen windows facing the substation and is also likely to suffer from disturbance.

It is not considered that the proposed residential use is suitable in this location because of the proximity of the substation.

(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;

Analysis: Does not apply as the change of use is at first floor level

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

Analysis: The first floor of the building benefits from good-sized windows, particularly to the north and south elevations serving the living room/kitchens and bedrooms. It is therefore considered that good levels of natural light will be available to all habitable rooms.

(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;

Analysis: the site is not within such an area

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(2),

the impact on the local provision of the type of services lost.

Analysis: the previous use was as a nursery but this use ceased following the completion of an extension to the Sunshine Nursery next door. As such, it is considered that there is no loss of nursery provision.

(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 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".

(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.

(d)(v) arrangements required for the storage and management of domestic waste

Bins are shown as being stored within the yard to the east of the building.

Other considerations

The plans show that the floor areas of the flats will be 54m2 and 55m2 which meets the national standard for a 2 person 1 bed flat on one storey.

Recommendation

Prior Approval is required and refused for the following reason: -

1. The proximity of the electrical substation to the rear would result in an unsatisfactory living environment for future occupiers due to noise and vibration disturbance and the need to keep windows closed. The proposal is therefore contrary to policies 15 and 34 of the Adur Local Plan

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

Case Officer: Peter Barnett Date: 22 October 2025

Authorised by: Jo Morin Date: 22.10.2025