CASE OFFICER'S REPORT

Application Reference: PL/2023/08709
Site Notice Erected: 12/10/2023
Publicity Expired: 10/11/2023
Target Date: 01/12/2023

SITE DESCRIPTION:

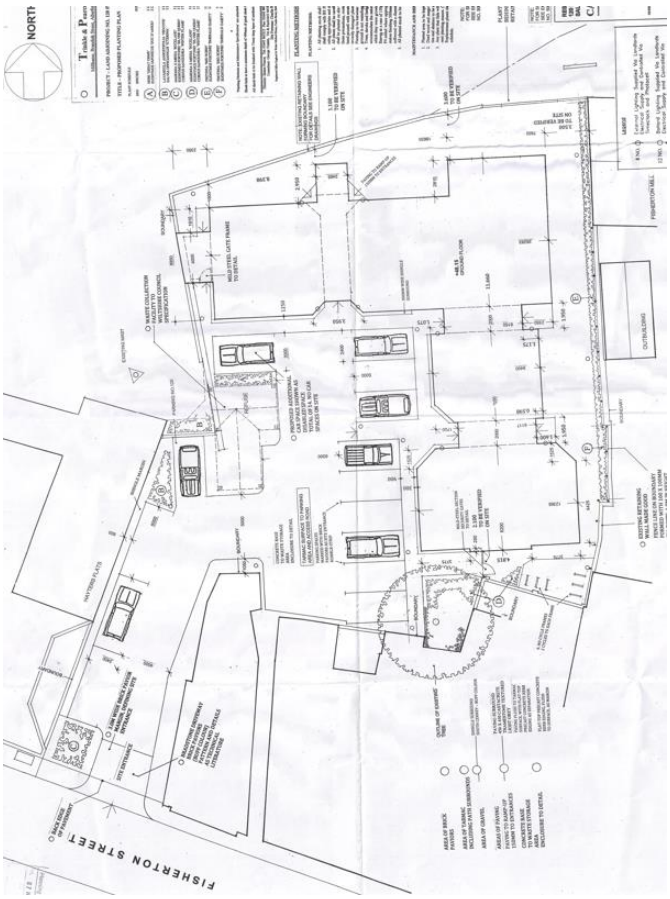
The application site is located in the Salisbury Community Area, within the defined settlement boundary of Salisbury, Salisbury Central Area and within Salisbury Conservation Area.

The proposal relates to part of the rear ground floor of the part three storey, part single storey building. It is split into two sections including hipped slate roof and painted brick section attached to the main three storey building and rear lean-to with metal roof/part render/timber clad walls. Access is via a door on the west elevation. There is no external amenity space associated with the building.



The single storey section of the building projects into the car park/access to a residential flat development to the north of the site. Around the edge of the property there is a paving slab path approximately one metre in width, but this is not within the red line of the application site and forms part of the access road/car park for the flats to the rear (see extract plans from development approved under S/2010/1364):



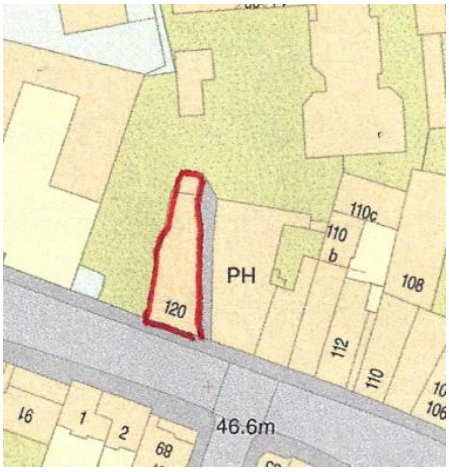


The Salisbury mainline railway line is elevated and to the north west of the site:

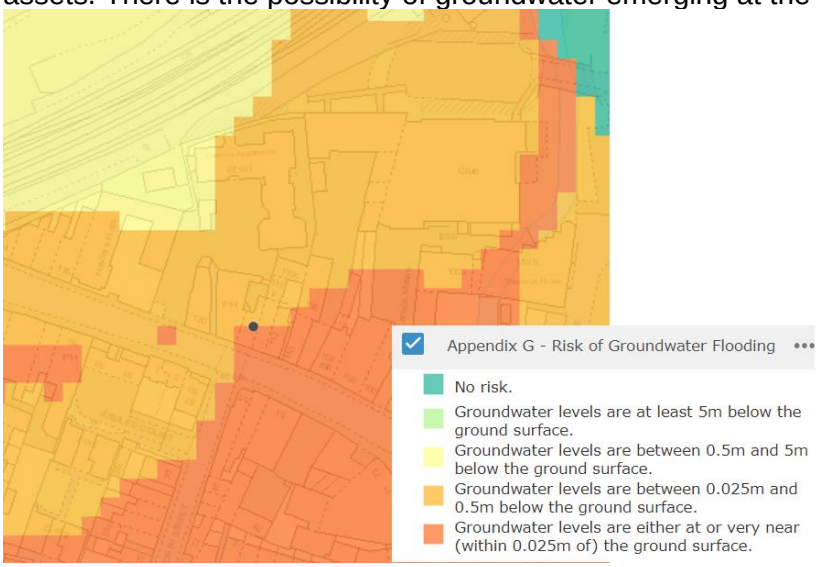


Part of the site/front of the building is in Flood Zone 2 of the Environment Agency (EA) flood maps:





The entire site is also identified to be at high risk of flooding from other sources in the LPA's Strategic Flood Risk Assessment (SFRA) where groundwater levels are between 0.025m and 0.5m below the ground surface (Within this zone there is a risk of groundwater flooding to both surface and subsurface assets. There is the possibility of groundwater emerging at the surface locally):



The site is also within the catchment area for the River Avon Special Area for Conservation (SAC) as protected by WCS policy CP69 (Protection of the River Avon SAC) and within the New Forest 13.8km Internationally protected sites zone of influence.

PROPOSAL:

The application documentation explains that the proposal is to convert the former Class A1 space (now Class E of the Use Classes Order) to form 1 studio flat. The frontage of the commercial unit facing Fisherton Street at ground floor will remain as commercial floorspace.

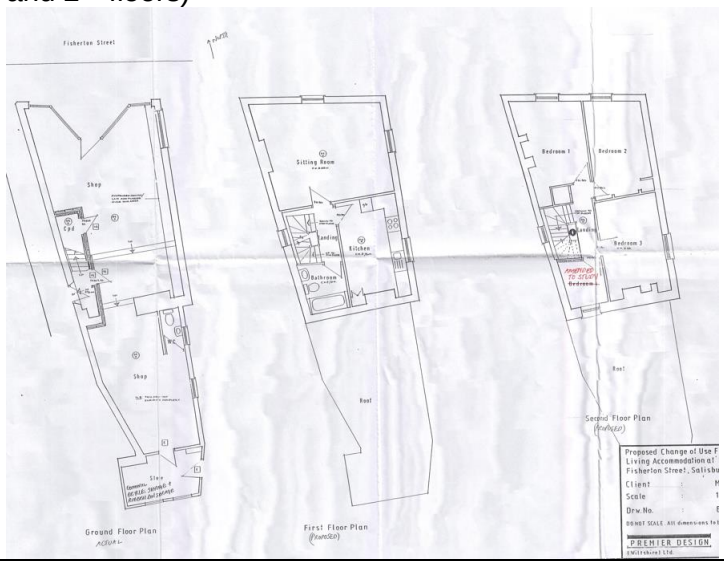
The current Use Classes were last updated on 1 September 2020 and use class A1 (which included shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes) was revoked. It is effectively replaced with the new Class E (Commercial, Business and Service).

The application is put forward in line with Class MA of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). A Planning Statement accompanies the application, setting out how it is believed that the proposal complies with the criteria in Class MA of the GPDO.

Following receipt of elevation plans during the application, no external alterations are proposed to the

building and all works are to be contained within the existing footprint/massing of the existing building.

RELEVANT PLANNING HISTORY:

Application Reference	Description	Decision
15/06916/FUL	Change of use of part of existing shop to bedsit. Install 2 rooflights to rear	Refused 08/09/2015 Appeal Dismissed (appeal decision attached at Appendix A)
S/2011/0338	Change of use from therapy rooms to 3 bedroom flat (1st and 2nd floors) 	Approved with condition 19/10/2011
S/2005/0726	Change of use from retail unit/integral flat to ground floor retail shop (a1) with associated centre for natural living' to upper floor incorporating leisure & health therapy use (D1&D2)	Approved with condition 06/06/2005
S/2002/1505	Change of use from retail to retail/office for walk-in taxi private hire office	Refused 24/09/2002
S/1989/0475	Listed building consent - demolish single storey lean to structure	Approve with Conditions 19/04/1989
S/1988/0602	Renew existing shopfront	Withdrawn
S/1998/0568	Consent to display an advertisement projecting flags on poles	Approved with conditions 05/06/1988

POLICIES:

Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (general development orders) as amended

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (PPG)

Town & Country Planning (Permitted Development) (England) Order 2015 (as Amended) (GPDO)

PRIOR NOTIFICATION PROCESS:

Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. Permitted development rights are subject to conditions and limitations. In some cases, the permitted development right will require the Local Planning Authority to approve certain matters (a process generally referred to as 'prior approval').

The PPG explains that an LPA cannot consider any other matters other than specified elements:

What is prior approval?
Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. The matters for prior approval vary depending on the type of development and these are set out in full in the relevant Parts in Schedule 2 to the General Permitted Development Order. A local planning authority cannot consider any other matters when determining a prior approval application.
Paragraph: 026 Reference ID: 13-026-20140306
Revision date: 06 03 2014

What types of development require prior approval?
Prior approval is required for some change of use permitted development rights. Certain other types of permitted development including the erection of new agricultural buildings, demolition and the installation of telecommunications equipment also require prior approval. The matters which must be considered by the local planning authority in each type of development are set out in the relevant Parts of Schedule 2 to the General Permitted Development Order.
Paragraph: 027 Reference ID: 13-027-20140306
Revision date: 06 03 2014

Is a prior approval application like a planning application?
The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.
Paragraph: 028 Reference ID: 13-028-20140306
Revision date: 06 03 2014

Class MA of Part 3 of Schedule 2 to the GPDO permits the change of use of a building and any land within its curtilage from a use falling within Use Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a use falling within Use Class C3 (dwellinghouses) of Schedule 1 of the Order.

This application seeks the change of use of part of the ground floor of the building from Class E use (formerly A1 use) to 1 x Dwelling (Use Class C3) and the application for prior approval has been submitted on that basis to be considered against the provisions of Class MA of the GDPO.

In accordance with Class MA condition MA.2, before beginning the development the applicant is required to apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to:

- Transport 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;
- where— the building is located in a conservation area, and the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;

- the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and
- where the development involves the loss of services provided by— a registered nursery, or
  (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 200657, the impact on the local provision of the type of services lost; and
  (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The provisions of Paragraph W of Part 3 of the GPDO are also relevant to this process as it sets out the procedure for applying for prior approval. It states that the Local Planning Authority must have regard to the National Planning Policy Framework in so far as it is relevant to the subject matter of the prior approval, although there is no requirement to have regard to the development plan in the consideration of such an application.

REPRESENTATIONS:

Highways Authority – No objection

I refer to the above planning application for Prior notification requirement under Part MA of the GPDO for change of use Class E space to form 1no. apartment.

The proposal is stated as being for a one bedroomed apartment, however, the plans are unclear, so I assume this is correct.

The site does not benefit from off street parking; however, it is located in the centre of Salisbury close to the railway station, bus services, facilities and employment opportunities that occupier would need, I am therefore happy to accept a car free development.

I wish to raise no highway objection.

Public Protection – Comment

I write regarding the above application for permitted development rights. Unfortunately, an application under this criteria does not allow us to consider the impact of noise from road traffic or railways; we can only consider noise from commercial premises. The nearest commercial premise is Deacons Public House which is situated to the east of the development site and detached from it. There are no windows or doors on the proposed development site which overlook the licenced property. I have reviewed the Premises Licence for that business and they do not have a specific licence to hold live or recorded music, but are entitled to have live and recorded music under the Live Music Act up to 2300hrs.

The area around the development site is mainly residential properties.

Whilst we cannot comment on rail or road noise, I do have concerns that future occupants may be adversely impacted by noise from the railway unless there is suitable glazing installed. It is unclear from the application as to the quality of glazing on the building, and I would strongly urge the applicant to ensure good quality double glazing is installed on the development to help protect future occupants from noise from railway noise.

Conservation – Comment

The proposal relates to the single-storey structures at the rear of the building fronting Fisherton St. The slate roofed section is likely to be C19 and the metal-roofed block to the rear C20, and the side of both can be seen from Fisherton St in the context of the modern development to the rear. The proposed plans, which don't give an indication of position on the site, indicate changes of window sizes although we have no elevations. As with the previous application, 15/06916/FUL, the proposal seems unlikely to raise any

issues with regard to the character of the CA.

Environment Agency - I have checked our records and we have assessed the above application and can confirm that we have no comments to make. The built part of this proposal is considered to be within flood zone 1.

Salisbury City Council – No comments received

Third party representations – None received

MAIN PLANNING ISSUES:

The main considerations which are material to the determination of this application are listed below:

- Whether the proposal constitutes permitted development
- Whether the prior approval of the Local Planning Authority is required

PLANNING ASSESSMENT:

As is identified above, Class MA of the GPDO confirms that *'Development consisting of a 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 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order',* is permitted development.

The supporting information explains that the floorspace has been vacant since 30th November 2022.

The existing building's lawful and last use was as a Class E(a) use and this part of the GDPO is therefore applicable to its proposed conversion into a residential unit.

There are also a number of caveats to this general acceptability set out in paragraphs MA.1, MA.2 and MA.3 of this Class. These will also therefore be assessed in more detail below.

The Local Planning Authority can only consider the acceptability of the detailed scheme against the very limited criteria set out in the Class.

Paragraph MA.1 Permitted Development Criteria:

Paragraph MA.1 of this Class confirms that Development is not permitted by Class MA:

Unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

The building is confirmed in the planning application submission details as having been vacant for a continuous period of at least 3 months prior to submission of the application (since November 2022) and thus this criterion is satisfied.

Unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

Subparagraph (2) confirms the classes mentioned in sub-paragraph (1)(b) are -
the following classes of the Schedule as it had effect before 1st September 2020—
Class A1 (shops);
Class A2 (financial and professional services);
Class A3 (food and drink);
Class B1 (business);
Class D1(a) (non-residential institutions – medical or health services);
Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming

pool or skating rink);
on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2)

The Inspectors appeal decision of 4th March 2016 stated that at that time *'The plans indicate that the property was previously part of the retail unit, but at the time of my site visit the connecting access had been blocked off and the site was being used as storage.'*

The application documentation confirms that the site was last used as a barber shop with "shop storage" to the rear. There is no planning history associated with this use, although planning permission would not have been required to change the use within class A1 (retail unit to barbers' shop). Google Street view shows the building being marketed 'to let' in June 2015 and then as a barbers 'Stylus Barbers' since at least June 2017.

The proposals therefore satisfy the requirements of this criterion.

if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

The floorspace changing use is stated to be approx. 44.7m² which is within this floorspace allowance set out in this criterion.

if land covered by, or within the curtilage of, the building—
is or forms part of a site of special scientific interest;
is or forms part of a listed building or land within its curtilage;
is or forms part of a scheduled monument or land within its curtilage;
is or forms part of a safety hazard area; or
is or forms part of a military explosives storage area;

The site does not form part of a Site of Special Scientific Interest (SSSI). Whilst the site history includes an application for listed building consent to demolish a single storey lean to structure (S/1989/0475) the building is not listed and does not sit within the curtilage of a listed building. The site is not a scheduled ancient monument (SAM) or with the curtilage of a SAM. The site is not within a safety hazard area and does not form part of a military explosive storage area. The proposals therefore satisfy the requirements of this criterion.

if the building is within—
an area of outstanding natural beauty;
an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981; the Broads; a National Park; or a World Heritage Site;

The site and building that is the subject of this application are not in an area of outstanding natural beauty (AONB); are not in an area specified by the Secretary of State as part of the Wildlife & Countryside Act 1981; and are not in the Broads; a national park; or world heritage site. The proposals therefore also satisfy this criterion.

if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

The supporting documentation has confirmed that the site is not occupied under an agricultural tenancy and therefore the proposals satisfy this criterion.

before 1 August 2022, if—
the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

No applications under Class O of the GDPO have ever been submitted for this site/building and no Article 4 directive has been issued that concerns this site or building. This criterion is also therefore satisfied.

Paragraph MA.2 Prior Approval criteria:

Paragraph MA.2 of the Class confirms that before any such development occurs the developer must apply to the Local Planning Authority for a determination as to the potential impacts of the development on transport; contamination; flooding; noise; and conservation areas. It also confirms that such development must be assessed with regard the amount of natural light that is afforded to the new unit/s; any potential conflict between uses if the new residential development is to be introduced into a wider industrial site; if the proposals involve the loss of important services; and whether it meets fire safety requirements. This paragraph also confirms that such a prior notification application must not be submitted prior to 1st August 2021 and states that paragraph W of the GDPO is relevant to the Local Planning Authority's prior approval considerations.

Paragraph MA.2 finally confirms that any such successful prior notification 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 under this Class must 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.

In considering whether prior approval is required, the Local Planning Authority must have regard as to whether the development would result in an adverse impact for the following matters:

Transport impacts of the development, particularly to ensure safe site access:

Wiltshire Core Strategy (WCS) Core Policy 57 (Ensuring high quality design and place shaping) requires applications to demonstrate that they meet the requirements of Core Policy 61 (Transport and New Development) which states that new development should be located and designed to reduce the need to travel and be capable of being served by safe access to the highway network. Core Policy 64 states that the provision of car parking associated with well-designed new residential development will be based on minimum parking standards and that reduced parking requirements will be considered where there are significant urban design or heritage issues, where parking demand is likely to be low or where any parking overspill can be controlled.

The parking standards for new dwellings are set out in the Wiltshire Local Transport Plan 2011- 2026 – car parking strategy (Policy PS6 - Residential parking standards). However, the recently adopted Salisbury City Area Framework (CAF) document provides a set of recommendations which include reducing motor vehicle movements through the city whilst ensuring the city remains accessible to all through supporting public transport, cycling and walking.

The site is in a sustainable location being within easy walking distance of public transport and other local facilities for shopping, leisure, education, health and employment, thus minimising the need for a private car and as such it is considered that the proposal would meet the criteria of PS6 contained within the Wiltshire Parking Strategy which allows for a reduction in residential car parking in certain specific circumstances.

There is no parking or cycle parking associated with this site. However, the highways authority has raised no objections to the proposal for car-free development in this location. The previous refusal officer's report also considered the issue of cycle parking *'The council's cycling strategy states that the cycle parking standards apply to both new build and change of use and that the tabulated minimum standard should be observed for the relevant use. No cycle storage has been provided on site. Given the city centre location and the nearby public transport links it is not considered necessary in this case, however public cycle parking is available in fairly close proximity should occupiers require storage.'*

The supporting documentation submitted with this Prior Notification application refers to the previous

appeal decision as '*This refused application was also dismissed upon appeal. The issues relevant to this decision were therefore the impacts of noise and light disturbance from passing vehicles on proposed occupiers and an allegation of a cramped and poor quality environment for the proposed occupiers.'*

However, in the previous dismissed appeal for conversion into a studio flat the Inspector also considered that the pedestrian access was unsafe and although the highways authority have no objections to the proposal being car free development, in light of this appeal decision it is considered that the site does not benefit from a safe site access for pedestrians to access the proposed unit.

The NPPF states that *'111. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.'* and paragraph 112 states that '*within this context, applications for development should…c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;'*

Relevant extracts from the appeal decision:
5. Around the edge of the property there is a paving slab path approximately one metre in width. Although this suggests pedestrian use, it abuts and is level with the flats' car park so would most likely be overrun by vehicles manoeuvring around the car park, particularly at the corner near the access to the building. As such residents exiting the bedsit would effectively step directly out into the car park. It is considered that vehicles manoeuvring around the car park in such close proximity to the property, and particularly the entrance to the bedsit, would make for an unsafe and oppressive residential environment for future residents of the bedsit.

6. I accept that cars passing the property would be likely to be moving at slow speeds as they would have just pulled out of a parking space or would be about to stop in a space. However, the car park serves over 20 flats and so vehicle movements would be frequent and numerous, particularly at peak times.

8. As such, the unsafe and oppressive environment and the noise and disturbance caused by the frequent use and close proximity of the car park would not provide suitable living conditions for future occupiers of the development, and the proposal would therefore be contrary to Core Policy 57 of the Wiltshire Core Strategy which requires appropriate levels of amenity within developments.

In conclusion, **the prior approval of the LPA IS required** in respect of the transport impacts of the development, particularly to ensure safe site access and it is considered that the site does not provide a safe site access.

Contamination risks in relation to the building:

The Council's Public Protection Team has raised no objection in relation to contamination risks to the building.

In conclusion, **the prior approval of the LPA IS NOT required** in respect of the contamination risks in relation to the building.

Flooding risks in relation to the building:

Part of the site covered by the red line is situated in Flood Zone 2 and the entire site is identified to be at high risk of flooding from groundwater in the Strategic Flood Risk Assessment.

The supporting documentation does not include a FRA referring to the previous application not considering flood risk and concluding *'We therefore submit that the conversion of the identified elements of this building to form one apartment would not result in any unacceptable impacts in terms of potential flood risk.'*

However, whilst the footprint of the area of the ground floor of the building is not shown to be in FZ2; the EA flood zones are blocky and very indicative and where part of a site is within the red line of an application site (as is the case here), the risk could be much worse that the map shows, and in applying the cautionary

principle, which is always advised by the EA when it comes to flood risk, the EA were consulted on the proposals as Flood Zone 2 is a flood risk zone that requires consultation with the EA and submission of a Flood Risk Assessment (FRA) under paragraph W (Procedure for applications for prior approval under Part 3):

(2) The application must be accompanied by—
(e) where sub-paragraph (6) requires the Environment Agency to be consulted, a site specific flood risk assessment.

(6) Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency where the development is—
(a) in an area within Flood Zone 2 or Flood Zone 3; or
(b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

The EA have been consulted and have advised that they have assessed application and consider the built part of the proposal as being in flood zone 1 and have no comments to make.

The entire site is also identified to be at high risk of flooding from groundwater in the Strategic Flood Risk Assessment, but as there are no requirements to request a FRA for other sources of flooding, it is therefore considered that **the prior approval of the LPA is NOT required** in respect of 'Flooding risks in relation to the building'.

An informative could be included advising the applicant of the risk of groundwater flooding instead that they may wish to incorporate flood mitigation measures (which may require separate planning approval).

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

Whilst the dismissed appeal decision referred to *'the unsafe and oppressive environment and the noise and disturbance caused by the frequent use and close proximity of the car park would not provide suitable living conditions for future occupiers of the development'* and the appeal was dismissed as it was considered that *'the development would not provide satisfactory living conditions for future residents'* only noise from commercial premises can be considered.

The public protection team have considered the proximity of the site to Deacons Public house (sited adjacent with an alley separating the two buildings to the east) and have no objections in this regard.

In conclusion, **the prior approval of the LPA is NOT required** in respect of the impacts of noise from commercial premises on the intended occupiers of the development.

However, although rail and road noise are not criteria to consider as part of permitted development right prior notification applications, the public protection team have recommended the applicant to ensure good quality double glazing is installed on the development to help protect future occupants from railway noise.

In light of these comments, were the prior notification being recommended for approval, it is considered that an informative could be included recommending the installation of good quality double glazing. This may require separate planning approval but could be in the form of internal secondary glazing which would not need subsequent approval from the LPA.

Where—the building is located in a conservation area, and the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;

The site is situated in a conservation area and although the conservation officer identifies that the single storey part of the building to which this application relates is visible from Fisherton Street; it is in the context

of modern development to the rear and has advised that the proposal seems unlikely to raise any issues with regard to the character of the conservation area (and elevation plans received subsequent to the comments confirm that no external changes are proposed to the building).

In conclusion, **the prior approval of the LPA is NOT required** in respect of the impact of the change of use on the character or sustainability of the conservation area.

The provision of adequate natural light in all habitable rooms of the dwellinghouses;

No external alterations are proposed to the building (confirmed by the elevation plans received during the course of the application). The existing building is served by windows and the floor plans indicate that the habitable rooms would benefit from original windows. Overall, it is therefore considered that the proposed development is served by adequate natural light and there are no habitable rooms that could not be served by existing window/s.

In conclusion, **the prior approval of the LPA is NOT required** in respect of adequate natural light.

The impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

There are no nearby general or heavy industrial uses. Although there are nearby commercial uses, the public protection officer has raised no concerns in respect of noise impacts and given there are also surrounding residential uses and it is therefore considered unlikely that the proposed use would threaten the continuation of these existing commercial uses and in turn, the presence of these existing uses is unlikely to unduly disturb the occupiers of the development. The uses are compatible.

In conclusion, **the prior approval of the LPA is NOT required** in respect of the impact on intended occupiers.

Where the development involves the loss of services provided by—
(i) a registered nursery, or
(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 200657 , the impact on the local provision of the type of services lost;

The proposals will not result in the loss of registered nursery or health centre.

Where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

The fire risk condition is identified in the Interpretation for Class MA and states:

Interpretation of Class MA

MA.3. Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

(a) contain two or more dwellinghouses; and

(b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015[60].

From the DMP Amendment Order 2021 Article 9A Fire Statements:

(3) The height condition is that—

(a)the building is 18 metres or more in height; or

(b)the building contains 7 or more storeys.

This criterion is not applicable as the building is not tall enough to meet the fire risk condition, as it is less than 18m in height and 4 storeys (with any basement level).

In conclusion, **the prior approval of the LPA is NOT required** in respect of fire safety matters.

Other Matters:

Permitted development which can normally be carried out under Part 1 of the Second Schedule to the GPDO (relating to development within the curtilage of the dwellinghouse, as well as alteration or enlargement of the dwelling itself) is excluded where a residential conversion has been carried out as permitted development under Part 3, Class MA (residential conversion of a building and land within its curtilage in use as Use Class E). Planning permission will therefore be required if it is subsequently proposed to carry out any of these developments at a dwelling that has been converted under Class MA.

The procedural notes for permitted development, in clause 3 of the GDPO raises a few other matters that are also relevant to this prior notification application:

Subject to the provisions of this Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2.

As is identified above, this site falls within the catchment of the River Avon SAC and the development has potential to cause adverse effects, alone or in combination with other developments, through discharge of phosphorus in wastewater. The provisions of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regulations) are therefore relevant to the development, regardless of the outcome of this application.

On that basis, the Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorous mitigation strategy to offset all planned residential development, both sewered and non-sewered, permitted in this catchment area during this period.

Following the cabinet's resolution on 5th January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a generic appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. This was endorsed by Natural England on 7th January 2021.

This development falls within the scope of the mitigation strategy and generic appropriate assessment that has been agreed and therefore, subject to a condition being added to any consent limiting the amount of water used by the new dwelling to 110 litres per person per day, it can be concluded that this development will not lead to adverse impacts alone and in-combination with other plans and projects on the River Avon SAC. The proposals are therefore considered to be acceptable in this regard and satisfy the requirements of the Habitat Regulations.

The site is also within the New Forest 13.8km Internationally protected sites zone of influence. The New Forest Internationally protected sites include the New Forest Special Protection Area, New Forest Special Area of Conservation (SAC) and New Forest Ramsar site.

The Council has published the Interim Recreation Mitigation Strategy for The New Forest Internationally Protected Sites January 2022.

The strategy has been prepared to comply with the Habitats Regulations 2017 (as amended), including the need to take a precautionary approach and to address impacts both alone and in-combination.

Following caselaw, the strategy also aims to provide certainty that detrimental effects will not occur as a result of any authorisation, and confidence that the absence of detrimental effects will extend in-perpetuity.

The interim approach taken forward in the strategy is based on that already in place at the New Forest and other sites across the UK where recreational pressure threatens to devalue designated sites. All smaller housing schemes and tourism development will contribute funding towards strategic SANGs and access and visitor management within the New Forest itself. It is the Council's intention to fund the majority of contributions through the Community Infrastructure Levy (CIL) with all completions arising from new developments of 1-49 dwellings permitted from 1 September 2021, within 13.8 km of the New Forest designated sites.

Further details are provided in the Mitigation Strategy, but this interim strategy enables the Council to conclude that development coming forward under the Wiltshire Core Strategy, will not lead to an adverse effect on the integrity of the New Forest designated sites. It will apply until a co-ordinated strategic approach is agreed with the New Forest National Park Authority and other neighbouring authorities and it has been subject to review in March 2023.

(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—
where the gross internal floor area is less than 37 square metres in size; or
that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.
(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.

In this instance, the documentation explains that the rear of the ground floor is proposed as a 1b1p studio flat which has a minimum requirement of 37m2 as set out in the NDSS and this studio flat would be 44.7m2 which exceeds the required guidelines and satisfy the requirements of this criterion.

CONCLUSION:

The proposed development is considered to comply with all of the criteria set out in paragraph MA.1 of Class MA of the GPDO, thereby making it development that could benefit from permitted development.

Development must not begin before one of three things happens: (a) the applicant receives from the local planning authority a written notice of their determination that prior approval is not required; (b) the applicant receives from the local planning authority a written notice giving their prior approval; or (c) the expiry of 56 days from the receipt of the application by the local planning authority without the local planning authority notifying the applicant whether prior approval is given or refused (paragraph W.(11)).

The prior approval of the LPA is required in respect of Transport impacts of the development, particularly to ensure safe site access and in light of the previous appeal decision, it is not considered to provide a safe site access.

RECOMMENDATION:

The local planning authority has determined in this case that prior approval is refused for the following reason:

The access to the proposed apartment (which is via a side access door which abuts and is level with the access/car park to the flats at the rear of the site) was considered by the Appeal Inspector to a previously dismissed appeal on the site (for the change of use of part of existing shop to bedsit and 2no rooflights - Appeal Ref: APP/Y3940/W/15/3136147) as an unsafe access. Any future residents would effectively be stepping directly out into the car park/access serving over 20 flats and where vehicles manoeuvring around the car park and entrance to the apartment (with frequent and numerous vehicle movements, particularly at peak times) would make for an unsafe site access for future residents of the development. The proposals are contrary to the provisions of the National Planning Policy Framework (NPPF), namely paragraph 112 which requires creating places that are safe, secure and attractive and which minimise the

scope for conflicts between pedestrians, cyclists and vehicles and Wiltshire Core Strategy policies CP57 (Ensuring High Quality Design & Space Shaping) and CP61 (Transport & Development).

Appendix A: Appeal decision

The Planning Inspectorate

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Your Ref: 15/06916/FUL
Our Ref: APP/Y3940/W/15/3136147

Wiltshire Council
Development Services
The Council House
Bourne Hill
Salisbury
SP1 3UZ

04 March 2016

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr & Mrs Lever
Site Address: 120 Fisherton Street, SALISBURY, SP2 7QT

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at http://www.planningportal.gov.uk/planning/planninginspectorate/customerfeedback/feedback.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

Yours faithfully,

Amanda Baker
Amanda Baker

The Planning Inspectorate

Appeal Decision

Site visit made on 24 February 2016

by Andrew Owen MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 March 2016

Appeal Ref: APP/Y3940/W/15/3136147
120 Fisherton Street, Salisbury, Wiltshire SP2 7QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Lever against the decision of Wiltshire Council.
- The application Ref 15/06916/FUL, dated 13 July 2015, was refused by notice dated 8 September 2015.
- The development proposed is the change of use of part of existing shop to bedsit and 2no rooflights.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the proposal would provide satisfactory living conditions for future occupiers of the development.

Reasons

3. The appeal site accommodates a vacant property to the rear of a retail unit which fronts Fisherton Street. The plans indicate that the property was previously part of the retail unit, but at the time of my site visit the connecting access had been blocked off and the site was being used as storage. Immediately to the side and rear of the building there is a car park for the block of residential flats rear of the site.

4. The property comprises three rooms, identified on the plans as a bedsit room, a kitchen and a toilet with external access achieved through the kitchen. The bedsit room and toilet are within a brick structure and have a tiled pitched roof. The kitchen is within a lean-to type extension with a flat, metal sheet roof and weatherboarding facia on top of a dwarf brick wall.

5. Around the edge of the property there is a paving slab path approximately one metre in width. Although this suggests pedestrian use, it abuts and is level with the flats' car park so would most likely be overrun by vehicles manoeuvring around the car park, particularly at the corner near the access to the building. As such residents exiting the bedsit would effectively step directly out into the car park. It is considered that vehicles manoeuvring around the car park in such close proximity to the property, and particularly the entrance

to the bedsit, would make for an unsafe and oppressive residential environment for future residents of the bedsit.

6. I accept that cars passing the property would be likely to be moving at slow speeds as they would have just pulled out of a parking space or would be about to stop in a space. However, the car park serves over 20 flats and so vehicle movements would be frequent and numerous, particularly at peak times.

7. In addition to the movement of vehicles, there would also be the associated noise of cars starting, doors shutting and the shining of headlights all of which would be immediately outside the bedsit. Indeed due to the small size of the property and the fact that all windows, with the exception of the two proposed rooflights, would face the car park, no part of the bedsit would be unaffected by the noise and disturbance resulting from the use of the car park. I note the appellant's suggestion of fitting triple glazed windows and blinds, and whilst these may help to mitigate the impacts of noise and glare, they would be unlikely to eliminate them sufficiently or completely, such as at times when residents may wish to open their windows for ventilation. Therefore it is likely that the use of the car park in such close proximity to the bedsit would result in unacceptable noise and disturbance being caused to future residents.

8. As such, the unsafe and oppressive environment and the noise and disturbance caused by the frequent use and close proximity of the car park would not provide suitable living conditions for future occupiers of the development, and the proposal would therefore be contrary to Core Policy 57 of the Wiltshire Core Strategy which requires appropriate levels of amenity within developments.

9. The property would need considerable work to bring it up to habitable standards. The windows in the bedsit and bathroom both appear to be rotting and would need replacing, and the kitchen would most likely need to be renovated to provide an appropriate amount of insulation. Although I have no details of the extent of any such works, I consider that these could be done without materially changing the external appearance of the building and so may not need planning permission. However, this does not outweigh my consideration that the development would not provide satisfactory living conditions for future residents as set out above.

Other Matters

10. Other than the insertion of two roof lights into the bedsit roof, no other external alterations are proposed. Due to their limited size and lack of visibility in the wider area, I consider the rooflights would preserve the character and appearance of the Conservation Area. However this does not outweigh the lack of provision of suitable living conditions I have outlined above.

Conclusions

11. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR