



Appeal Decision

Site visit made on 10 June 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2025

Appeal Ref: APP/W1715/W/25/3360025

72 New Road, Netley Abbey, Hampshire SO31 5AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr R Mandeville of Greenglen Estates Limited against the decision of Eastleigh Borough Council.
 - The application Ref is PN/24/98548.
 - The development proposed is an Application for Prior Approval for the change of use from Class E (commercial) to 1No. one bedroom and 1No. two bedroom flats (Use Class C3), under Class MA of the Town and Country Planning (General Permitted Development) Order.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an Application for Prior Approval for the change of use from Class E (commercial) to 1No. one bedroom and 1No. two bedroom flats (Use Class C3), under Class MA of the Town and Country Planning (General Permitted Development) Order at 72 New Road, Netley Abbey, Hampshire SO31 5AB in accordance with the application PN/24/98548 and the details submitted with it, including plan nos 1642-PD-01 and 1642-PD-02, and subject to the following condition:
 - 1) Prior to occupation of the residential units hereby permitted, the secure bin and cycle storage as indicated on Plan Ref. '1642-PD-02', shall be provided in accordance with the approved details and thereafter maintained for bin and cycle storage purposes for the lifetime of the development.

Preliminary Matters

2. Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (Class MA) provides for a permitted development right to change the use of a building within Class E (commercial, business and service) of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO) to a use within Class C3 (dwellinghouses) of the UCO.
3. Paragraph MA.2. requires that where any development under Class MA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for its prior approval subject to a number of matters relating to the development. This

includes the transport impacts and, where the site is located within a conservation area, the impact of the change of use on the character or sustainability of the conservation area.

Main Issues

4. The main issues are the effect of the proposed development with regard to the prior approval matters specified in paragraph MA.2. (2) under Class MA, with particular regard to the effect on the character or sustainability of the conservation area, and transport impacts.

Reasons

Conservation Area

5. The appeal site is located within the Netley Abbey Conservation Area. I observed that the significance of this designated heritage asset lies, in part, in the quality, detailing and design of buildings that line streets in the vicinity of the site, together with the mix of both commercial and residential properties that typify this location, albeit that the side of the street along which the site lies is predominantly residential in character.
6. An objection that the Council holds is the possibility of undesirable window treatments being used to the interior of the building to ensure that the occupiers of the residential units would experience sufficient privacy, in terms of shielding the interior from views of people outside in the street. I recognise this concern however I am also conscious that there is currently no mechanism to control any such window treatment at this current time and thus I consider that it is currently equally possible for unattractive treatments to be placed within the windows.
7. Given that the exterior of the building would not be altered, other than in accordance with details that have already been approved by the Council in the form of a replacement window, I find that there is no reason to believe that the proposed change of use would result in any visual change that would be sufficient to harm the character of the conservation area as a whole.
8. In addition to this matter, the Council also raise concern in respect of the loss of the commercial units at this location, arguing that it would have a negative impact on the vitality and sustainability of the shopping area, which in turn would adversely affect the conservation area. While I acknowledge that the location is within a local centre, as I identify above the area is one that is a mix of both residential and commercial uses. Given the predominant presence of residential units on this side of the street, the introduction of the residential use to this building would not be an incongruous addition. Furthermore, there is nothing before me to show that the loss of commercial use of this particular site would be of such consequence as to result in a change of such significance, in terms of activity or sustainability, to have an adverse effect on the character or appearance of the conservation area.
9. I therefore find that the development would not harm the character or sustainability, and would preserve the character and appearance, of the conservation area.

Transport impacts

10. The scheme proposes two new residential units at the site, which the Council indicate would generate a parking need of between 3 and 4 spaces. The scheme is unable to deliver any on-site parking provision and as such occupiers of the units would be reliant on on-street parking.
11. The appellant has produced a parking survey, undertaken adopting the Lambeth methodology, which shows that during the survey periods the occupancy of on-street parking spaces was at 77.5% and 71%. The Council has not sought to dispute these findings.
12. I note that the parking survey was undertaken during the nighttime and as such assessed the availability of parking that is most likely to serve the residential properties of the area, yet it indicates that there is a reasonable amount of parking space available in this regard. I have nothing before me to show that there is an inability to accommodate the residential parking that would be associated with the development, or that there would be any resultant significant effect on the ability of existing residents to locate appropriate parking.
13. I am conscious that the Council has concerns in respect of the demand for spaces, for short periods, which is generated by the commercial properties within the area. However, there is some availability for short use parking that is time limited during the day and thus there is provision in this respect. There would also be some turnover of spaces during the day as customers to the nearby commercial properties come and go, this is to be expected at such locations. In the absence of any compelling evidence to the contrary, I consider that the addition of the number of vehicles that would be associated with the proposed development would not substantively reduce the availability of parking associated with the existing commercial uses.
14. I also note that there is reference to there being a demand for users of the visitors to the nearby country park and while this may be the case, as I have found above, the small number of vehicles that would be associated with the proposed units would not significantly reduce the availability of spaces for these users or result in a competition for space that would result in a risk to highway safety.
15. There is reference to inconsiderate or obstructive parking taking place, however this is a matter to be dealt with by the appropriate authority. In any event, in my view, the development would not increase this to any extent that would be sufficient to harm highway safety.
16. For these reasons, I find that the development would not result in any unacceptable transport impacts.

Other Matters

17. I have had regard to the policies of the development plan, as cited by the Council, only as far as they are material considerations to inform judgments on the main issues. In finding that there would be no harm in respect of these matters, it follows that there would also be no conflict with the relevant policies
18. I am aware of concerns from local residents in respect of the loss of the business units, the addition of housing and its effect on local infrastructure, the circumstances under which the business leases were terminated, that the units

will not be affordable and matters in respect of access across neighbouring land. These however are not issues related to the prior approval matters and as such they have not influenced my determination of this appeal.

Conditions

19. Paragraph W (13) of the GPDO allows for the grant of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
20. Development under Class MA is permitted subject to conditions at Paragraphs MA.2. (5) and (6) which include that the development must be completed within a period of 3 years starting with the prior approval date; and that 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.
21. Article 3(1) of the GPDO provides a pre-commencement condition which must be met, where the development would affect a European Site. This includes a separate application to the Council under Regulation 77 of the Habitats Regulations to allow the Council to undertake an appropriate assessment and, dependant on the outcome, determine whether the scheme could be undertaken as permitted development.
22. The Council have suggested conditions in respect of the provision of secure bin and cycle storage as shown on the plan, such a condition is necessary and related to the matter of character and appearance.
23. It has also been suggested that a condition is imposed requiring all refuse bins to be kept inside this storage except on collection days. I consider such a condition to be unreasonable and as such it will not be imposed. Also, the suggested plans condition is not necessary as the plans are stated in the matters for which prior approval is given.

Conclusion

24. For the reasons given above the appeal should be allowed and prior approval should be granted.

Martin Allen

INSPECTOR