



Appeal Statement – 91 Leigh Road, Eastleigh, SO50 9DQ

LOCATION: 91 Leigh Road, Eastleigh, SO50 9DQ

PROPOSAL F/24/97449

Change of use from offices (Class E(g)(i)), to 8-bedroom house in multiple occupation (sui generis use), with associated refuse and cycle storage, boundary treatment, and provision of parking to include new dropped kerb on Leigh Road.

SITE: The site lies along a busy A3335 Leigh Road. The immediate area consists of large Victorian properties with a mix of uses, offices and residential use are common property type. The property is one of a pair of large Victorian semi detached properties that lie adjacent to the junction with Chamberlayne Road.

PLANNING HISTORY: Planning permission was sought on 21/05/2024 Change of use from offices (Class E(g)(i)), to 8-bedroom house in multiple occupation (sui generis use), with associated refuse and cycle storage, boundary treatment, and provision of parking to include new dropped kerb on Leigh Road. This was refused on 16/07/2024 (appendixA)

The planning application was refused for the following reasons:

1

The development fails to provide for an acceptable level of amenity for its future residents in respect of the privacy, outlook and light that would be available for the occupiers of bedrooms 2, 3, 5 and 6. The proposals are therefore contrary to the requirements of Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 and Paragraph 135 of the National Planning Policy Framework.

2

The proposed dropped kerb, owing to its inappropriate location in close proximity to the junction of Leigh Road and Chamberlayne Road to the west, as well the signal controlled junction on Leigh Road to the east, would increase danger to road users and detrimentally impact upon highway safety. The proposals are therefore contrary to Policy DM13 of the Eastleigh Borough Local Plan 2016-2036 and Paragraph 114 of the National Planning Policy Framework.

3

The application fails to provide for the required mitigation to offset the impacts of the development on the European protected Solent Complex (SPA, SAC and Ramsar sites), River Itchen SAC and SSSI, and New Forest SPA, SAC and Ramsar sites, from additional recreational pressure and nutrient loading generated by the population increase and additional sewage resulting from the development. The application is therefore contrary to the requirements of Policy DM11 of the Eastleigh Borough Local Plan 2016-2036, Paragraphs 180 and 186 of the National Planning Policy Framework, and the provisions of The Conservation of Habitats and Species Regulations 2017.

Addressing the first reason for refusal

The development fails to provide for an acceptable level of amenity for its future residents in respect of the privacy, outlook and light that would be available for the occupiers of bedrooms 2, 3, 5 and 6. The proposals are therefore contrary to the requirements of Policy DM1 of the Eastleigh Borough Local Plan

Policy DM1, General criteria for new development :

1. All new development should (as relevant):
 - a. not have an unacceptable impact on, and where possible should enhance:
 - i. residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast; biodiversity (avoiding significant adverse impacts); and the significance of heritage assets;
 - ii.
 - iii.
 - b. make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;
 - c. take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;
 - d. not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of equivalent or enhanced value, (recognising that some species and habitats may be irreplaceable);
 - e. include a landscape scheme covering the design and layout of external

When commenting on Policy DM1 within the officer report (appendixB) the officer states *"In this respect it requires that development takes full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and that it is compatible with adjoining uses and well-integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views. The external works that would be undertaken to facilitate the conversion of the building to a residential use are relatively minimal, with these being limited to the external areas of the site and associated with the provision of parking and amenity space for the residents of the development, along with facilities for waste and cycle storage. These elements are acceptable in design terms and the works will not detract from or significantly alter the external appearance of the building itself. The provision of a residential*

use in this part of Leigh Road, which currently incorporates a mixture of residential, commercial and community uses, would also be in-keeping with the character of the area and, as noted above, would align with the overarching intentions of the Local Plan policy pertaining to development within the Eastleigh Urban Renaissance Quarter. Whilst this policy encourages such development to be predominantly threestoreys, given that the scheme is for a straight conversion of an existing two-storey building, this is considered acceptable in this case.” On this point it appears the officer is happy the proposal is compliant with policy. The officer then goes on to make the following comments. “In this respect, there are two main considerations, with these being the impacts of the development on the amenity of existing neighbouring uses as well as the quality of the residential environment that would be provided for the future residents of the proposed HMO. In terms of the former first of all, the site adjoins another residential property in the form of the flatted development at 93 Leigh Road and, in this respect, the proposals would be a compatible use. Given that the application includes no physical extensions or notable material alterations to the exterior of the building, the proposals would also not affect the light or outlook available to the occupiers of that property. This is similarly the case with the adjacent building at No. 89 which is occupied as an office premises. Whilst acknowledging that the windows on the eastern side of the application building do allow views into the facing windows of No. 89, given that this is a commercial building where amenity and privacy is less of a concern, this is not considered to be an unacceptable arrangement in this instance. There are also no issues in terms of the amenity of the uses to the north or south of the site, with a reasonable separation distance afforded between them and the application property. Turning to the future residents of the development and in terms of external amenity space first of all, the proposals incorporate a modest garden area which would be provided to the rear of the property. The Council’s Quality Places SPD does not include a specific standard for HMOs in respect of the amount of amenity space that should be provided, however, the requirement for houses (which is for an area equivalent to a minimum of 60% of the floor area of the property) can be used as a useful guide. Whilst the area provided would be notably less than this, the SPD does allow for a reduction in this standard where residential properties are within 100m of good quality open space. In this case, there is a large area of open space within central Eastleigh just to the north-east of the site and whilst this is marginally over the 100m distance specified, it is only a short and convenient walk away and this, in combination with the on-site area to be provided which at least allows residents a space where they can sit out and access the outdoor environment, is considered to provide for an acceptable balance in this case. The matter of noise arising from traffic and its impacts upon the future residents of the development has been raised by the Council’s Environmental Health Officer. Whilst their comments are noted and it is accepted that it is necessary to ensure that appropriate internal noise levels can be achieved, in this instance it is not deemed that the lack of information provided in this regard would constitute a reason for refusal in its own right, with it being considered that an appropriate technical solution could be achieved, and that this could be secured by way of a suitably worded planning condition. A similar approach was taken with the recent residential development adjoining the application property and which is subject to the same noise conditions. With regards to other aspects of the interior environment, whilst the rooms

within the building would all conform to the Council's required standards for HMOs and would thereby provide sufficient space for the number of residents proposed, there are significant concerns regarding the quality of the residential environment that would be available in some of the bedrooms and specifically those that have their windows along the eastern façade of the building (bedrooms 2, 3, 5 and 6). Bedrooms are habitable spaces which, in addition to sleeping, may well be used for working from home, studying, or quiet relaxation and the provision of an appropriate level of amenity for their occupiers is therefore of paramount importance, with this being particularly the case within an HMO given that the bedroom would be the residents primary private space. As noted above, the windows of these bedrooms sit opposite those of the adjacent office premises at No. 89 Leigh Road and whilst the privacy of the commercial use is of less concern, the necessity for the provision of an appropriate degree of privacy for the occupiers of the residential development is of much greater significance. No. 89 has three first floor windows to No. 91's side, with two of these in its western elevation and another next to these in its southern return elevation. These windows are clear glazed and serve office space and ancillary areas (kitchen space etc.) and, as a result of their relative positioning, they collectively allow for direct views into the windows of bedrooms 2, 3, 5 and 6 within the proposed HMO. Whilst accepting that a higher degree of mutual overlooking may occur within a town centre environment than might be expected for example in more suburban locations, such is the proximity of the windows in this case and the direct and clear nature of the views available, that this arrangement is not considered to be appropriate and that it would impinge upon the privacy of the future residents of the development to a degree that is considered unacceptable in planning terms.

It is important to note these houses were originally built to be residential properties and the windows are an existing arrangement, no changes to the windows have been proposed. The building at number 89 Leigh road is Accountant offices, and only in use Monday to Friday, during office hours. It is submitted that the residents of Number 91 Leigh Road, would also be at work during these hours. If this is not the case, blinds would additionally be fitted to the windows which would allow light in to the room, whilst giving the occupant additional privacy, as and when they require, A number of options were given to the planning officer in relation to the windows (appendixC), however it was apparent the officer was not minded to work proactively with the agent, as the closing paragraph on the decision notice seems to suggest (appendixA) *"Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner."*

The property also provides a large communal area in which the residents can spend time eating, working or relaxing. For the officer to assume the tenant will be spending all the time in their room, is perhaps an outdated memory of bedsit living, not considering the growing sector in Coliving, where people choose to live in shared houses. The benefit being the social interaction amongst tenants and therefore spend less time in their bedrooms.

It is also important to consider the property as a whole, which will provide the tenants with a excellent standard of living, with spacious en suite bedrooms and a large open plan communal area with a separate laundry area. Although Eastleigh Borough Council does not have a specific HMO supplementary planning document, It is considered the Amenity and Space Standards document adopted by Eastleigh Borough Council for licencing purposes could be considered as a guidance .(appendixD) As shown in the Eastleigh Space standards for 8-10 persons, the kitchen requirement is just 10sqm. The required Bedroom standard for 1 person is just 6.5sqm. The proposed bedrooms in this property range from 12.17sqm up to 19.02sqm, most more than double the 6.5sqm requirement. The communal area with additional laundry makes up a total 38.9sqm of combine communal area, far in excess of the licensing requirement. The applicant is looking to provide high quality co living accommodation, for professional tenants in a highly sustainable and commutable location. The positives of the proposed scheme should far outweigh the perceived negatives as concluded by the planning officer.

Post covid there have been a number of disused office building of which this can be seen on Leigh Road with a couple of empty properties now being used by squatters. To return this property into residential use would not only benefit in contributing to mixed and balanced communities, it would also enhance the street scene in bringing an empty building back into use.

Looking at the second reason for refusal, The proposed dropped kerb, owing to its inappropriate location in close proximity to the junction of Leigh Road and Chamberlayne Road to the west, as well the signal-controlled junction on Leigh Road to the east, would increase danger to road users and detrimentally impact upon highway safety. The proposals are therefore contrary to Policy DM13 of the Eastleigh Borough Local Plan 2016-2036 and Paragraph 114 of the National Planning Policy Framework.

This is something that could have been resolved easily throughout the application process. As stated in the officer report *“The lack of a safe and suitable means of access would render the frontage car parking space unusable, which would leave two car parking spaces available to the rear of the premises to serve the 8 bedrooms/residents of the development. Whilst this would represent a shortfall relative to the Council’s standards, the site is situated in particularly close proximity to Eastleigh Town Centre which has a range of facilities and public transport options and is considered to be the most sustainable part of the Borough. Taking account of this and the ease of access to these facilities by way of a particularly short walk or cycle, the limited parking that would be provided is not considered to be*

unacceptable in this case" The officer confirms the removal of this space would not lead to refusal of the application, as the 2 rear parking spaces are considered acceptable, due to the highly sustainable location of the property. An amended site plan has been submitted as part of this application with the front parking space removed (AppendixE) This is no longer considered a reason for refusal.

Looking at the third reason for refusal:

The Council, as the responsible body for Habitats Regulations Assessment (HRA), must ensure as part of a planning application that a development will not have an adverse impact on any European protected sites and specifically in this case upon the European protected Solent Complex (SPA, SAC and Ramsar sites), River Itchen (SAC and SSSI) and New Forest SPA, SAC and Ramsar sites. HRA (Habitat Regulations Assessment) Screening was required for this development as it falls inside the zone of impact of these designated sites and would result in a net increase in population. The screening concluded that the development could have a significant impact on the protected sites and the features for which they are designated through an increase in recreational pressure (in the case of the New Forest sites), as well as from additional nitrogen and phosphate loading generated through leaching from additional sewage from the new housing in the case of the River Itchen and Solent Complex. This has the potential to undermine water quality and restrict the growth, distribution and variety of food available for species designated under European law. These impacts are required to be mitigated as part of the development proposals.

The required mitigation has not been secured as part of the planning application and in line with Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017, it is not considered necessary to proceed to the Appropriate Assessment stage as the Local Planning Authority, as the competent authority, are not minded to approve planning permission for the development. This matter will, however, form an additional reason for refusal of planning permission with the application being contrary to the provisions of Policy DM11 of the adopted Local Plan, Paragraphs 180 and 186 of the NPPF, and the Habitats Regulations.

In line with similar applications the Nutrient calculator is used to calculate the addition of one new dwelling. This has been sent over to the officer, post decision in preparation of the appeal. The applicant will look to purchase "credits" from a third party provider. As can be seen on a similar application approved at 36 Leigh Road comprising of a change of office use to Sui Generis HMO this c(appendix G) this calculation was approved in that case for a 9 bed HMO and therefore is thought to be acceptable. As per the decision notice for Leigh Road condition 6 of the decision requires " *The development hereby permitted shall not be occupied until a mitigation package addressing the additional nutrient inputs arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such a mitigation package shall address all of the additional nutrient loading upon protected European sites from the development and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of those European Sites, having regard to the conservation objectives for they are designated. The mitigation package shall be implemented in full and evidence of this provided to the Local Planning Authority in writing prior to first occupation of the development. Reason: To mitigate the nitrates impacts arising from the development upon the European protected Solent Complex in accordance with the requirements of*

the Conservation of Habitats and Species Regulations 2017." The appellant respectfully requests this condition is applied in the case of a successful appeal, therefore allowing the mitigation to be secured before occupation.

CONCLUSION:

Notwithstanding the reasons for refusal, it is important to note that it is considered the application is fully compliant with Policy and will provide an excellent standard of living for the occupants in large en suite bedrooms with spacious communal areas.

The appellant has demonstrated that the proposed development would provide all eight residents with high quality accommodation. The development is in accordance with Policies DM1, DM14 DM23 of the Eastleigh Borough Local Plan 2016-" Therefore, subject to conditions and legal agreement the development is in accordance with policy.

It is respectfully requested the Inspector allow this appeal and grant planning permission for the proposed development