

DELEGATED OFFICER REPORT

Application Ref: PN/23/96575

Site Address: 62 HIGH STREET, WEST END, SOUTHAMPTON, SO30 3DT

Case Officer: Rachael Morris

Description: Prior approval for change of use from commercial, business and service (Use Class E) to dwelling (Use Class C3) as a 1-bedroom flat

Particular Site Constraints?	Yes ☒	No ☐
Within the urban edge		

Planning History?	Yes ☒	No ☐
- Z/25829/000/00 - Extension to existing flats – Refuse – Feb 1982 - Z/26652/001/00 - Erection of an additional pair of garages - Permit – Aug 1983 - Z/25829/001/00 - Office extension and re-arrangement of access to flats – Permit – Jul 1984 - Z/25829/002/00 - Construction of replacement pitched roof – Permit – Jul 1985 - Z/25829/003/00 - Change of Use of First Floor Residential Accommodation to Offices – Permit – Jul 1991 - F/09/65385 - Change of use of office at first floor to 1no. One bed flat – Refuse – Sept 2009		

Publicity:	Letters ☒	Site Notice ☐	Newspaper ☐
Representations:	None		
Parish Council:	No Comment		
Tree Officer:	No Objection		
Environmental Health:	<u>Update:</u> confirming that the premises at the front of the property are unlikely to change in the foreseeable future, and also the type of surface of the driveway. We have no further comments on this application. <u>12/02/2024:</u> According to the submitted proposed plan produced by Appletree Architecture, January 2024, the proposed ground floor flat does not involve any ground excavations and does not have a garden; therefore, from the contaminated land perspective, we raise no objection. The proposed ground floor plan indicates the flat will be having a separate access from the commercial units, and it indicates that the sensible rooms will be located at the rear, which help mitigate the noise from the High Street and any commercial activities within the High Street. The area at the rear of the flat is a car park, aerial imagery shows that the driveway that also leads to residential dwelling 62A, and it seems to be made of gravel. The retail units at the front of the property are part of a state agency, which according to their website, operates Monday to Friday from 9am to 6pm and Saturday 9am to 4pm, Sundays closed. Due to the current nature of the business, it is assumed that the activities undertaken are not likely to cause nuisance to the new residents of the proposed flat (in terms of noise, vibration, odours, and other matters). I am just concerned about any change of business and the impact that it can pose to the new residents. Once the above is confirmed, then we have no objections with the proposed conversion to a flat of the rear area of the property. We would like to recommend the gravel driveway to be replaced by hard surface to eliminate the crunching sounds tyres induce on gravel.		

Site Visit:	Yes ☒	No ☐
Details: 01/03/2024		

Policy:

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).

As per the Conditions MA.2, the following matters are to be assessed: transport, land contamination, flood risk, noise impact, provision of natural light, impact of residential within the area, the loss of the service provided, and fire risk. These matters would be assessed against the below policies:

National Planning Policy Framework Planning Practice Guidance

Development Plan:

The Eastleigh Borough Local Plan 2016-2036 The most relevant policies are Strategic policies S1 and S2; and Development Management policies DM1, DM2, DM11 and DM14.

Supplementary Planning Documents:

Quality Places; Residential Parking Standards; Character Area Appraisals.

Assessment:

Proposal

The application proposes the change of use from Commercial, Business and Service (use Class E) to Dwellinghouse (use Class C3), under the prior approval process set out within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Assessment Against Schedule 2, Part 3, Class MA of the GPDO

MA.1 Development is not permitted by Class MA if:

The following matrix makes an assessment of the proposal against the criteria of Class MA:

<u>Criteria:</u>	<u>Assessment:</u>
(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	The applicant has confirmed that the office has been vacant 3 months.
(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	Sub-paragraph (2)(a) sets out following classes of the Use Classes Order: (i) Class A1 (shops) (ii) Class A2 (financial and professional services) (iii) A3 (food and drink) (iv) Class B1 (business) (v) D1(a) (non-residential institutions – medical or health services) (vi) Class D1(b) (non-residential institutions – creche, 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 Sub-paragraph (2)(b) states: on or after 1

	September 2020, Class E (commercial business and service) of Schedule 2. The application was used as a Class E, within The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.
c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres	The floor space of the existing building changing use under Class MA measures approx. 53 square metres, thus falling within 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 of 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 (v) is or forms part of a military explosives storage area	The application site is not and does not form part of; a site of special scientific interest, a listed building nor curtilage of, scheduled monument nor curtilage of, a safety hazard area, nor military explosives storage area.
(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 (iii) the Broads (iv) a National Park (v) a World Heritage Site	The building is not within; an area of outstanding natural beauty, nor an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, the Broads, a National Park nor a World Heritage Site.
(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained	The application site is not occupied under an agricultural tenancy.
(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 1 August 2021 and (ii) the development would not have been permitted under Class O immediately before 1 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.	The proposed development does not fall within Class O of this Part (offices (Class B1(a)) to dwellinghouse). The use of the space is currently within Class E.

Conditions MA.2:

Development under Class MA is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for 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 location 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;
- (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

a) Transport and highways impacts of the development

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 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.

The site is located in a local centre and is well served by local bus stops and local facilities. The use for private motor vehicle would not be required but if so, there is parking available on site.

b) Contamination risks in relation to the building

Policy DM8 of the submitted Eastleigh Borough Local Plan (2016-2036) stipulates that development will not be permitted if it is likely to cause loss of amenity of impact upon public health or other unacceptable environmental impacts; including land contamination.

The proposals within this application do not include the breaking of ground.

c) Flooding risks in relation to the building

Policies DM3 and DM6 of the submitted Eastleigh Borough Local Plan (2016-2036) stipulate that new development must provide sustainable drainage systems (SuDs) wherever feasible, naturalised filtration should also be included. The concern relating to flood risk is limited as the current built form will not change.

d) Impacts of noise from commercial premises on the intended occupiers of the development:

Policy DM1 of the submitted 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.

The application site is situated close to both residential and commercial premises on the West End High Street. Although there are retail/commercial premises within the immediate vicinity, they are all characterised by having residential units situated on the first floor and these are seen within the street scene. The environmental health team have provided a no objection and there is an existing residential flat to the ground floor within this same building. As such, there would be no expected unacceptable impact of noise on the future occupiers.

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 application site is not located within a conservation area, and therefore this criterion is not applicable.

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

From the submitted plans it is noted that the 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.

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;

The application site does not fall within an area which the LPA 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

The proposals would not result in a loss of a nursery or health centre.

i) Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

The GPDO introduced this criterion from 1 August 2021, which sets out the requirement for developers to obtain the prior approval of the local planning authority as to certain matters relating to fire safety. Articles 4 and 9 amend Class MA of Part 3, and other classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 to require the submission of a statement about the fire safety design principles, concepts and standards that have been applied to the development. This specifically relates to the creation of new dwellings in buildings which will contain 2 or more dwellinghouses where the height condition of planning gateway one is met (18m or more, or 7 or more storeys). Where a prior approval application is made pursuant to these provisions, the local planning authority must consult the Health and Safety Executive.

The proposal would result in the creation of 1no. dwelling on the first floor and therefore the Health and Safety Executive has not been consulted, nor is this criterion applicable.

Articles 3 and 4

Article 3, paragraph 9A sets out that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse, where the necessary space standards are not met. The application proposes 1no. 1-bedroom dwelling which would have a floor space of approx. 53 metres squared. The proposed unit would need to be between 39-50 metres squared (1-person - 2-person) for a one-storey dwelling (as set out within the National Described Space Standards).

Other Matters: SPA Mitigations

Prior to commencement of any development, it is a requirement that the applicant satisfies their obligations under Regulations 73-77 of the Conservation of Habitats and Species Regulations 2017 (as amended), in strict accordance with Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Failure to comply with this will mean that the development will have been unlawfully implemented. In this instance appropriate mitigation is required to offset the development's impacts on 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), in terms of both the recreational disturbance and from additional output of nutrients (nitrates and phosphates) arising from a net gain of residential accommodation.

The applicant would need to set out their proposed method of mitigation, as to how they will address the impact of the proposed development upon the European Protected Sites. The LPA would then collate this information and prepare a Habitats Regulations Assessment to submit Natural England for their review.

Climate change and Equalities Implications:

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:

Recommendation:

PRIOR APPROVAL GRANTED



PRIOR APPROVAL REFUSED



Comments ...