

DELEGATED OFFICER REPORT

Application Ref: F/24/97436

Site Address: SHOP 1, 12 DERBY ROAD, EASTLEIGH, SO50 5LY

Case Officer: Gary Osmond

Description: Change of use, ground floor, 2 x commercial units to 1 x 2 bed flat.

Particular Site Constraints?	Yes ☐	No ☒
- Within the urban edge		

Planning History?	Yes ☒	No ☐
12 Derby Road		
PN/24/97090 – Application for prior approval for the change of use of 2no. retail units (Use Class E) to 2no. 1-bedroom flats (Use Class C3) under Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) – Withdrawn May 2024		
F/08/62760 – Change of use of ground floor office to form 2 retail units (A1) with associated shop fronts and above 2no 2 bedroom flats incorporating 2 storey rear and single storey extension with 2 front dormer windows – Approved Jul 2008		
F/07/60707 - Change of use of ground floor office and first floor 1 bed flat to 3, 2-bed flats incorporating 2 storey rear extension with 2 front dormer windows – Refused Sept 2007		
F/07/59197 – Two front dormer windows and two storey rear extension to provide conversion of existing premises into 2no. Three bed houses – Withdrawn Mar 2007		
Z/37909/000/00 – Conversion of existing shop to ground floor flat – Refused May 2002		
10a Derby Road		
Z/27637/002/00 - Conversion of existing shop and flat into two flats – Approved June 1998		

Publicity:	Letters ☒	Site Notice ☒	Newspaper ☐
Representations:	None received.		
Eastleigh Town Council:	Objection due to “failed noise assessment”.		
Environmental Health:	No objection subject to the recommendations within the updated noise and odour assessments.		
Hampshire Highways:	No objection to the proposals from a highway perspective. Access in and out of the site from the highway is unchanged by the proposals, and both foot and cycle networks leading to the surrounding area can be found within adjacent / close proximity. It should however be noted that with no on-site parking provided, and with the site sitting within a Controlled Parking Zone (CPZ) area, the dwelling will essentially need to be car free, given future occupants will not be entitled to join the CPZ and gain parking permits. Future occupiers should be made fully aware of this. The Case Officer may also wish to ensure that cycle parking is provided (not shown on plans) in accordance with the EBC Parking Standards, given the increased reliance on the cycle for journeys.		

Natural England:	Objection. Adverse effect on the integrity of New Forest Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site, as well as the River Itchen SAC.
------------------	---

Site Visit:	Yes ☒	No ☐
Details: 09/09/2024 – See separate photographs		

Policy:
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, DM2, DM8, DM11, DM14, DM22, DM29 & DM30. Supplementary Planning Documents: Quality Places; Residential Parking Standards; Character Area Appraisals.

Assessment:
Site Context: The application site is a pair of small retail units which sit centrally as part of a small parade of five shops. One of the original neighbouring shop units (No.10) was converted into flats in 1998. At either end of the parade is a corner shop/small convenience store, and at the other is a fish and chip shop. At first floor level along the whole length of the parade are flats, with No.12 including a 2-3 storey rear extension which contains two flats, including within the roof space. To existing units face directly onto the footway, which is wider and set back from Derby Road at this point, which includes a layby. To the rear of the parade are concrete parking areas, as well as external staircases which provide access to the upper floor flats. The surrounding area is predominantly residential in nature, although the application parade is neighboured by All Saints Church to the west, as well as a large brick electrical substation opposite. Eastleigh Town Centre is an approximately 5-10 minute walk to the north, with a large green space – Grantham Green – a 5 minute walk to the west along Derby Road. Proposals: The application proposes combining and converting the two ground floor retail units to form a single two bedroom flat. Most alterations will be internal, although the proposals do include replacing the shop fronts with more domestic fenestration and front door. Policy & Principle: The application site lies within the urban edge and within a well established predominantly residential area. As such, the basic principle of development is considered acceptable. However, any formal planning approval will be dependent upon how well that proposed is considered to accord with the relevant policies within the adopted Local Plan, and relevant supplementary planning documents. In this instance the most relevant policy is DM1 which requires all new development to be of a good quality design which takes appropriate account of the site's context and that of the surrounding area. It also requires a good standard of amenity to be provided for future users, as well as to limit or appropriately mitigate the impact of the development upon

existing neighbouring occupiers and uses. Other requirements relate to highways, servicing and landscaping where relevant.

Also of relevance is Policy DM22 which relates to change of use within Eastleigh Town Centre, neighbourhood centres and local shopping parades. The policy is intended to ensure that these designated commercial/retail areas are protected from inappropriate changes of use. However, in the case of the Derby Road site, whilst originally a small shopping parade, it is not identified as a designated parade for the purposes of DM22. As such, its conversion to a non-retail use is acceptable in principle.

Layout, Form, Scale, Design, Street Scene & Area Character:

Externally the only change will be to the front and rear elevations, where the existing shop front windows will be replaced with more domestically proportioned openings and a single front entrance door. To the rear, existing windows will be slightly altered and one rear entrance door blocked off.

Whilst the removal of the existing shop windows and signage will have an impact upon the street scene, the existing frontage is already quite domestic in appearance. The resulting front elevation will appear very similar to that of the neighbouring ground floor flat at No.10, and overall will have no detrimental impact upon the street scene or general appearance of the locality.

Internally the existing westernmost unit will form the main living space, including front entrance onto Derby Road, with a good size separate kitchen to the rear, which will also have access to the rear. The easternmost unit will form two double bedrooms, one to the front and one to the rear, with a bathroom in the middle. Externally, bins would be stored with those of the flats above, and a secure cycle store provided underneath the external access stairs to the first floor flats.

In terms of the general character of the locality, whilst the loss of two retail units is disappointing, there is nothing in planning terms which prevents their conversion. Had it not been for a condition previously applied to the units removing permitted development rights, the units could have been converted into a residential use without the need for a full planning application under Class MA of the General Permitted Development Order. The units have been empty for over a year (January 23 & March 23) and no viable interests has been shown to either rent or buy as commercial units. However, as of 5th March 2024, there is no longer a requirement for the units to have been vacant for at least three months, or a limitation on the floor area of the unit. Although Class MA does not apply to the application units, it is considered unreasonable in planning terms to prevent their conversion given that otherwise allowed via Class MA and that the parade in which they are located is not protected in any way by the adopted Local Plan.

Amenity:

Future Occupiers

In terms of internal floorspace, the proposed flat will be just over 68 square metres, which exceeds the minimum requirement of 61 square metres set out in Policy DM30 for a two bedroom unit. Externally, the flat will have no dedicated amenity space. However, in this instance the additional internal space over the minimum standards, together with the close proximity of Grantham Green is considered to make up for this.

With regards to light and outlook, sufficient natural light should be available to all habitable rooms and all will have a reasonable outlook given the nature of the location. Privacy to front windows is a minor concern, given that they will be directly onto the pavement. However, this is something that future occupiers will be aware of and can address through adding internal blinds, etc should they feel it necessary.

Given the close proximity of the commercial uses to the site, particularly the neighbouring fish & chip shop, an assessment of the noise and odour resulting from these uses upon future occupiers of the development was undertaken. These have been reviewed by Environmental Health who have confirmed that provided the glazing and ventilation

strategy set out within the submitted noise assessment is followed, there should be no adverse impact upon the amenity of future occupiers in terms of both noise and odour.

As such, the requirements of Policies DM1 and DM8 in terms of amenity are met.

Existing Neighbours

The proposed change of use to residential raises no issues for existing neighbouring residential properties in terms of privacy, light or outlook.

With regards to existing commercial uses, namely the convenience store and fish & chip shop, there is the potential that future occupiers may complain about disturbance, which could result in these businesses being investigated. When considering planning applications which could result in such an outcome, the 'agent of change' principle needs to be taken into consideration. However, as has been set out above, the submitted noise and odour assessment have been reviewed by the Council's Environmental Health Team who are satisfied that these businesses should not result in any unacceptable disturbance to future occupiers of the proposed flat. As such, it can reasonably be concluded that the likelihood of complaints relating to these businesses should not occur, thereby protecting them in the future.

Parking & Highways:

Whilst no formal off-road parking spaces are proposed, there is some scope to park at the rear of the building. However, the site is close enough to the town centre and of a scale where zero parking would be considered acceptable. The surrounding area is also subject to parking restrictions in the form of a resident parking scheme, meaning that future occupiers would need to apply for a permit to the local Highway Authority.

In terms of highway impact, the small scale and nature of that proposed is not expected to cause any issues.

Cycle storage is shown on the drawings and a condition is recommended requiring this to be provided before the flat is occupied.

Nature Conservation:

In terms of nature conservation, that proposed raises no concerns. It is also considered to be exempt from the requirement to provide any biodiversity net-gain given that there is currently no biodiversity habitat on site.

Recreational disturbance

The site lies within the 13.8km catchment area for the New Forest Special Protection Area and within the 5.6km catchment area for the Solent Bird Aware Scheme. As such, mitigation is required for recreational disturbance upon the Solent and New Forest resulting from the development. The applicant has provided the necessary contributions towards both mitigation schemes.

Nutrients

Natural England have advised that the increase in wastewater from new housing developments within the borough is having a detrimental effect on the quality of water entering the Itchen and Solent catchment areas through nitrification. As such all developments for additional housing are required to reach nutrient neutrality (ensuring that development does not add to existing nutrient burdens), in order to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).

The application site would use the Chickenhall Lane wastewater treatment works, which discharges into the River Itchen. As such the proposed development is required to achieve nutrient neutrality for both nitrogen and phosphorus. Eastleigh Borough Council does have a scheme which takes land out of agricultural uses and creates recreational spaces, thus reducing the nutrient output of the land. This scheme would be available to the applicant, although they have not confirmed if they intend to make use of this scheme

or provide another form of mitigation. In either case, suitable mitigation can be secured by way of an appropriately worded planning condition.

Habitats Regulations

Any proposed residential development in this area will have a likely impact upon The Solent SPAs. As such, an Appropriate Assessment under the Habitats Regulations was completed and forwarded to Natural England, who have raised an objection on the grounds of the development's impact upon the integrity of New Forest Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site, as well as the River Itchen SAC. Whilst this response is noted, the LPA is of the opinion that the Eastleigh Borough Council mitigation scheme will address the impact of the development and as the competent authority can still determine the application.

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 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:

Recommendation:

PERMIT ☒**REFUSE** ☐

For the reasons set out above, the proposed conversion and change of use of the existing retail units into a single two bedroom flat is considered to be acceptable. As such, the application is recommended for approval subject to conditions relating to the following:

- Approved drawings
- Commencement within 3 years
- No commencement within 21 days of approval
- External materials to match existing
- To comply with the submitted noise and odour assessment recommendations
- Nutrients mitigation to be secured prior to occupation
- Provision of bin and cycle storage