

DELEGATED OFFICER REPORT

Application Ref: PN/24/97887

Site Address: THE OLD SCHOOL HOUSE, ST JOHNS ROAD, HEDGE END, SOUTHAMPTON, SO30 4AF

Case Officer: David Huckfield

Description: Application for prior approval for change of use from Class E (Commercial, Business and Service) to 1no. 1-bedroom flat (Use Class C3) under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Particular Site Constraints?	Yes ☒	No ☐
Within the Urban Edge		

Planning History?	Yes ☒	No ☐
WIR06506 – Temporary classroom unit comprising two classrooms and a cloakroom – APPROVED (1959) WIR12921 – Erection of temporary classroom block – APPROVED (1966) WIR15134 – Erection of a mobile classroom transferred from North Baddesley Junior Mixed and Infants School – APPROVED (1969) WIR23069 – Retention of mobile classroom – PERMIT (1974) Z/32822/000/00 – Erection of new metal railing fence to replace existing – PERMIT (1993) Z/32822/001 – Siting of flag pole – PERMIT (1995) F/05/54982 – Addition of radio aerial and attachment pole – PERMIT (2005) F/06/57078 – Erection of 9m column to support radio aerial (15m overall height) – REFUSED (2006) T/18/83620 - G1 - Mixed species: Crown raise to 4m over the car park, 3m over the footpath and 6m over the road. G2 - Mixed species: Reduce down to approx. 1m (to be maintained as a hedge) and remove etiolated cherry. - G3 - Mixed species: Prune to provide a clearance from the building of up to 3m. T1 - Purple prunus: fell. Replant 1 x Sorbus species. – CONSENTED (2018) T/18/83646 – 1no. Oak – Fell or pollard – PART CONSENT / PART REFUSE (2018)		

Publicity:	Letters ☒	Site Notice ☒	Newspaper ☐
Representations	None		
Hedge End Town Council	No objection		
Environmental Health	<i>Contaminated Land</i> The proposed development involves internal alterations only and does not represent a risk on contaminated land. Therefore, we agree with the principle of the development and no have further comments on contaminated land. <i>Environmental Noise</i>		

	No objection. Environmental noise from the nearby commercial premises will not impact on the proposed residential premises, the remaining ground floor has been vacant for some period thus separation to Building Control standards will be adequate.
Hampshire Highways	In regard to application P/24/97887, having reviewed the information contained within the application pack, there would be no objection to the proposals from a highway perspective. Access in and out of the site for pedestrians and vehicles is unchanged by the proposals, and dedicated parking is provided for cars (2 spaces to the rear) as well as internal cycle parking just off the hallway. Additionally, the change of use from commercial to residential is likely to result in a reduction of associated trips, which whilst low level will be beneficial to the local highway network.

Site Visit:	Yes ☒	No ☐
A site visit was undertaken by the Case Officer to assess the proposals in context.		

Assessment of Proposals including Legislative and Policy Background:	
This application has been submitted under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") and seeks a determination from the Local Planning Authority (LPA) as to whether its Prior Approval of certain matters is required before the change of use could be implemented and, if so, to obtain that approval. <u>Procedure for the assessment of the application:</u> Article 3 of the GPDO grants planning permission for certain classes of development, subject to specified exceptions, limitations and conditions. Class MA of Schedule 2, Part 3 grants permission for the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 of the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. The exceptions to this, as set out within the Order, are considered in the below table.	
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.	<i>These criteria are no longer applicable following amendments made by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 (S.I. 2024/141)</i>
(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.	The details provided with the application confirm that the premises is separate from the main adjoining community building with no direct access or internal links between the two, and that the property was most recently occupied by a radio broadcaster (Skyline Gold Radio), with this occupation having commenced in 2005 and ceased in November 2023. A radio broadcasting station / transmission studio is a Class E use (having previously been a Class B1 (business) use within the Schedule of the Use Classes Order as it had effect before 01 September 2020).

	The Council's files indicate occupation of the premises for radio broadcasting purposes back as far as 2005 (see planning history above) and there is no evidence to dispute the claim that continuous occupation had occurred until the date purported within the submitted information (November 2023). As such, the Council are satisfied that the relevant criteria, which stipulate that continuous use of the building for the relevant purpose must have occurred for a continuous period of at least 2 year prior to the date of the application, are met.
(c) If the cumulative floor space of the existing building changing use exceeds 1,500sqm.	<i>These criteria are no longer applicable following amendments made by The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 (S.I. 2024/141)</i>
(d) If land covered by or within the curtilage of the building is or forms part of: i) A SSSI ii) Listed building iii) Scheduled ancient monument iv) Safety hazard area v) Military explosives area	These criteria do not apply to the application site.
(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	These criteria do not apply to the application 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 any 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.

Having regard to the above criteria, therefore, and based upon the information available and there being no evidence to the contrary, the Local Planning Authority (LPA) are satisfied that the application can follow the prior notification procedure.

Matters for consideration under the GPDO:

Paragraph MA.2. (1) of Class MA requires that before beginning the development a developer must apply to the LPA for its determination as to whether its Prior Approval will be required in relation to a number of matters. In this case, the relevant considerations to

this proposal are:

- transport and highways 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, and
- the provision of adequate natural light in all habitable rooms of the dwellinghouses.

In addition, Article 3 of the GPDO (9A and 9B) states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse where the gross internal area is less than 37 square metres in size, or that does not comply with the nationally described space standards dated 19 May 2016.

Paragraph W (9) allows the LPA to require the developer to submit such information (impact or risk assessments, mitigation statements and details of building or other operations) as the authority may reasonably require in order to determine the application.

Consultations, representations and relevant planning policies and guidance:

Paragraph W (10) of Schedule 2, Part 3 of the GPDO requires that when determining a Prior Approval application, the LPA must take account of 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, as if the application were a planning application.

The NPPF re-iterates that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Consequently, the following policies of the adopted Eastleigh Borough Local Plan 2016-2036 that are relevant to the subject matter of the Prior Approval have been taken into consideration in the assessment of the application:

S1 (Delivering Sustainable Development); DM1 (General Criteria for New Development); DM3 (Adaptation to Climate Change), DM5 (Managing Flood Risk); DM6 (Sustainable surface water management and watercourse management), DM8 (Pollution); DM11 (Nature Conservation), DM13 (General Development Criteria – Transport), and DM14 (Parking), DM30 (Internal Space Standards for New Residential Development).

Other material considerations:

The following Supplementary Planning Documents (SPDs) provide additional guidance in support of Local Plan policy and are considered to be of relevance to the proposals:

- Quality Places
- Residential Parking Standards

Assessment of the proposals:

Transport impacts of the development, particularly to ensure safe access

The site is situated within the Urban Edge and within a relatively sustainable location which has good access to public transport and local facilities, with the latter including Hedge End centre which lies just a short walk to the north / north-east of the site. Given the modest nature of the development which comprises of just a single, one-bedroom unit, it is not considered that the level of movements that would be associated with the

development would have a notable material impact on the highway network, particularly when compared with the existing commercial use of the premises.

In terms of car parking provision, the supporting statement which accompanies the application states that parking for two vehicles will be made available within the car park which lies adjacent to the building. This car park is private and is understood to be within the ownership and control of the applicant, with parking being subject to permit control. Given the size of the car park and the modest number of spaces that are required for the flat, it is considered that ample space is available to serve the development.

The access arrangements to the car park will remain unchanged with this being from St Johns Road to the south-west of the site. There is also direct pedestrian access to the flat from the car parking area, with the dwelling to be served by its own separate private entrance. The access arrangements are considered to be acceptable for the development proposed.

Finally, secure cycle storage will be available within the ground floor entrance / hall area for the flat with this being of a sufficient size to store a single bicycle which is the requirement for a one-bedroom unit as set out within the Council's adopted Residential Parking Standards SPD. Bin storage will be provided to the west of the entrance in a location that is convenient for the residents, but which will not impede access arrangements.

Taking account of the above factors, the transport impacts and access related factors associated with the development are considered to comply with the requirements of Policies DM13 and DM14 of the adopted Local Plan.

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 associated with the development, there are no concerns with regards to land contamination and no objection has been raised by the Council's Environmental Health team.

Flooding risk in relation to the building

The site lies within Flood Zone 1 where the principle of residential development is considered to be acceptable. The substantive part of the building which would be converted, including where the primary habitable accommodation would be, is also at the building's first floor level. Taking account of these factors, it is not considered that the development would be subject to an undue risk of flooding.

Impacts from noise from commercial premises on the intended occupiers of the development

In terms of noise impacts, it is not expected that any existing commercial uses would cause unacceptable disturbance or harm to future occupiers and no objection has been raised by the Council's Environmental Health team in this respect, with the requisite requirements of Part E of the Building Regulations, which will separately apply to the residential conversion, being considered to be adequate to provide protection for the future occupiers in this case.

The provision of natural light to all habitable rooms:

Whilst no internal visit to the premises has been undertaken, the submitted floor plans demonstrate that all habitable rooms will be generally well lit by existing windows. Outlook from all main habitable rooms will also be reasonable. Windows to the north-western side will be shaded to some degree by the adjacent trees which are in relatively close proximity to this elevation, however, this is not considered to be unacceptable or to provide sufficient grounds to consider the refusal of the application.

Internal space standards

As noted above, Article 3 of the GPDO (9A and 9B) states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse where the gross internal area is less than 37 square metres 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, read together with the notes dated 19th May 2016 which apply to it.

The flat will have a gross internal floor area of 44sq.m which exceeds the relevant requirement for a two-person, 1-bedroom unit as stipulated within the nationally described space standards. As such, it is considered that the development will provide sufficient internal space for its future residents to live comfortably.

Other applicable conditions:

Part MA.2 of the GPDO sets out a number of conditions to which development permitted by this Class is subject to. As well as requiring the submission of an application for prior approval and stipulating the date after which such applications can be made (1 August 2021), it also states that development must be completed within a period of 3 years starting with the prior approval date. In addition, any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse. These conditions will therefore be applied to the decision notice.

Other material considerations:

Duty to consider over-arching matters:

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 would mean that the development would have been unlawfully implemented.

In this instance, these obligations include mitigating the impacts of the development upon the European protected Solent Complex (SPA, SAC and Ramsar sites) as well as the New Forest SPA, SAC and Ramsar sites and the features for which they are designated. These impacts, which arise from an increase in population and residential occupation within the designated zone of impact, include by way of recreational pressure (New Forest and Solent Complex), as well as through additional nitrogen generated through sewage from the new dwelling which has the potential to undermine water quality and restrict the growth, distribution and variety of food available for species designated under European law (Solent Complex).

A Section 77 application would need to be subsequently made and the applicant would be required to set out their proposed method of mitigation as part of this. The Local Planning Authority (LPA) would then collate this information and prepare a Habitats Regulations Assessment for submission to Natural England. Development could not commence until the LPA's written approval has been given for the mitigation proposed. An informative will be added to the decision notice to bring this matter to the attention of the applicant.

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 and the 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 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: The development is considered to comply with the provisions of the relevant Part of the GPDO and is deemed to be acceptable and in compliance with the development plan in relation to the matters that the LPA are able to consider under that Part. It is recommended that Prior Approval be granted.

Recommendation:

**Prior Approval Required
and Granted ☒**

REFUSE ☐