

DELEGATED OFFICER REPORT:**Application Ref:** PN/24/97334**Site Address:** 5 LEIGH ROAD, EASTLEIGH, SO50 9FG**Case Officer:** Clare Martin**Description:** Prior Notification Application Under Class MA for the change of use from offices to 2no. one bed dwellings

Particular Site Constraints?	Yes ☒	No ☒
• Within Urban Edge • Within Eastleigh Town Centre		

Planning History?	Yes ☐	No ☐
• F/05/54554 – Change of use of use from A1 retail to D2 Solarium – Permitted (September 2005). This covers the ground floor only. • Z/05637/003 – Change of use to Building Society Branch Office – Permitted (March 1978).		

Publicity:	Letters ☒	Site Notice ☐	Newspaper ☐
Representations:	None		
Environmental Health (Noise):	I have had a look at the ISVR acoustic report 11732-R01 and will respond with reference to the three points made in my email of the 29/5/24 concerning the risk posed by commercial noise. 1. <u>Transmission of Commercial Noise from the ground floor use through the building structure</u> The consultant recommends that the sound insulation for the separating floor/ceiling should be upgraded to meet the Building Regulations Part E standard. I agree that such works would be sufficient for low risk commercial uses such as expected to be the case with the current occupier. Other commercial occupiers might well cause a more significant impact upon amenity. The significance of this risk will depend upon the extant planning consent and the degree to which this may prevent changes in occupation to more impactful uses. I would recommend that you review this risk. 2. <u>Transmission of commercial noise from adjacent uses:</u> No mitigation measures are proposed. I accept that current occupiers are unlikely to present a significant risk to amenity. However, the comments above related to changes in occupation apply; albeit this presents a lower order of risk. 3. <u>Transmission of noise from externally located plant:</u> I note your email of the 30/7/24 requiring the removal of external amenity space from the proposal. In which case consideration is limited to the impact upon internal habitable rooms. The consultant assesses the risk to amenity as significantly adverse during the evening and at night. At night, the rating level predicted by the application of the BS4142 methodology predicts an extraordinary +18dB above background sound levels. Conditions during the daytime assessed as adverse, but not significantly adverse. This due		

	to the noise emission from two air conditioning plant and the cooking extract system serving the Istanbul Grill. This plant is considered to produce slightly tonal noise and is the dominant environmental noise at the rear of the proposed premises. Other fixed plant is less significant, such that in combination it does not significantly worsen the assessment. This presents a very poor quality acoustic environment for residential use. This is best addressed at source by identifying mitigation measures for the plant in question if practicable or if not, avoiding fenestration to habitable rooms on the rear façade of the proposed development. The acoustic consultant proposes conventional double glazing with ventilation provided by acoustic trickle vents as a suitable mitigation strategy. Such measures considered by him to be sufficient to achieve different internal acoustic criteria set in BS8233. This approach presents a number of concerns: • The criteria in BS8233 are intended to apply to steady external noise sources without character and to not apply to noise sources from neighbouring uses. They are not appropriate in this case. If achieved, it is likely that the acoustic environment within the rear bedroom would be dominated by plant noise even when such windows are closed. Better standards of sound insulation may reduce this risk somewhat. Conventionally, when accepted lower absolute standards than those in BS8233 are sought where the noise source is dominated by noise of a commercial or industrial character. • The tonal element identified at 160Hz may be more dominant inside habitable rooms when the windows are closed. Method G2 BS8233 would allow this risk to be explored for particular double glazed units. • A passive ventilation system may be insufficient to prevent overheating. If so, residents will be likely to want to open windows for extended periods for cooling. If so, the acoustic environment within the rooms will be very significantly blighted by plant noise. This risk has not been explored. • The provision of mechanical ventilation systems to deliver cooling as an alternative to open windows has not been considered. Such a system may provide some masking sound to make the internal environment more acceptable. Overall, I am not satisfied that the proposals regarding the control of plant noise are sufficient.
Environmental Health (Contamination):	The proposed development involved the change of use from offices to residential dwellings, which will be located in the first floor. The proposed development involves the installation of a new external staircase and bin and bike storage. It is not anticipated that the installation of these features involves any ground disturbance
Transport Officer:	No objection • Access in and out of the site to the highway is unchanged by the proposals, and this is acceptable. • It is noted that no vehicle parking is to be provided for the residential units, and whilst this is for the Case officer to assess, ensuring the EBC Parking Standards are adhered to, it is noted

	that the site is ideally placed for car free development being close to amenities, employment and bus and rail stations. • It should however be noted that the site is located within a Controlled Parking Zone, and that future residents will not be entitled to join this.
Eastleigh Town Council:	No response

Site Visit:	Yes ☒	No ☐
Details: Carried out 9/5/24		

Pre-commencement Conditions:	Yes ☐	No ☒
Details:		

Legislation:
The Town & Country Planning (General Permitted Development) (England) Order 2015 (Amendment) Part 3 of Schedule 2, Class MA grants planning permission for a change of use from Class E (commercial, business or service) to residential, subject to certain exceptions, limitations and conditions. Under this act the developer must apply to the Local Planning Authority, before starting development, to determine whether the prior approval of the authority will be required, and if so whether this is granted by the LPA. The matters to be considered under the prior approval are: - transport impacts of the development, particularly to ensure safe site access; - contamination risks in relation to the building; - flooding risks in relation to the building; - impacts of noise from commercial premises on the intended occupiers of the development; <i>not applicable as site is not within a conservation area;</i> - the provision of adequate light in all habitable rooms of the dwellinghouse; <i>not applicable as site is not within an industrial area</i> <i>not applicable as current use is not a nursery or health facility</i> <i>not applicable as development as a fire risk condition is not required.</i> Furthermore, Article 3 of the amended regulations 2020 does not grant permission, or authorise any development of, any new dwelling house where: - the gross internal floor area is less than 37m² in size: or - that does not comply with the nationally described space standards (issued by the Department for Communities and Local Government on 27th March 2015

Policy:
National Planning Policy Framework Planning Practice Guidance Paragraph W(10) of Schedule 2 Part 3 of the GPDO requires that in assessing this Prior Approval application, the LPA must take into account any representations made to it on the proposals by neighbours or by relevant consultees and must have regard to the NPPF where relevant to the subject matter of the Prior Approval. The NPPF re-iterates that planning law requires that applications for planning permission be determined in accordance with the development plan, and consequently those policies of the adopted Local Plans that are relevant to the subject matter of the Prior Approval are cited here and have been taken into consideration in the assessment of the application. Development Plan:

The Eastleigh Borough Local Plan 2016-2036 The most relevant policies are:

Strategic policies: S1 and S2;

Development Management policies: DM1, DM5, DM8, DM13 and DM14.

Area Policy: E3 (1aii)

Supplementary Planning Documents:

Quality Places & Residential Parking Standards

Eligibility:

The building is eligible for a Class MA prior notification application, as:

- The building was granted permission in 1978 to be used as a branch office for a bank (Class A2), which is now included within Class E use. While the ground floor was later changed to a tanning salon (now sui generis) the upper floor appears to have remained in its previous approved office use.
- The building and its curtilage is not in an SSSI, listed building, scheduled monument, in a safety hazard area, military explosives storage area, in an area of outstanding natural beauty, in a national park or within an area specified by the secretary of state.

Assessment:

A) Site Access and Transport Impacts

The submitted plans show access to the flats from a new external staircase at the rear of the property, which replaces an existing internal staircase. However, the first floor flats would have no means of access as the prior notification regulations do not allow for external alterations to be made to the building and no planning permission has been secured for this part of the development. Likewise, no secure on-site cycle storage would be provided as the proposal involved cycles being stored under the external staircase.

In terms of transport impacts, the application site is located in the heart of Eastleigh Town Centre, in a sustainable location with a range of shops, services and transport connections. In this location it is considered acceptable not to provide off road parking and the proposal will not have any significant transport impacts. Alternative provision will need to be made for on site cycle storage.

B) Contamination Risks

While there is a potential of the site being impacted by historic contamination a phase 1 contamination report is not necessary as the residential conversion does not involve ground work (apart from the construction of an external staircase).

C) Flooding

The site is within flood zone 1 where there is a low risk of flooding. As such it is not necessary for flood protection measures to be installed at the site.

D) Commercial Noise

The proposal is for the conversion of offices into 2no. one bedroomed flats on the first floor, which would be positioned above an existing tanning salon. The sound insulation between the ground and first floor units would be upgraded to meet Part E of the Building Regulations standard, which would be sufficient to mitigate sound transmission from the ground floor tanning salon into the new residential units. Furthermore, the tanning salon, as a sui generis use, could not change to another use without further planning permission.

In terms of external noise sources, it is noted that the site is located within Eastleigh Town Centre where a certain level of noise disturbance from surrounding commercial uses is to be expected. However, the noise assessment lists the risk to residential amenity as adverse during the daytime, and this rises to significantly adverse during the evening and at night. In this case the primary noise source would be from the two air conditioning units and cooking extraction system at the nearby Istanbul Grill, which emits a slightly tonal noise.

In response, the proposed rear balcony has been removed from the scheme. A noise assessment has also been provided, which considers that standard double-glazed units would provide adequate acoustic protection to meet the interior noise levels recommended in BS8233. However, the Council's Environmental Health Officer notes that this standard has been incorrectly applied as it is intended for steady external noise sources without character and is not applicable to noise sources from neighbouring uses.

When BS4142 methodology is applied, the predicted rating level is an extraordinary +18dB above background sound levels at night. Flat 1 in particular would make for a very poor-quality living environment, as their one rear bedroom would be dominated by plant noise even when the windows are closed and so would fail to provide the peace and quiet needed for sleeping. An objection has been raised by the Environmental Health Officer on the basis that noise from the existing commercial premises would have a strong detrimental impact upon the residential occupiers of the development.

E) Internal Space Standards and light to habitable rooms

The nationally described space standards require a minimum gross internal floor area of 37m² for 1 person, 1 bed, dwellings that have a shower room. The supporting statement says flat 2 has a gross internal floor area of 39m² but acknowledges that flat 1 gross internal floor area is below standard at only 36m². This is a slight over estimation as measuring both flats they appear to each have a gross internal floor area of 35.8m², which is under the required standard.

Furthermore, some of flat 1 floor space is created by removing the existing internal staircase and replacing this with a new external staircase at the rear. However, the prior notification regulations do not allow for external alterations to be made to the building and therefore the internal staircase would have to be retained in order to allow access to the first floor flats. This would further reduce the gross internal floor space of flat 1 to 31.5m², which is well below standard.

In terms of natural light, flat 2 windows are front facing over the main shopping street where they will receive sufficient daylight. However, flat 1 has one rear kitchen/ living room window and two-bedroom windows facing onto a service yard where natural daylight would be partially restricted by the close proximity of the adjoining buildings. While in itself this reduction of light is not necessarily unacceptable, when combined with the small internal living accommodation, the nuisance caused by nearby plant noise, and lack of access then the proposal is not considered to create a suitable living environment.

Impact of SPA:

Conservation of Habitats and Species Regulations 2017:

Under Regulation 77 of the Habitat Regulations, development which would be permitted by a Development Order, and which would be likely to have a significant effect on a European site or a European off-shore marine site, (in this case, through additional nitrates loading on the waste water system) 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. Had the proposal been approved, the applicant would be required to submit a separate Regulation 77 application to the LPA to secure the required mitigation.

Equalities Act:

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

Section 149 (1) 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 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 Environment 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 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 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 Adopted Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Adopted 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.

Conclusion:

Recommendation:

GRANT CONSENT ☐

REFUSE ☒

Comments ...