

DELEGATED OFFICER REPORT

Application Ref: PN/23/96620

Site Address: 111 WINCHESTER ROAD, CHANDLER'S FORD, EASTLEIGH, SO53 2GH

Case Officer: Rebecca Altman

Description: Application for Prior Approval for the change of use of the rear first floor from Class E (commercial) to 6 flats (Use Class C3), under Class MA of the Town and Country Planning (General Permitted Development) Order.

Particular Site Constraints?	Yes ☒	No ☐
- In Urban Edge - In Chandlers Ford District Centre - Winchester Road is a strategic footpath, cycleway and bridleway - TPO on north side of site		

Planning History?	Yes ☒	No ☐
Various previous applications for external alterations to the wider building and signage. The most recent being: - F/23/95680 – External alterations to first floor (rear) to include installation of new windows – permitted 07/11/2023 - A/23/95591 – Signage – consent 05/10/2023 - PN/23/95595 – Change of use from Class E to C3, to form 5 no. apartments (site at first floor front only) – approved 25/08/2023 - F/23/95081 – External alterations including new shopfront, removal of existing louvres to rear and side elevations, new louvres to rear, provision of ventilation openings, new doors, and alterations to loading platform – permitted 30/06/2023 - F/23/94540 – External alterations including installation of new louvres at ground floor to rear elevation and reconfiguration of car park – permitted 27/04/2023		

Publicity:	Letters ☒	Site Notice ☐	Newspaper ☐
Representations:	Seven representations received, including one on behalf of Age Concern Chandlers Ford, raising objection on the following grounds: - Piecemeal planning by the developer; - The developer has not been truthful about intentions for the site, misleading the planning service and public; - Overlooking/ loss of privacy to residents of adjacent bungalow; - Lack of involvement of neighbours in consideration of overlooking impacts; - Overlooking of the community hall, impacting on the privacy of users; - Loss of parking in the existing car park; - Loss of parking for the shop, resulting in increased vehicle queuing / congestion on Brownhill Road and Winchester Road (Fryern tunnel); - New windows were not required to improve the appearance of the building; - The parking survey is misleading and should not be including disabled and family spaces in the occupancy count; - Unrealistic that people will use public transport to access the site; - Parking problems are worse during nearby school drop-off / pick up; - Loss of parking could reduce people coming to Chandlers Ford to shop, impacting on the viability of local shops;		

	- The application should be determined in an open and honest manner; - Local residents already impacted by noise, lighting and littering associated with the shop on the site. The issues raised that relate to material planning matters are addressed in the planning assessment set out below.
Parish Council:	No comments received.
Highway Authority	No objection subject to clarification regarding parking provision. The existing vehicle access from Brownhill Road is acceptable. The internal layout of the parking area is also acceptable, with adequate sized parking bays and aisle widths. 6 parking spaces are proposed for 6 flats. It is for EBC to determine if this parking provision is appropriate. Query as to how much parking there would be in total for these flats plus those previously allowed in the front part of the first floor. Also query how the parking spaces for the flats would be managed to prevent them being used by shop customers. 6 cycle spaces would be provided in a lockable store, which is acceptable. The 6 parking spaces are currently part of the customer parking for the Co-op store. However, parking surveys indicate sufficient capacity within surrounding car parks to accommodate the transfer of 6 spaces to the flats. There is no concern regarding increased trip rates as a residential use is likely to generate less vehicle trips than many E Class uses.
Environmental Health – Noise	<u>Final comments following receipt of updated Noise Assessment:</u> No objection. The updated report has assessed the noise impact from the neighbouring kitchen extract at No.113 and No.109. It also considers the noise impact of the relocated condensers for No.113 and gives specification for acoustic glazing and ventilation for the proposed residential units. It also provides recommendations for the noise insulation for the floor between the residential units and commercial uses below. For the flat closes to No.113 kitchen extract it is recommended to install MVHR as opening windows will result in excessive internal noise levels. Mechanical ventilation is recommended for the other flats. The assessment of the condensers at No.113 is based on them being relocated as shown in the report. Overall, the report has shown that satisfactory internal noise levels can be achieved, subject to relocation of the condensers. The location of air inlet/vents serving the flats will need to be carefully situated to avoid drawing in air impacted by odour from the adjacent food premises.

	<u>Updated comments following receipt of additional information:</u> Further information required. Noise was monitored for a single day. Further details required as to the number, type and duration of deliveries and waste collection, to determine if the monitoring day is representative of the worst case scenario. Assessment of noise from the exhaust flue at 113 Winchester Road is required, due to position of new habitable rooms close to it. Further consideration of potential noise from No.103 Winchester Road, e.g. from plant and machinery. Regarding the delivery bay beneath the proposed flats, it has been confirmed that appropriate floor construction performance would be achieved. <u>Original comments:</u> Further information required. The recommendations set out in the Noise Assessment regarding glazing and ventilation of the dwellings, floor and wall insulation appear reasonable. However, there is concern about the methodology of the Noise Assessment and whether it has accurately assessed the current noise situation on site. It is not clear how representative noise from deliveries and waste collections etc have been taken into account, or noise from the operation of the car park. Noise from an adjacent commercial kitchen also does not appear to have been taken into account. Query as to where the plant removed from the Co-op roof has been relocated.
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Site Visit:	Yes ☒	No ☐
Details: 24 January 2024 – photographs on file. Interior of the first floor accessed and confirmed vacant.		

Policy:
Town and Country Planning General Permitted Development Order (General Permitted Development) (England) Order 2015 (as amended) The application seeks prior approval for a change of use from Class E (office) to Class C3 (residential), in accordance with Class MA of the General Permitted Development Order. National Planning Policy Framework Planning Practice Guidance Development Plan: The <u>Eastleigh Borough Local Plan 2016-2036</u> - The most relevant policies are Strategic policies S1 and S2; and Development Management policies DM1, DM5, DM8, DM13, and DM14. Supplementary Planning Documents: Quality Places; Residential Parking Standards.

Assessment:

Schedule 2, Part 3, Class MA of the GPDO allows for the change of use of a building from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouse), provided that certain criteria are met. If the criteria are met, development is not allowed to commence until an application is submitted to the Local Planning Authority for a determination as to whether Prior Approval is required in relation to various matters including transport impact, contamination and flood risk.

The proposal is for a conversion of the former ancillary commercial use at first floor level (rear) to 6 x 1-bedroom flats.

The following table sets out an assessment of the proposal against the various criteria and conditions of Class MA of the GPDO.

MA.1 – Criteria

Criteria	Assessment
Development is not permitted by Class MA:	
(a) Unless the building has been vacant for a continuous period of at least 3 months prior to the date of the application for prior approval.	The application was received in December 2023 and the applicant has confirmed that the use of the first floor (rear) ceased in July 2023. The relevant part of the building has therefore been vacant for at least 3 months prior to submission of the application. Photographs from the site visit in January 2024 confirm the space remains vacant.
(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 confirms that the building has to have been in use for a Class E use, which includes retail. The applicant has stated that the previous use of this part of the first floor was B1(a) offices (now Class E). However, floorplans from previous applications indicate that the use was for ancillary accommodation to the ground floor shop, including plant rooms, staff facilities and offices. As retail use also falls within Class E, then it is considered that this criteria is met.
(c) If the cumulative floor space of the existing building changing use exceeds 1,500sqm.	The floorspace of the area of building to be converted measures 367sqm (measured from the submitted plan). Prior approval was previously given under Part MA for the front part of the first floor to change use to 5 flats and this part of the building had a floor area of 276m². The cumulative floor area being converted under Part MA would therefore be 643sqm, below the 1,500sqm threshold.
(d) If land covered by or within the curtilage of the building is or forms part of: i) A SSSI ii) Listed building	None of these apply to the site.

iii) Scheduled ancient monument iv) Safety hazard area v) Military explosives area	
(e) If the building is within: i) An area of outstanding natural beauty ii) An area specified under the section 41(3) of the Wildlife and Countryside Act 1981 iii) The Broads iv) A National Park v) A World Heritage site	None of these apply to the site.
(f) If the site is occupied under an agricultural tenancy, unless express consent of the landlord and tenant has been obtained.	The site is not occupied under an agricultural tenancy.
(g) Before 1 August 2022, if: i) The development is of a description falling within Class O as that Class had effect immediately before 1 st August 2021; and ii) The development would not have been permitted under Class O immediately before 1 st August 2021 by virtue of the operation of a direction under article 4(1) of this order which has not since been cancelled.	This does not apply as the application was submitted after 1 August 2022.

MA.2 – Conditions - Prior approval matters for consideration

A) Transport impacts of the development, particularly to ensure safe access:

The application site lies within Chandlers Ford District Centre, and has good access to public transport including buses and trains. The vehicle access to the site would be via an existing entrance from Brownhill Road, which serves the parking area for the Co-op store, and the Highway Authority has confirmed that this access is acceptable. Pedestrian access to the flats would be via an existing entrance on the rear (north-west) elevation of the building.

The proposal is for the creation of 6 flats and the submitted plans show the provision of 6 parking spaces (1 per flat) within the rear car park. The applicant has confirmed that there would be a parking company to manage the residential car parking to ensure that the residential spaces are not used by commercial customers.

The Council's Adopted Parking Standards require 2 parking spaces per 1-bed dwelling, but the Council's emerging Parking Standards are proposing to reduce this requirement to 1 space per 1-bed dwelling, recognising that 1-bed properties do not tend to generate such a high parking demand. Given the location within a District Centre and having regard to the emerging parking standards, the provision of 1 parking space per flat in this case would be considered acceptable.

The applicants have provided a plan showing that the retail sales floor area of the Co-op store is 282sqm in size. This store was recently reduced in size and there is now a separate commercial space created in the other part of the ground floor measuring approximately 254sqm in size.

According to the site plan, the loss of 6 parking spaces to serve the flats would leave 32 parking spaces remaining in the site's car park for the retail stores, along with a designated loading area.

The Council's Adopted Parking Standards only relate to residential development, but the emerging Parking Standards include requirements for commercial uses. In accordance with these emerging standards, the Co-op store would require 1 parking space per 14m² of floorspace, which amounts to 21 spaces based on the retail floor area (including 1 space for operational / service vehicles), plus 2 loading bays. As there would be 32 spaces remaining, the parking requirement for the Co-op would continue to be met, with a surplus of 11 spaces. At this stage it is not known what the additional sub-divided unit would be used for, but it is noted that there would still be 11 parking spaces in the existing car park, and that there are other parking opportunities in the surrounding area as demonstrated by the submitted parking survey. On this basis, it is considered that the parking provision for both the proposed flats and remaining retail is acceptable and would not result in a significant impact on the local highway network by way of overspill parking, or adversely impact on the overall level of parking for the wider shopping area. The Highway Authority has raised no objection in terms of impact on the highway network but has queried how the residential parking would be managed. The applicants have confirmed that this would be managed by a parking management company to ensure that the residential spaces were not occupied by commercial customers. A condition can be imposed to ensure that these 6 spaces remain only for residential parking.

The Block Plan also indicates space for cycle storage for the flats and full details could be requested by condition and would help encourage the use of alternative means of transport to the private car. The applicant has confirmed that the cycle store would be installed on existing hardstanding and would not require any groundworks, therefore not impacting on the adjacent tree.

B) Contamination risks in relation to the building:

The proposal relates to the conversion of part of the first floor of the building only. As there would be no groundworks, there would be no concerns with regard to land contamination.

C) Flooding risk in relation to the building:

The site does not lie within an area at risk of flooding.

D) Impacts from noise from commercial premises on the intended occupiers of the development;

The application is supported by a Noise Impact Assessment, which has been updated during the course of the application in response to comments from the Council's Environmental Health Officer. This assessed the noise conditions at the site from the ground floor Co-op Store and adjacent commercial units, along with associated plant and equipment. The report concludes that subject to the following mitigation, noise from the ground floor and adjacent commercial units would not prejudice the amenities of future occupants:

- sound insulation treatment to the separating floor and walls;
- mechanical ventilation, and;
- mechanical ventilation with heat recovery (MVHR) to Flat 2 (nearest the kitchen extract for No.113).

The Environmental Health Officer has noted that achieving the required noise levels is dependent on the existing condensers for No.113 Winchester Road being relocated. These condensers are currently located on the first floor south-west elevation of No.113 and encroach onto the application site, and the noise report indicates that they are due to be relocated onto the roof of No.113. The applicants have confirmed that agreement has been reached with the owners of No.113 to relocate these units as proposed. A condition can be imposed to ensure that noise mitigation measures are implemented in accordance with the recommendations of the Noise Report, which would include the relocation of those condensers. Subject to this, the Environmental Health Officer has confirmed agreement with the updated report and on this basis the proposal is considered to accord with Policy DM8 of the Eastleigh Borough Local Plan.

E) Where –

- i) The building is in a conservation area; and
- ii) The development involves a change of use of ground floor (whole or part);
The impact of that change of use on the character of the conservation area;

The site does not lie within a Conservation Area and the proposal relates to the first floor only.

F) The provision of natural light to all habitable rooms;

The rear first floor of the building is currently vacant and currently has windows only on one side (south-east elevation). The proposed floor plan shows that two of the proposed new flats would be positioned on the north-west side of the building, where currently there are no windows. Therefore on the basis of this existing situation, these flats would not have adequate natural light.

However, planning permission was granted in November 2023 for the installation of new windows to all elevations of the rear first floor. This would include 8 new windows on the north-west elevation, 2 on the south-west elevation, 3 on the north-east elevation and replacement windows to the south-east elevation. These windows have not yet been installed, but if they were, they would provide a good level of natural light to all of the habitable rooms in the proposed flats.

The planning permission for the windows is subject to a 3 year implementation period, and the works so far have not commenced. In submitting this application for Prior Approval, the applicants have drawn attention to an appeal decision for a site in Reading (ref. 3291549, dated 22 November 2022). In this appeal decision, the Inspector noted that the proposed residential conversion would not provide adequate natural light to all rooms under the existing situation. However, he noted that a separate planning permission had been achieved for new windows to the building, which would provide adequate natural light to the new flats. The Inspector determined that it would be possible to impose a condition to ensure that the change of use did not take place until the new windows had been installed. On this basis, the appeal was allowed.

The Council's Legal Team has considered the circumstances in the Reading appeal case, along with guidance set out in the Planning Practice Guidance. The Planning Practice Guidance (para.055 ref. ID 13-055-20140306) recognises that some permitted development rights for change of use allow for limited physical works, but others do not. It states that where physical development is required to implement a change of use, developers should ensure they have planning permission if necessary. Taking account of this advice and the findings of the Reading appeal Inspector, the Council's Legal Team has concluded that it would be possible to grant Prior Approval subject to a condition requiring the previously permitted windows to be completed first (i.e. before the residential use was commenced).

On the basis of the above, subject to a condition to secure the installation of the new windows as per planning permission ref. F/23/95680, the development would achieve adequate natural light to all habitable rooms.

- G) The impact on intended occupiers of the introduction of residential use in an area of importance for general or heavy industry;

The site is not in an area of importance for general or heavy industry.

- H) Where the development involves the loss of services provided by
- i) A registered nursery;
 - ii) A health centre.
- The impact on the local provision of the type of services lost; and

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

- I) Where the development meets the fire risk condition, the fire safety impacts.

This is not applicable as it only relates to buildings of 7 storeys or 18m and higher.

Dwelling floor areas

Under Article 3 (9A) of the GPDO, it states that Schedule 2 does not grant permission for, or authorise any development of any new dwellinghouse:

- (a) Where the gross internal floor area is less than 37 square metres in size; or
- (b) That does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

The floor areas of the proposed dwellings are as follows:

- Flat 1 – 42sqm (studio)
- Flat 2 – 53sqm (1-bed)
- Flat 3 – 54.4sqm (1-bed)
- Flat 4 – 54.4sqm (1-bed)
- Flat 5 – 55sqm (1-bed)
- Flat 6 – 50sqm (1-bed)

The nationally described space standards (NDSS) require 1-bed flats to be at least 39sqm if designed for 1 person and 50sqm if designed for 2 people. In this case, one of the flats (Flat 1) is designed for 1 person and exceeds the minimum floorspace for this size of unit, and all of the others meet or exceed 50sqm. The bedrooms and storage provision have also been designed to meet the size standards set out in the NDSS.

Other matters raised in representations

Privacy:

A neighbouring resident and the adjacent community hall have raised concerns about overlooking from the proposed new flats. Impact on privacy of neighbouring residents is not a matter that is specifically set out for consideration under Class MA of the General Permitted Development Order. However, it is noted that there is a separation distance of around 22m from the rear elevation of the building to the nearest elevation of the bungalow and that two of the approved windows would be obscure glazed, which would help to minimise loss of privacy. It is acknowledged that the neighbouring property does not currently have windows facing towards it, and that the residential use would result in a different nature of occupation to the former commercial use (e.g. day and night rather than predominantly day). However, the relationship and separation distance between buildings is not considered inappropriate in an area characterised by mixed use development, and it is not considered that the impact of overlooking would be so harmful as to warrant refusal of an application. With regard to the community hall, the new windows would have an angled view towards the hall and with the separation distance it is not considered that there would be an adverse impact on privacy for users of this building.

Planning process:

Some of the representations have raised concerns about the process used by the applicant to secure the proposed change of use, commenting that the piecemeal nature of the applications was deceiving and did not give the local community or Planning Service the ability to properly consider the proposals.

Whilst it may have been preferable for the proposed change of use to have been submitted and considered under a single detailed planning application, the approach taken by the applicants to secure operational development for new windows followed by a Prior Approval application, is one that accords with Planning Legislation. There would have been no grounds for the Local Planning Authority to insist on a different application process and all of the applications been determined in accordance with relevant planning policy and legislation.

Mitigation of the impact of development on Special Protection Areas

Prior to the commencement of any development, it is a requirement that the applicant satisfies their obligations under 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 would mean that the development would have been unlawfully implemented.

In this instance, appropriate mitigation is required to offset the development's impacts on European Protected sites in terms of recreational disturbance on the New Forest SPA and increased nutrient output (nitrates and phosphates).

The applicant would need to set out their proposed method of mitigation, and the LPA would then collate this information and prepare a Habitats Regulations Assessment for submission to Natural England.

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.

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

The proposed development accords with the requirements and conditions of Class MA of the General Permitted Development Order and is therefore recommended for approval.

Recommendation:	PERMIT ☒	REFUSE ☐
1. The development hereby permitted shall be implemented in accordance with the following plans numbered: • 23.1371/401 C (Location and Block Plans) • 23.1371/006 (Existing Elevations A and B) • 23.1371/005 (Existing Elevations SE and SW) • 23.1371/007 (Existing Elevations NE and NW) • 23.1371/303 B (Existing 1F Plan) • 23.1371/002 (Existing GF Plan) • 23.1371/202 D (SW and NE Elevations as approved) • 23.1371/305 C (Elevations A and B as approved) • 23.1371/201 D (SE and NW Elevations as approved) • 23.1371/404 B (Proposed 1F Plan) • 23.1371/105 A (Proposed GF Plan) Reason: For the avoidance of doubt and in the interest of proper planning. 2. The use hereby approved shall not commence until the operational development comprising new windows as approved under planning permission F/23/95680 has been completed. The windows shall thereafter be retained as approved. Reason: To ensure adequate natural light to all rooms of the new development is achieved, in accordance with Schedule 2, Part 3, Class MA, MA.2(2)(f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and Policy DM1 of the Eastleigh Borough Local Plan (2016-2036). 3. Prior to occupation of the dwellings hereby permitted, the secure cycle storage as shown on plan ref. 23.1371/401 C, shall be installed in accordance with full details that have first been submitted to and approved in writing by the Local Planning Authority. Reason: To encourage the use of alternative means of transport to the private car, in accordance with Policy DM13 of the Eastleigh Borough Local Plan (2016-2036).		

4. Prior to occupation of the development, the 6 parking spaces shown on the approved plan shall be provided and maintained thereafter for residential parking only.

Reason: To ensure adequate parking provision to serve the residential use, and to prevent conflicts with commercial parking, in accordance with Policy DM14 of the Eastleigh Borough Local Plan (2016-2036).

5. The development shall be carried out in accordance with the noise mitigation recommendations set out in the Noise Impact Assessment prepared by DAA Group, dated 3rd March 2024 (issue 2), and the noise mitigation measures shall thereafter be retained.

Reason: To ensure that future occupants are not adversely impacted by noise from the adjacent commercial uses, in accordance with Policies DM1 and DM8 of the Eastleigh Borough Local Plan (2016-2036).

Note to Applicant:

Development under Class MA is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

Note to Applicant:

It is a requirement that the applicant satisfies their obligations under Regulation 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 the European Protected Site, in terms of additional recreational pressure (to the New Forest), and additional output of nutrients (nitrates and phosphates) arising from a net gain of residential accommodation.

Development must not commence until the Local Planning Authority has given its written approval for the development and appropriate mitigation has been secured against the developments harmful impacts on the European Protected Site(s). Further information on Eastleigh Borough Council's Schemes are available:

Nitrates & Phosphates: <https://www.eastleigh.gov.uk/planning-and-building/nutrient-offset-schemes#:~:text=The%20Council's%20nitrate%20offer,our%20legal%20and%20administrative%20costs.>

New Forest: <https://www.eastleigh.gov.uk/media/5441/update-doc-4c-new-forest-interim-mitigation.pdf>

Note to applicant: The location of the air inlet/ vents serving the flats will need to be carefully considered so as to avoid drawing in air impacted by odour from the adjacent food uses.