

DELEGATED OFFICER REPORT

Application Ref: F/22/93871

Site Address: 25 Shaftesbury Avenue, Chandler's Ford, Eastleigh, SO53 3BR

Case Officer: Summer Sharpe

Description: Construction of 3no. bedroom dwelling, following demolition of existing building (previously subject to prior approval application PN/22/93015).

Particular Site Constraints?	Yes ☒	No ☐
• Within urban edge • TPO 436-E (to the east of the application site, along the western boundary of no.27)		

Planning History?	Yes ☒	No ☐
Planning App no.	Proposal	Decision
<u>Application Site</u> Z/05045/002/00	Demolition of existing extension and erection of new single storey extension	Permitted (May 1982)
Z/07853/001/00	Erection of single storey dwelling at rear of 25A Shaftesbury Avenue after demolition of existing building.	Refuse (1998)
F/05/54758	Change of use from D2 ballet school to D1 child day care centre.	Permitted (October 2005)
F/06/56856	Alterations to roof of existing single storey rear element (retrospective)	Permitted (November 2006)
PN/22/93015	Change of use from Commercial, Business and Service (use Class E) to Dwellinghouse (use Class C3).	Prior Approval Granted (July 2022)
<u>93 Bournemouth Road</u> F/12/70661	Change of use from domestic dwelling (C3) to a children's day nursery (D1).	Permitted (June 2012)

Publicity:	Letters ☒	Site Notice ☐	Newspaper ☐
Representations:	<u>1no. Objection summarised as follows:</u> (a) concern about damage to property (including fencing/ boundary), and (b) parking.		
Parish Council:	None received.		
EBC Ecology:	<u>Comments 2 August 2023:</u> I have reviewed the Preliminary Roost Assessment Report. The house was assessed to have low bat roost suitability with potential access points and roost features on the building. One Phase 2 bat dusk emergence survey is required in line with professional guidance. This must be done before determination as the presence of protected species is a material consideration. The bat survey season ends at the end of September. The other recommendations in the report are sound and should be implemented (this includes; bat sensitive lighting, vegetation removal outside of the breeding bird season, removal of invasive non-native bamboo and at least one integrated bat box, one swift box and two (32mm) hole bird boxes). <u>Comments 16 May 2023:</u> I have review the site visit photos and agents comments. I can see several clear potential bat roost features in these photos and an area where there may also be bat droppings or fur		

	staining under an opening. Small crevice-dwelling bats such as common and soprano pipistrelles can fit into a space the size of a matchbox, so in my judgement as an experience bat surveyor these photos shows at least four potential bat roost features. A preliminary bat roost assessment by an experience bat surveyor is required, including an internal inspection of the loft. The survey report must also include biodiversity enhancement recommendations which are appropriate to this proposal. The garden contains vegetation which could provide shelter for hedgehogs. There is also invasive non-native bamboo present which could spread and damage the foundations of the new building if not controlled. <u>Comments 18 April 2023:</u> I am looking for photos of the existing building and grounds to determine whether or not there is potential habitat for bats or hedgehogs. These photos and plan are for biodiversity enhancements which could be find but we haven't yet established what is existing on site and whether or not a preliminary ecological assessment would be required. <u>Comments 29 November 2022:</u> There are numerous records of bats and hedgehogs in the vicinity of this site. I would like to review photos of the building and the grounds to determine whether any further surveys would be necessary. Biodiversity enhancements will be required.
Hampshire Highways:	No objection from a highways perspective. The current use has at times allegedly been the cause of obstruction and parking complaints, and so the removal of the facility will be of benefit to local residents. The proposed change of use is what was envisaged when application F/12/70661 gained approval for the change of use of its linked site at 93 Bournemouth Road. At the time, the Planning Application Supporting Station (Section 4.4) outlined the Bournemouth Road site as essentially being a relocation of the nursery from 25 Shaftesbury Road. As such, from a highway perspective, the change of use from Commercial, Business and Service (use class E) to Dwellinghouse (use class C3) is welcomed.
EBC Arboriculturalist:	There are some significant trees in relatively close proximity to the proposed development area (to the rear of no. 27). These trees are subject to Tree Preservation Orders. Whilst the existing structure means that we do not have concerns regarding direct impacts (e.g. foundation installation), we do have concerns regarding site access and activities. There is a natural buffer between the stems and the site – the garden of 25a – but it is possible that agreements between the relevant parties could allow access to this land, which would be within the RPAs of the protected trees. To mitigate this risk, we will request a Tree Protection Plan and Method Statement for submission pre-commencement. Therefore, we raise no arboricultural objection to the proposal, subject to the condition.
EBC Environmental Health:	Construction or alteration works may temporarily cause noise, vibration, or dust emissions. These and the site operating hours should be controlled through a Construction and Environmental Management Plan and implemented using Best Practicable

	Means according to the Control of Pollution Act 1974. Please add a condition to the planning consent requiring this.
Natural England:	<u>Comments 25 May 2023:</u> Objection. <u>Comments 2 May 2023:</u> Objection. <u>Comments 20 January 2023:</u> Additional information required.

Policy:

National Planning Policy Framework

National Planning Practice Guidance

Development Plan:

Eastleigh Borough Local Plan 2016-2036

Policies: S1 (delivering sustainable development), S2 (approach to development), S3 (location of new housing), DM1 (General development), DM2 (environmentally sustainable development), DM3 (climate change), DM8 (pollution), DM11 (nature conservation), DM13 (transport), DM14 (parking), DM23 (residential development within urban areas), DM30 (internal space standards), and DM38 (funding infrastructure).

Supplementary Planning Documents:

Quality Places; Residential Parking Standards; Trees and Development.

Site Visit

Yes ☒

No ☐

A site visit was not undertaken as part of this application, but was undertaken 30 June 2022, as part of the previous application (PN/22/93015).

Assessment:

Site & Surroundings

The application site comprises a single storey building located to the north of Shaftesbury Avenue, and to the north-west of no.25A Shaftesbury Avenue. The property is set back from Shaftesbury Avenue by a long narrow driveway. The building itself is also long and narrow, predominantly forming no.25A Shaftesbury Avenue's western boundary.

As indicated by the former planning application (PN/22/93015), the site was last in use as a nursery. The surrounding area along Shaftesbury Avenue (south) and The Crossways (north) are characterised by residential dwellings. To the west is Bournemouth Road (B3043) which has a mixed character, with some residential, commercial and industrial uses.

Proposal

This application proposes the construction of 3no. bedroom dwelling, following demolition of existing building (previously subject to prior approval application PN/22/93015). The existing building has a footprint of approx. 97.5m², an overall height of 4m and eaves height of 2m. The proposed dwelling would have a footprint of approx. 127m² with a maximum height of approx. 4.6m with a pitched roof and eaves which would measure approx. 2.5m. The application also proposes an extension to the west. This would project approx. 1.8m towards to the western boundary and would measure approx. 9m in length. This would have a flat roof with an overall height of approx. 2.8m. Amended plans have been received during the course of the application which sought to amend the materials.

This now proposes a combination of: render (colour unspecified, but plans show it to be light/ cream), facing brickwork, and cladding (colour/details unspecified but plans show it to be timber and grey clad to the proposed extension).

Principle & Background

The application site falls within the urban edge, whereby the general principle of residential development is considered to be acceptable. However, this would be subject to the following considerations set out within this report.

Further to the principle, which is established to be acceptable, there was a previous application referenced “PN/22/93015” which granted prior approval for the change of use from nursery to residential. The prior approval was assessed against The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 3 (Changes of use), Class MA (commercial, business and service uses to dwellinghouses), which set out that only the following matters could be considered:

- (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 location in a conservation area, and
 - (ii) the development involves a change of use of the whole or part of the ground floorThe 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;
- (h) Where 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
- (i) Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

Design

Policy DM1 of the Eastleigh Borough Local Plan (2016-2036) stipulates that all new development should respect the character and appearance of urban areas, take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbouring, and be compatible in terms of mass, scale, layout density, design and siting.

The application proposes a single storey dwelling set back from Shaftesbury Avenue. As a result of the height and set back distance this would limit its visual impact upon the streetscene. The proposal would have increased dimensions when compared to the existing building, however in terms of the overall building and its design, these are considered modest. Further, the plans have been amended during the process of this application, with specific regard to the external appearance and materials, which now comprise; render, brick work, and cladding. The use of different materials provides variety in the elevations which would be considered appropriate. Further, the addition of the side

extension, whilst creating a slightly awkward juncture with the host building, is not considered to be adversely harmful given its modest dimensions.

Ultimately and to conclude, the proposals are considered to accord with Policy DM1 of the Local Plan and would therefore be acceptable.

Internal & External Amenity for Future Occupiers

To ensure adequate internal living standards are met the Local Planning Authority assess the measurements of space against the 'Nationally Described Space Standards' (NDSS) (March 2015). Policy DM30 of the Eastleigh Borough Local Plan (2016-2036) requires that all new dwellings meet the NDSS as a minimum. In addition to internal arrangements, the Quality Places SPD requires all new residential development to provide a garden area of 60% of the host dwellinghouse.

The NDSS sets out the minimum space required for new dwellinghouses, this is dependent upon the number of bedrooms, people who would reside there and storeys. There are also standards relating to sizes of bedrooms; a single occupancy bedroom should measure 7.5m², and a double occupancy bedroom should measure 11.5m².

The application proposes a 3no.bedroom dwelling which would have a floor space of approx. 127m², thus exceeding the size requirements set out within the NDSS (74-95m²). Bedrooms 1 and 2 would exceed double occupancy and bedroom 3 would exceed single occupancy. From the submitted plans it is noted that each bedroom and the kitchen/ living space would benefit from windows. It would therefore be concluded that the habitable rooms of the dwellinghouse would be provided adequate natural light.

In terms of future occupiers, part of this assessment has already been undertaken as part of the prior approval application "PN/22/93015". The assessment noted that the application site is located within an area characterised by residential properties. The application site is the stand alone 'commercial' unit within the immediate vicinity, therefore the change of use from a nursery to residential would be acceptable given the existing surroundings. Thereby future occupiers are not considered to be adversely impacted upon given the established residential surroundings.

In addition to the above internal living standards and conditions, and as set out within the Council's Quality Places SPD, the garden size for new residential development must be at least 60% of the floor space of the host dwelling. From the plans submitted the proposal would not meet this requirement. However, as noted within the history and background section of this report, the previous prior approval application "PN/22/93015" has already approved the change of use from nursery to residential. This permission could therefore be implemented without the 60% external amenity requirement. As a result, whilst not complying with the SPD, in this specific instance, this would not warrant reason for refusal.

Impact upon Neighbouring Amenities

Policy DM1 of the Eastleigh Borough Local Plan (2016-2036) amongst other matters, stipulates that all new development should not have an unacceptable impact upon residential amenities of both new and existing residents.

This section will be broken down into different parts, comprising; built structure, construction phase, and lifetime of the development. It should also be noted that the Council's Environmental Health Officer has been consulted as part of this application, whereby their comments will be incorporated below.

With regard to the built structure, the proposals would result in an increased footprint, and height, as well as a single storey extension to the west. The proposals would remain in a similar location to the existing building, albeit taller in terms of overall and eaves height.

The proposed dwelling would abut the eastern boundary, like the current situation. Whilst it is acknowledged that the increased height would have an impact upon the amenities of the neighbouring property to the east, it is not considered that this would be detrimentally harmful, given the existing relationship and minimal height increases. The proposed extension would extend 1.8m closer to the boundary, however, would have a modest overall height. As a result of the modest dimensions of this element of the proposal, it is not considered that this would have an adverse impact upon the amenities of the neighbouring property to the west.

Turning to the construction phase, the Council's Environmental Health Officer has noted that some of the works may temporarily cause noise, vibration, or dust emissions, as well as site operating hours. Had the application have been acceptable in all other regards, a Construction and Environmental Management Plan (CEMP) could have been secured via condition.

In terms of the lifetime and use of the proposals, as noted above, the application site is located within an area characterised by residential properties. The application site is the stand alone 'commercial' unit within the immediate vicinity, therefore the change of use from a nursery to residential would be considered to complement the existing surroundings, thus would be considered acceptable.

Overall and to conclude, the external alterations, and end use of the proposals are not considered to have an adverse impact upon the amenities of the neighbouring properties, thus would be considered acceptable. The construction phase could have an adverse impact upon neighbouring amenities which could have been secured via conditions had the proposals have been acceptable in all other regards.

Highway Safety, Parking & Refuse Storage

Policy DM13 of the Eastleigh Borough Local Plan (2016-2036) requires that development is or could be well served by public transport, cycling and walking and it includes measures which minimise its impact on the existing highway network. Policy DM14 of the same Plan requires that an appropriate level of car parking be provided in accordance with the Council's adopted standards. The policy provisions are consistent with the requirements of the NPPF and in particular those of paragraphs 107 and 108.

Due to the nature of the proposals, the Local Highway Authority (LHA) have been consulted. They noted that there the current nursery usage has allegedly caused obstruction and parking complaints, therefore the change of use to residential would be considered to benefit local residents.

Further to access, the proposals to create a 3no. bedroom dwelling would need to provide 2no. vehicular off-street parking provisions in accordance with the Residential Parking Standards SPD. From the submitted location plan, it shows a long driveway, which could accommodate 2no. vehicles, thus would be acceptable in this regard. Further to vehicular parking, cycle parking and bin storage would be required. Site Plan SP-1306-A3 shows that these provisions would be located within the south-eastern corner of the site. A further plan (CC-1306-A4) shows proposed dimensions for the cycle storage which are considered to be acceptable.

Ecology & Trees

Policy DM11 of the Eastleigh Borough Local Plan (2016-2036) stipulates that the Borough Council will work with statutory and voluntary agencies and developers to; protect, conserve and enhance areas subject to international, national and local nature conservation designations, and promote the net gain of biodiversity on all sites through the protection, enhancement and connection of existing provisions and new habitats and features compatible with the native biodiversity characteristics of the Borough.

Due to the nature of development, the Council's Arboriculturalist and Ecologist have been consulted.

The Council's Arboriculturalist has been consulted due to the close proximity of 3no. TPO'd trees along the western boundary of no.27. They noted that whilst the existing structure means that they do not have concerns regarding direct impacts there are concerns regarding site access and activities. It is acknowledged that there is a natural buffer between the stems and the site (the garden of 25a), however it is possible that agreements between the relevant parties could allow access to this land, which would be within the RPAs of the protected trees. To mitigate that risk, the Council's Arboriculturalist requested a Tree Protection Plan and Method Statement be submitted prior to commencement of any development. Had the proposals have been acceptable in all other regards, a condition requiring this information could have been imposed.

The Council's Ecologist originally requested additional information and biodiversity enhancements. Following the receipt and review of site photos, the Council's Ecologist noted that there were some potential bat roost features and that a preliminary roost assessment would be required. Following the receipt of the preliminary roost assessment it was noted that there was low bat roost suitability, thus requiring a phase 2 bat dusk emergence survey. Other elements including mitigations and biodiversity enhancements set out within the report were considered acceptable.

The agent was made aware at the beginning of August 2023 that a phase 2 bat survey would be required, whereby the season would end at the end of September. No correspondence has been received from the agent since requesting this information, nor has any phase 2 bat report been forthcoming. As the bat season has now ended, the next available season would begin May 2024. As such, given the lack of communication and information, the application would be recommended for refusal.

Sustainability

Policy DM2 of the Eastleigh Borough Local Plan (2016-2036) requires new development to provide a 19% improvement in predicted carbon emissions, and water consumption standards of 110L per person per day.

The application site would be situated within a sustainable location and would also incorporate solar panels on the roof. Additional sustainability measures could have been secured via condition had the proposals have been acceptable in all other regards.

SPA Mitigations

The Council, as the responsible body for Habitats Regulations Assessment (HRA), must ensure as part of a planning application that development will not have an adverse impact upon any European protected sites, and specifically in this case, the European protected Solent Complex (SPA, SAC and Ramsar sites), River Itchen (SAC) and New Forest National Park (SPA, SAC and Ramsar sites). It is recognised that the addition of residential development would have an adverse impact upon the surrounding designated European protected sites.

Due to the nature of the proposals, a HRA was undertaken and submitted to Natural England for their review. They raised an objection to the Council's New Forest Mitigation and noted that further information was required with regard to deterioration of the water environment.

The Solent & Southampton Water Special Protection Area is an internationally designated conservation site and is protected for its overwintering birds. It is recognised that new house building (within a 5.6km buffer of the designated area) is placing increased

pressure on these overwintering birds from more people visiting the coastline. As such the Council requires all housing developments within the buffer to make a financial contribution towards the Solent Recreation Mitigation Strategy, which aims to limit recreational disturbance to our coastline through careful management. The application site does not appear to fall within this zone.

In terms of water quality, Natural England have advised that new housing development should achieve nutrient neutrality in order to mitigate the impacts of additional nitrogen arising from the sewage generated by the future residents. This wastewater then feeds into the Solent Complex via Waste Water Treatment Works, which discharges into the river network and so causes eutrophication affecting the features for which it is designated. The Council has adopted its own strategy for achieving nutrient neutrality whereby it identifies areas of agricultural land and remove these from a nitrate intensive use, thus reducing the nitrogen input into the protected sites, with the level of reduction then being used as a means of offsetting the impacts of development proposals within the Borough. This ensures no overall net increase in nitrates within the Solent and thereby allow a development to achieve nutrient neutrality. In order to do this, the Council calculates the level of nitrate mitigation this land provides (measured in kg) and makes 'nitrate credits' available to developers to buy, with funding being secured during the planning application.

In addition to the above, Natural England have also highlighted that residential development within a certain catchment of the River Itchen (SAC) can result in phosphate loading resulting from additional sewage generated from future residents. The Council also has 'phosphate credits' available to offset this impact.

The agent submitted a nutrient neutrality budget which calculated that the development would result in a net increase of 2.89kg/TN/year of nitrogen and between 0.06kg/TN/year (post 2025) and 0.1kg/TN/year (pre-2025). However, no mitigations have been provided or secured as part of this application.

Furthermore, Natural England has also raised concern with regard to additional residential development within 13.8km radius of the New Forest. This is considered to have an adverse impact upon the New Forest by way of additional trips resulting in further recreational disturbance. No mitigation to offset this impact has been provided.

The Local Planning Authority acknowledge that these matters could be overcome, subject to the correct monies and mitigations being implemented. However, the proposal was not considered acceptable in other regards, therefore this was not sought. As it stands the application does not provide the required mitigations to offset the adverse impact upon the protected areas and therefore these matters would contribute towards a reason for refusal.

Equalities Act:

Section 149 of the Equalities Act 2021 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.

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other this, 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 and development plan 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 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 and 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 limit impacts on climate emissions as a result of the development or its use.

Conclusion:

Reasons for Refusal:

- 1) The proposal involves works to the existing building which has likely potential to support bats, which are protected by virtue of the Habitats and Species Regulations (2019). Insufficient information has been provided to demonstrate that bats are not likely to be affected by the works, and therefore the works are unlikely to be granted a license by Natural England. The proposal would therefore be likely to result in an offence under the Habitats and Species Regulations (2019). The proposal is therefore contrary to Policy DM11 of the Eastleigh Borough Local Plan (2016-2036), and the provisions of the National Planning Policy Framework (2023).
- 2) The application fails to provide the required mitigation to offset the impacts of the development upon the European protected Solent Complex (SPA, SAC and Ramsar sites), River Itchen (SAC) and New Forest National Park (SPA, SAC and Ramsar sites) from additional recreational pressure and nitrogen and phosphate loading generated by the population increase and additional sewage resulting from the development. The proposal is therefore contrary to the requirements of Policy DM11 of the Eastleigh Borough Local Plan 2016-2036, the provisions of the NPPF (2021) and the Conservation of Habitats and Species Regulations 2017.

Recommendation:

PERMIT ☐

REFUSE ☒