

# DELEGATED OFFICER REPORT

**Application Ref:** PN/23/94536

**Site Address:** BADGER COURT, BADGER CLOSE, BISHOPSTOKE

**Case Officer:** Alex Webb

**Description:** Prior approval under Class A for the construction of an additional storey with 4no. one-bedroom flats on top of an existing block of 18no. flats.

| Particular Site Constraints?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
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| Nature Conservation NE - SSSI Impact Risk Zones, HRA Screening Criteria (River, SAC, SPA, Ramsar) New Forest Screening Zone, New Forest SAC 13.8km BUFFER<br>Hazards/other environmental - Environment Agency Surface Water Flooding (1000-year extent/100 year extent)<br>Aviation safeguarding - Airport Safeguarding Zone<br>Public Rights of Way – FP 510, 511,513<br>Nutrient Neutrality Catchment - River Itchen SAC, Solent: Includes Chichester and Langstone Harbours SPA/Ramsar, Solent and Southampton Water SPA/Ramsar, Solent Maritime SAC, Portsmouth Harbour SPA/Ramsar |                                         |                             |

| Planning History?                                                                                                                                                                                                                                                                                                                                                                                        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
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| Z/13579/004/00 - Residential Development - Construction of Estate Roads & Dwellings as per plans attached – Permit – Aug 1973 –<br>Z/13579/007/00 - 108 houses and 24 flats – Grant outline permission – Jan 1974<br>H/22/94051 – Enclose one existing balcony on first floor to south elevation, with flat roof.<br>Enclose one existing balcony on second floor to southwest elevation, with flat roof |                                         |                             |

| Publicity:       | Letters <input checked="" type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Site Notice <input checked="" type="checkbox"/> | Newspaper <input type="checkbox"/> |
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| Representations: | <b>23 Letters of Objection</b> <ul style="list-style-type: none"> <li>• Parking issues</li> <li>• Commercial traffic</li> <li>• Access for emergency vehicles</li> <li>• Not in keeping with character of the area due to height</li> <li>• Impact on streetscene – external design and appearance</li> <li>• Overdevelopment</li> <li>• Overbearing</li> <li>• Potential for overlooking and impact on privacy of neighbouring properties</li> <li>• Loss of natural light entering existing properties and gardens</li> <li>• Impact on existing flats</li> <li>• Maintenance of the property/emergency access</li> <li>• Precedent</li> </ul> |                                                 |                                    |
| Parish Council:  | <b>Object</b> to the planning application on the grounds that it would not be in keeping with the surrounding area, would lead to increased parking problems and would cause a loss of privacy to existing residents.                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                 |                                    |
| Highways         | <b>No objection</b> noted that no information has been provided in regard to parking, a function of EBC as Local Parking Authority. As such it would be requested that the Case Officer ensures that the appropriate parking standards are met for the development as a whole (22 flats in total), to ensure adequate vehicle and cycle parking is provided to prevent overspill in the surrounding areas at the detriment of existing residents.                                                                                                                                                                                                |                                                 |                                    |
| Pollution        | The works could be disruptive to neighbouring dwellings due to noise, vibration or dust. There would need to a plan for managing construction environmental impacts, and one which has foresight to the magnitude and duration of these and the degree of control or                                                                                                                                                                                                                                                                                                                                                                             |                                                 |                                    |

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|                     | mitigation measures necessary.<br><br>Regarding the presence of ambient noise, local road traffic has influence on this and possibly within an extent that insulated thermal glazing could be sufficient to reduce internal sound levels within the guidance of BS8233. If windows need to be closed to comply, there will need to be alternative means of ventilation and prevention of overheating to comply with Building Regulations.                                                                                                                                                                                                     |
| Ecology             | There are records of bats, swifts, and hedgehogs very close to this site. A preliminary ecological assessment by a bat-licensed surveyor will be required due to the extensive works to the roof, the presence of cladding on several elevations and records of protected species very close to this site. The presence of protected species is a material consideration and must be determined before planning permission can be granted. Bats and nesting birds are protected by law and if this proposal has the potential to affect any previously installed boxes, they must only be checked or moved by a suitably qualified ecologist. |
| Southampton Airport | The application has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria, therefore, have <b>no objection</b> to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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| <b>Site Visit:</b> | <b>Yes</b> <input checked="" type="checkbox"/> | <b>No</b> <input type="checkbox"/> |
| 06/03/2023         |                                                |                                    |

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| <p><b>Policy:</b></p> <p><b>National Planning Policy Framework<br/>Planning Practice Guidance</b></p> <p><b>Development Plan</b></p> <p>Section 38(6) of the Planning and Compulsory Purchase Act 2004 states: - "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."</p> <p>The <u>Eastleigh Borough Local Plan 2016-2036</u> The most relevant policies are Strategic policies S1 and S2; and Development Management policies DM1, DM2, DM11 and DM14.</p> <p><b>Supplementary Planning Documents:</b><br/>Quality Places; Residential Parking Standards; Character Area Appraisals.</p> |
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| <p><b>Assessment:</b></p> <p>The application site is located on the north side of Fair Oak and is accessed from Badger Close which leads from Fair Oak Road and relates to an existing block of flats. The property is surrounded by residential development and the area is characterised by a mixture of modern, terraced, semi-detached and detached properties typically 2 storey in scale.</p> <p>The existing building is 3 storeys in height and was constructed after 1948.</p> <p>The proposal is for the construction of an additional storey with 4no. one-bedroom flats on top the existing block which contains 18 flats on the principal part of the building. The proposal would result in a four-storey building. The additional storey would be designed in a modern style to match the existing building and would be finished in materials to match. The resultant height of the building would be 11.4m.</p> <p>The site is not on article 2 (3) land, an SSSI, a listed building or land within its curtilage, a safety hazard area; a military explosives storage area or a safety hazard area however it is</p> |
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within 3km of an aerodrome, namely Southampton Airport as an “aerodrome” means an aerodrome as defined in paragraph 1 of Schedule 1 to the Air Navigation Order 2016 which includes ‘one used by aircraft engaged in the public transport of passengers or cargo’.

This is not a planning application and therefore the normal statutory test under Section 38(6) is not relevant. The NPPF must be considered but “only to the extent that it is relevant to the matter on which prior approval is sought...”.

Under The Town and Country Planning (General Permitted Development) (England) (Amended) Order 2015 some specified works can be carried out without requiring planning permission, providing they are within certain limits. Class A of Part 20, Schedule 2 of the GPDO 2015 (as amended), allows for new dwellinghouses (Class C3) on detached blocks of flats providing:

- the building is no less than 3 storeys in height;
- the building was not constructed before 1st July 1948, or after 5th March 2018
- the additional storeys are constructed on the principal part of the building;
- the floor to ceiling height of any additional storey, measured internally, would not exceed the lower of 3 metres; or the floor to ceiling height of any storey of the principal part of the existing building;
- the new dwellinghouses are flats;
- the height of the highest part of the roof of the extended building would not exceed the height of the highest part of the roof of the existing building by more than 7m (not including plant, in each case);
- the height of the highest part of the roof of the extended building (not including plant) would not be greater than 30m;
- development would not include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;
- development would not consist of engineering operations other than works within the existing curtilage of the building to strengthen existing walls; strengthen existing foundations; or install or replace water, drainage, electricity, gas or other services;
- if new or replacement plant is to be provided, there is no existing plant on the building;
- the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the new building extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;
- development for any storage, waste or other ancillary facilities would not extend beyond the curtilage of the existing building, be situated on land forward of a wall forming the principal elevation of the existing building; or be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building;
- the land or site on which the building is located, must not be or forms part of article 2(3) land; a site of special scientific interest; a listed building or land within its curtilage; a scheduled monument or land within its curtilage; a safety hazard area; a military explosives storage area; or land within 3 kilometres of the perimeter of an aerodrome.

The application form (dated 11.01.2023) the applicant has answered “No” to the question “Is any part of the land or site on which the building is located within 3 kilometres of the perimeter of an aerodrome” however the site is 2.5km from Southampton Airport and so this criteria A.1. (o) is not met.

#### **Prior Approval matters – only the following matters can be considered.**

##### Transport and highway impacts

The Highways Officer raises no objection to the proposals from a highway perspective however no parking plan has been provided. There appears to be 50% unallocated parking spaces provided for the existing flats and therefore and the provision of 4 additional 1-bed

flats would require 4 additional parking spaces in accordance with the Residential Parking Standards SPD. It is not clear where these spaces would be provided and therefore the proposal would not provide adequate levels of parking. No robust evidence has been provided to demonstrate that this would not have an adverse impact on highway safety or traffic management contrary to local plan policy DM14.

#### Air Traffic and defence asset impacts

Southampton Airport have not raised an objection to the proposal and it would not conflict with safeguarding criteria.

#### Contamination Risks

The proposal would not require any ground works and the site is not known for contamination or risk of contamination therefore there is minimal risk.

The prior approval of the LPA is therefore not considered to be required in this regard.

#### Flood Risk

The application site whilst potentially affected by surface water flooding, is located within Flood Zone 1 and therefore in an area of low flood risk from fluvial sources. Furthermore, it does not lie within a "critical drainage area" notifiable by the Environment Agency.

For these reasons there is no requirement under Class A to consult the Environment Agency.

#### The external appearance of the building

The proposed building operations subject of this application are confined to the elements allowed for in Class A. The proposed materials and style of the additional storey would be match that of the existing building however, as proposed the additional storey would not be set in from the existing and external cladding could protrude further than the existing façade. The additional storey would also result in a 4 storey block, which would not integrate with adjoining buildings where mainly 2 and 3 storey buildings are evident. Overall, the resultant property would not sit comfortably in the streetscene and would look out of place in the locality contrary to local plan policy DM1.

#### The provision of adequate natural light in all habitable rooms

It is clear from the proposed floor plan and elevations that each habitable room within the flats would be lit by a window. It is considered that the proposal complies with the natural light test set out in the GPDO.

The prior approval of the LPA is therefore not considered to be required in this regard.

#### The impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light:

The proposal would result in a separation distance of approx. 34m and 38m between the fourth-floor habitable windows and the second-floor habitable windows of the nearest residential properties. The separation distances would be in accordance with the standards as set out in the Quality Places SPD. Other existing habitable windows at second floor are at an oblique angle to the fourth-floor windows proposed. It is acknowledged that there could be some overlooking of gardens however this would already exist from the existing third floor flats. There is some public space between the development and the private residential gardens to the north and west and there which would limit views into private gardens. The site is in an urban environment where some overlooking can be unavoidable and the proposal would not therefore impact on the amenity of existing building and neighbouring premises in accordance with local plan policy DM1.

whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012<sup>194</sup> issued by the Secretary of State

N/A

where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building;

N/A

where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

N/A

**Other matters: -**

Ecology

There are records of bats, swifts, and hedgehogs very close to the application site. It is advised that a Preliminary Ecological Appraisal and Bat Survey should therefore be carried out to identify the protect species that could be affected and to enable the imposition of suitable conditions to mitigate against any potential effects on protected species. Notwithstanding the prior approval limitations previously stated, consideration of such ecology matters is necessary in accordance with the Wildlife and Countryside Act 1981 (as amended) and legislation relating to the protection of European Protected Species.

Habitat Regulations

Article 3 (1) of the GPDO imposes a condition of any permission under the GPDO that in cases where a development is likely to have a significant effect on a European site, either alone or in combination, the development must not be begun until the developer has received written notification of the approval of the LPA under Regulation 75 to 78 of the Conservation of Habitats and Species Regulations 2017. Any such habitat regulations application must be made as a separate process to this Prior Approval application and before the permitted development begins.

**Summary**

The building would only qualify for permitted development as set out under Schedule 2, Part 20, Class A of the GDPO if it is not within 3km of an aerodrome. The building is within 2.5km of an airport and therefore the proposal does not meet the required criteria of A.1 (o) and the additional storey cannot be considered under the provisions of Class A.

**Conclusion**

The information submitted cannot demonstrate that the proposal is in compliance with the criteria of Schedule 2, Part 20, Class A of the General permitted Development Order 2015, (as amended), in relation to the location of the site and the proximity to an aerodrome.

Climate Change:

*In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to*

*mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.*

*The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.*

*The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use.*

**Equalities Implications:**

Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications

**Conclusion:** For the reasons set out above, prior approval is refused for the following reasons:

- 1) The site on which the building, the subject of this prior notification, is on land within 3 kilometres of the perimeter of an aerodrome and so is not permitted development under paragraph A.1. (o) (vii) of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) 2015 (England) Order 2015.
- 2) The proposed development fails to provide adequate provision for on-site car parking and would therefore have the potential to adversely affect highway safety and traffic management contrary to Local Plan Policy DM14 of the Eastleigh Borough Local Plan (2016-2036) and the National Planning Policy Framework
- 3) The proposed development by virtue of the design and resultant scale of the building does not take full and proper account of the context of the site and would look out of place in the locality contrary to policy DM1 of the Eastleigh Borough Local Plan (2016-2036) and the National Planning Policy Framework.

Recommendation:

**PERMIT** ☐

**REFUSE** ☒

Comments ...