

DELEGATED OFFICER REPORT

Application Ref: PN/24/98246
Site Address: 67 CRANBURY ROAD, EASTLEIGH, SO50 5HB
Case Officer: David Huckfield
Description: Application for prior approval for change of use of ground floor from Class E (Commercial, Business and Service) to 1no. 2-bedroom apartment (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 Within an Established Residential Area		

Planning History?	Yes ☒	No ☐
Z/32193/000 – Conversion and extension to form ground floor shop with store over – PERMIT (1991) Z/32193/001 – Siting of steel container at rear for a temporary period (retrospective application) – TEMPORARILY PERMIT (2004)		

Publicity:	Letters ☒	Site Notice ☒	Newspaper ☐
Representations	1 representation was received in relation to the application from the occupier of No. 58 Cranbury Road who raised concerns regarding impacts on parking in the local area.		
Eastleigh Town Council	No objection.		
Hampshire Highways	In regard to application PN/24/98246, 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 into the surrounding highway network is unchanged by the proposals, and this is acceptable given the existing road and footway links available. Additionally, as outlined in the submitted 'covering letter' it would be anticipated that trips associated with the site will actually be reduced as a result of the change of use, and this would be beneficial to the local highway network. Finally, in regard to parking, whilst not shown on plans, the submitted 'covering letter' outlines how the site will be 'served by the 2 existing parking spaces at the western end of the site'. Accessed via the rear service road, these 2 spaces are welcomed, given that as converted development, future residents of the proposed flat would not be entitled to join the Controlled Parking Zone permit scheme within which the development sits. Applicants should be made aware of this for their information.		
Environmental Health	<u>Contaminated Land:</u> The site is not located within an identified contaminative land use area, and no external alterations involving ground disturbance are anticipated. Therefore, I have no concerns on contaminated land. <u>Noise:</u> No objection.		

	I refer to the Prior Approval application for conversion of the commercial premises into residential and comment on Environmental Noise Impact, referencing the covering letter from PRO Vision 18 September 2024. The description says it is a site which lies in a wholly residential area; not mentioned are a nearby Primary School and Dental Clinic. However, these noise sources are not significant, the proposed residential premises is not affected by commercial noise.
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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 Council's planning records for the site confirm that the lawful use of the premises is for Class E purposes and the applicant has confirmed that the building has been in continuous use for this purpose for a period of in excess of 2 years. There is no evidence to the contrary and, as such, the Council are satisfied that this criteria has been 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	These criteria do not apply to the application site.

v)	Military explosives area	
(e)	If the building is within:	These criteria do not apply to the application site.
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	
(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:	This does not apply as the application was submitted after 1 August 2022.
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.	

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 sustainable location which has good access to public transport and local facilities, with Eastleigh Town Centre lying just a short walk to the east of the site. Given the modest nature of the development which comprises of just a single, two-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, and whilst not shown on plan, the covering letter provided with the application states that parking for two vehicles is available, with there being an area at the rear of the site which is currently utilised for this purpose. Whilst noting this and the comments of the highway authority, it was apparent from the Case Officer's site visit that this parking does not appear to be a formal arrangement with no dropped kerb in place to provide access to the area at the rear of the building and the space that is available being insufficient in depth to allow for parking without vehicles overhanging the adjacent footpath at least to some degree (this is also evidenced by Google Street View imagery).

As such, it is not considered that this area could be formerly relied upon for parking on the basis of the current site context. Notwithstanding this, it is not considered in this case that this would result in a justifiable reason to refuse prior approval. As noted above, the site lies in very close proximity to Eastleigh Town Centre which represents the most sustainable part of the Borough and is an area where the Council's Residential Parking Standards SPD allows for flexibility in respect of parking provision as a result. The site also lies within a controlled parking zone (CPZ) for which the residents of new development are not eligible for permits for, with this both limiting the risk of overspill parking arising from the development into surrounding roads and of the development adding to the existing burden of vehicles utilising them.

The area to the rear, however, would provide sufficient space for bin storage and servicing for the unit which is more than commensurate with the needs and scale of the development. Access to the property itself is also considered to be appropriate, with this being via the front door on the eastern corner of the site as per the current arrangement.

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 development relates to the conversion of part of an existing building which is not located within an identified contaminative land use area. There are also no external alterations involving ground disturbance anticipated. As such, no objection has been raised by the Council's Environmental Health Team and the development is not considered to be unduly affected by or at risk from contamination.

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. As the applicant has noted within the submitted information, the site is also noted as being at 'very low risk' from surface water flooding, with the chance of flooding being less than 0.1% per annum. The existing site is also wholly given over to hardstanding, with this level of impermeability remaining unchanged as a result of the proposed change of use. There is therefore no risk of flooding to the premises, and the proposals would not alter the risk of flooding elsewhere.

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 in the vicinity of the site would cause unacceptable disturbance or harm to future occupiers of the development and no objection has been raised by the Council's Environmental Health team in this respect.

The provision of natural light to all habitable rooms:

Whilst no internal visit to the premises has been undertaken, the submitted floor plans combined with an assessment of the exterior of the building in context, demonstrate that the habitable areas within the dwelling will be well served by natural light, with large windows present along the length of the southern elevation of the building, as well as a sizeable bay window to the front (eastern side of the premises).

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 70sq.m which meets the relevant requirement for a 2-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), River Itchen SAC and SSSI, 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), as well as through additional nitrogen and phosphates 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 and River Itchen).

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 therefore recommended that Prior Approval be granted.

Recommendation:

**Prior Approval
Granted ☒**

REFUSE ☐