CASE OFFICER'S REPORT

Application Reference: PL/2023/09545

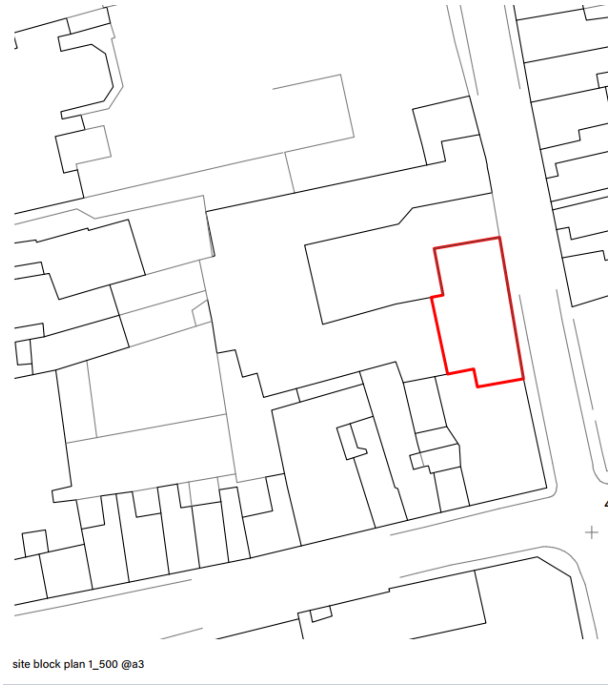
Publicity Expired: 15/02/2024
Target Date: 14/03/2024

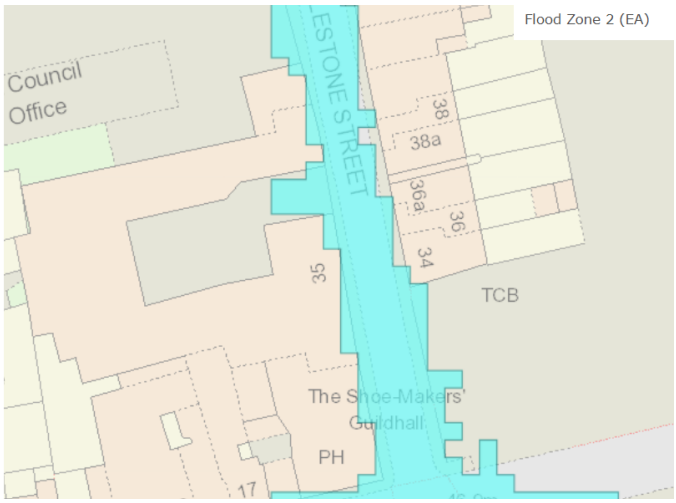
SITE DESCRIPTION/CONSTRAINTS:

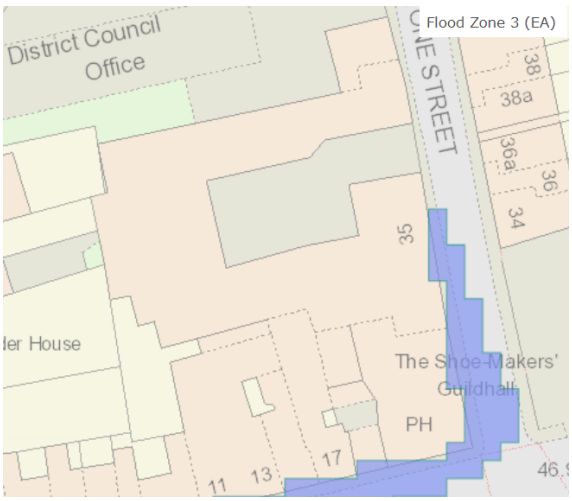
The application site is located in the Salisbury Community Area and within the defined settlement boundary of Salisbury and Salisbury Central Area.

The site is also within the Salisbury City Conservation Area and within the immediate setting of several listed buildings including being attached to the Grade II* Pheasant and the wall to the north of the site, is Grade II listed.

The site is partly in Flood Zones 2 and 3 of the EA flood maps:

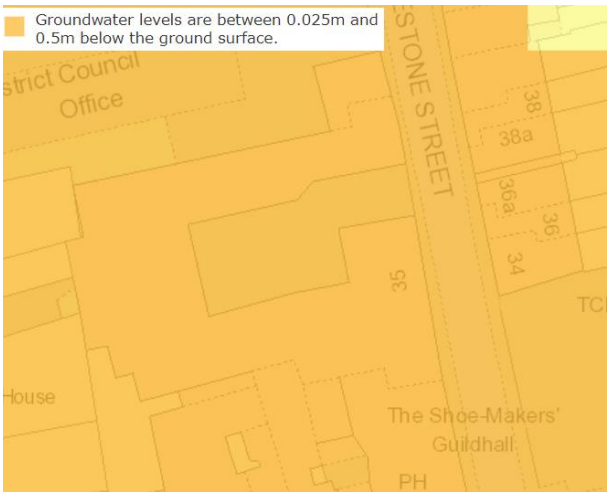


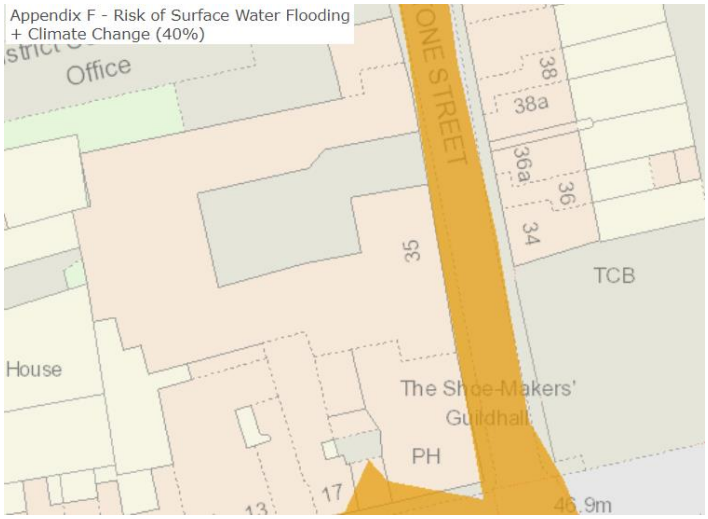




The entire site is also identified to be at risk of flooding from other sources in the LPA's Strategic Flood Risk Assessment (SFRA) where groundwater levels are between 0.025m and 0.5m below the ground

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 within the catchment of the River Avon Special Area for Conservation (SAC), and within the New Forest 13.8km Internationally protected sites zone of influence.

There are a few licenced premises within close proximity of this development site.

The buildings on the site are vacant.

RELEVANT PLANNING HISTORY:

Application Reference No	Description	Decision
PL/2024/00063	Prior Notification requirement under Part MA of the GPDO for the change of use of Class E space to form 4 apartments	Pending
S/1992/0012	New showroom window & side door	Approved 19/02/1992
S1986/1820	Externally illuminated projecting sign	Refused 14/01/1987 Appeal allowed 21/08/1987
S/1986/1358	Internally illuminated projecting box sign	Refused 13/10/1986
S/1974/1014	Showroom for cycles, motor cycles and accessories	Approved 18/12/1974
4839	Reconstruction	Approved 05/07/1954
4478	Use as a warehouse	Approved 01/07/1952
4080	Use as a retail fruit stall	Approved 31/07/1950

There is an additional application for prior notification currently being considered by the council (PL/2024/00063) which relates to a different part of the existing buildings on the site.

PROPOSAL:

The current Use Classes were last updated on 1 September 2020 and Classes A1/2/3 and B1 were revoked, replaced by **Class E - Commercial, Business and Service**:

E(a) Display or retail sale of goods, other than hot food
E(b) Sale of food and drink for consumption (mostly) on the premises

E(c) Provision of:
E(c)(i) Financial services,
E(c)(ii) Professional services (other than health or medical services), or
E(c)(iii) Other appropriate services in a commercial, business or service locality
E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)
E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
E(f) Creche, day nursery or day centre (not including a residential use)
E(g) Uses which can be carried out in a residential area without detriment to its amenity:
E(g)(i) Offices to carry out any operational or administrative functions,
E(g)(ii) Research and development of products or processes
E(g)(iii) Industrial processes

The application is put forward in line with the relatively new 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 proposals comply with the criteria in Class MA of the GPDO. Class E includes use of buildings for offices (Class E part g (i)) and the display or retail sale of goods (Class E part a).

Whilst currently vacant, it is considered that the existing building's lawful and last use was as a Class E use and this part of the GDPO is therefore applicable to its proposed conversion into residential units.

This is a prior notification application under Class MA for Change of Use of a part of the Vacant Class E buildings to 4 x Dwelling (Use Class C3).

Following confirmation that there are no noise mitigation requirements, (except for a minor change shown on the plans to a doorway discussed in more detail below) no external alterations are proposed to the building and all works are to be contained within the existing footprint/massing of the existing building.

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 Vacant Class E building to 4 x dwellings 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.

Class MA effectively confirms that the proposed change of use is permitted development and does not need planning permission. The principle of the proposed change of use is therefore established. The Local Planning Authority can only consider the acceptability of the detailed scheme against the very limited criteria set out in the Class (outlined above). The adopted development plan policies are not relevant in this regard.

Paragraph 9 of paragraph W also states that the local planning authority may also '*require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—*
(a) assessments of impacts or risks;
(b) statements setting out how impacts or risks are to be mitigated; or
(c) details of proposed building or other operations.'

REPRESENTATIONS:

Highways – No Comment

Public Protection –
Comments following receipt of Technical Note

Thanks for obtaining clarification the existing structure and windows of the development will mean internal ambient internal noise levels in accordance with WHO/ BS8233 will be achieved inside the habitable rooms.

I therefore have no further observation.

Comments received following submission of noise impact assessment:

I have read the acoustic report submitted with this application and note it concludes 'Outline mitigation measures, including a glazing specification and the use of appropriate ventilation have been recommended and should be sufficient to achieve recommended internal noise levels for the proposed development according to BS 8233: 2014, WHO and the requirements of Wiltshire Council. An assessment of existing building fabric elements indicates that all existing features would be suitable to support the proposed residential development should these be retained'.

I therefore recommend the following condition is applied to any approval of this application:

• All mitigation measures as detailed in Clement Acoustic Report dated 12th January 2024 including installation of glazing and trickle vents as specified in Sections 8.2 and 8.3, shall be implemented in full and maintained at all times thereafter.

Original comments
At pre-app stage I recommended a noise impact assessment is carried out, and report submitted with any full application to demonstrate that internal ambient noise levels are achievable in the habitable rooms, particularly as the development is joined to a licenced premise. I note a Noise Impact Assessment Report has not been submitted by the applicant.

The internal lay out of the proposed development places a bedroom on the ground floor party wall with the licenced premise. The licenced premise is permitted to hold events with regulated entertainment including live and recorded amplified music between the hours of 1000hrs and 2300hrs 7 days a week, and can remain open until 0230hrs Thursday to Saturday. There is the potential for noise from the licenced premise to adversely impact on future occupiers of the ground floor (flat adjoining the licenced premise) in particular. Noise from the licenced premise can include entertainment noise, patron noise accessing and exiting the premise and servicing of the premise such as deliveries and waste

management.

In addition, I also note there is a conflict of use between the ground floor and first floor flats, where bedrooms are located either below or above kitchen/ living areas. Unless the applicant wishes to consider revising the internal layout of the flats, I recommend the noise assessment also considers whether there is sufficient sound insulation between the floors.

I therefore recommend the applicant engages the services of an acoustic consultant to carry out a noise assessment to demonstrate that BS8233 ambient noise levels can be achieved in the habitable rooms and, if the layout of the development remains unchanged, it should also detail what additional sound insulation is required, if any, to prevent transference of sound between the ground and first floor.

Conservation – No objection
This application is solely for the change of use and should include no external alterations. The COU itself raises no concerns with regard to the character of the CA or the setting of the listed building next door.

Environment Agency - It falls under national flood risk standing advice (Advice note 1 on the local flood risk standing advice document) - site is considered to be FZ2 (see appendix A).

Salisbury City Council – Object

Salisbury City Council objects on the grounds that it should be kept for its current use.

Dorset & Wiltshire Fire and Rescue Service Fire Safety Advisor – comment

This application falls within the area for which Dorset & Wiltshire Fire and Rescue Service is responsible for delivering an operational and emergency response.

Building Regulation Matters
In the event the planning permission is granted for this development, the development would need to be designed and built to meet current Building Regulations requirements. The Authority raises the profile of these future requirements through this early opportunity and requests the comments made under B5 of Approved Document B, The Building Regulations 2010 be made available to the applicant/planning agent as appropriate.

The assessment of this development proposal in respect of Building Control matters will be made during formal consultation, however early recommendations are identified on the attached schedules and relate to the following areas:

• Recommendations identified under B5 of Approved Document B relating to The Building Regulations 2010
• Recommendations to improve safety and reduce property loss in the event of fire

Recommendations Identified under B5 of Approved Document B

Summary
At this stage of the planning application Dorset & Wiltshire Fire and Rescue Service is required to make comment relating to section B5 of Approved Document B. Essentially, this relates to the provision of reasonable facilities to assist fire fighters within the building and to enable fire appliances to gain access to the building.

Complying with these requirements, in advance of the formal Building Regulations consultation process, will assist during that process and are made without prejudice to it.

Access and Facilities for the Fire Service
Consideration is to be given to ensure access to the site, for the purpose of fire fighting, is adequate for the size and nature of the development.

Water Supplies for Fire Fighting
Consideration should be given to the National Guidance Document on the Provision of Water for Fire Fighting and the specific advice of this Authority on the location of fire hydrants.

The proposed development should be served by the necessary water supply and fire hydrants for use in the event of fire. It is important these requirements are established prior to the commencement of development. This ensures a fire fighting water supply is in place during the construction phase, hydrants are connected at the right locations, at the right time and the cost is covered by the developer.

Recommendations to improve safety and reduce property loss in the event of fire

Dorset & Wiltshire Fire and Rescue Service's core objectives include the reduction of deaths, injuries and property damage caused by fire. The following recommendations are made with this in mind and, whilst not requirements, may become so during the formal Building Regulations consultation process and are made without prejudice to that process.

Domestic Sprinkler Protection
A core objective of the Dorset & Wiltshire Fire and Rescue Service is to support and encourage an increase in the provision of residential sprinklers in domestic properties. Residential sprinklers are not new and, although a British invention, significant developments have been made in the United States, Australia and New Zealand. In these countries there are whole communities with such installations and a zero fatality rate from domestic fires where a sprinkler system is installed. The following information may be of interest to you:

• Sprinklers work from a standard main, although a 32mm connection is required
• Are inexpensive to install, particularly in a new building
• Do not activate by accident causing unwanted damage
• Only operate through individually activated heads, not the whole system
• Are not unsightly as they fit flush to the ceiling behind a flat cover
• Cause less water damage in a fire than normal fire fighting operations
• Significantly reduce fire and smoke damage
• If you would like more information on these systems please contact this Authority.

Fire Warning Systems in Communal Areas of Purpose-built Flats
Fire detection and alarm systems are not normally provided in the communal parts of purpose built blocks of flats, as these areas should be kept sterile. However, such systems may be required in exceptional circumstances, or when identified by the fire risk assessment. The on-going ability to adequately manage the system must also be considered

Fire detection may also be required to operate automatically opening vents or magnetically locked fire exit doors, for example, but these may not incorporate a means to warn the occupants of the flats in the event of a fire.

A fire detection system provided in the communal parts must comply with BS5839 Part 1.

Third party representations – Objection from the GP Partners of Three Chequers Medical Practice:

We have been informed that a property on Rollestone Street (the old Jones & Co building – 35/37 Rollestone Street) is the subject of a planning application to become residential property. This property is on the market, being currently advertised as a commercial property. Situated between our city centre sites, we identified it as a site of interest to expand our current clinical capacity to meet the rising demand from our patient population. As you are likely aware over the last few years the population of Salisbury has expanded following the buildings at Old Sarum, Long Hedge, St Peters Place and on the old MOD site in Wilton. This is being joined by the new houses in Harnham and the proposed sites in Britford and by the hospital. As well as the houses for older persons built on the site of the old bus

station, the old Aviva building and on the Fountain way site. No provision for how general practice was to accommodate this increase in patient numbers has been part of these plans.

With this in mind, we viewed this property on Thursday 26th October, and engaged an architect to conduct a preliminary survey the same afternoon. We informed the Estate Agent (Woolley & Wallis) of our interest in this property. Our Architect spoke to the original surveyor (LDS) and they refused to comply with our request for a digital version by informing him that their client had specifically refused to share this as they had no intention of whatsoever of selling the property. Naturally we contacted the estate agent, who has confirmed this.

It seems to me as though they are trying to create an illusion of a lack of interest in this as a commercial property in order to attain planning permission for a residential build.

We would like it on record that we (Three Chequers Medical Practice) object to the plan to convert this site to residences and that brownfield sites in the city centre such as this should be preserved for use that would achieve more value to the community.

The irony, of course, if this planning permission is granted, is that the residents will inevitably become patients of ours and compound the effects of a lack of clinical space by adding to a patient population that far outstrips the physical space and resource required to care for them. We have been looking for somewhere to expand our services since before the pandemic. This will be the 27th site we have looked at and is the only one in the city centre that could serve that population and might also be able to host other members of the community team.

Case Officer note: *The loss of the existing use/potential alternative use/s are not a consideration that the LPA can take account of under Class MA.*

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.

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 objections from the City Council and third party include that the building should be kept for its current use/loss of potential alternative employment/commercial/community uses. However, 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 (the supporting information

explains the occupation terminated over three years ago) and thus this criterion is satisfied.

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 (Statutory Instrument 2024 No. 141) which comes into force on 5th March 2024 will also remove this requirement.

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)

There has been no recent planning applications relevant to the use of the building, although the history of planning applications on the site includes an application in 1992 (S/1992/0012) for a new showroom window and side door. The application supporting information explains that the buildings have previously been in use as an office and retail outlet for bathrooms/kitchens.

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 182m2 which is within this floorspace allowance set out in this criterion.

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 (Statutory Instrument 2024 No. 141) which comes into force on 5th March 2024 will also remove this requirement.

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). 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 (application form and covering letter) 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:

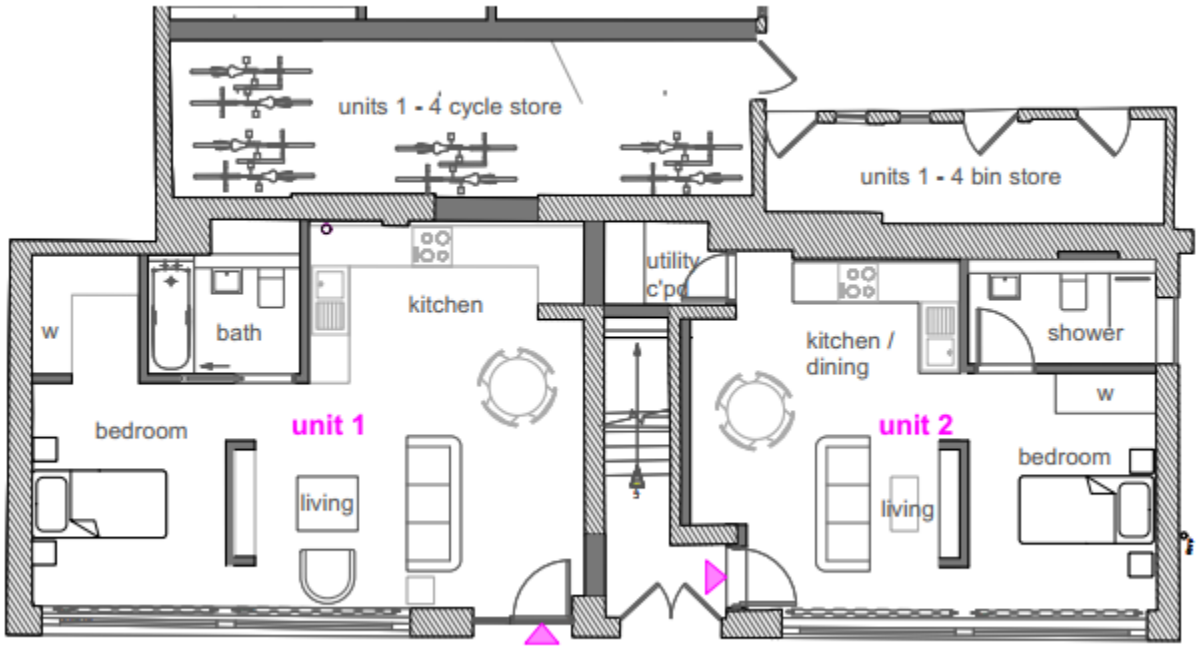
Transport impacts of the development, particularly to ensure safe site access:

The supporting documentation explains that 'the 4 small flats are proposed on a "car free" basis given the highly sustainable nature of the site and as such there would be no change to matters of traffic generation.'

The highways authority has commented with raising 'no comments' on the application.

Cycle parking standards are set out in appendix 4 of the Wiltshire Local Transport Plan 2011 – 2026 Cycling Strategy as follows:
1 covered space per bedroom for up to 3 bedroom dwellings.
3 covered spaces per unit for 4 bedroom dwellings.
4 covered spaces per unit for 5 + bedroom dwellings
+ 1 visitor space per 20 bedrooms.

The proposals includes the provision of internal cycle parking for the units in accordance with the cycle parking standards:



proposed ground floor plan **1:100@a3**

In conclusion, **the prior approval of the LPA IS required** in respect of the transport impacts of the development, to ensure cycle parking is provided. This prior approval may be granted, subject to an appropriately worded condition to secure the cycle parking for the dwellings being provided.

Contamination risks in relation to the building:

The Council's Public Protection Team have raised no objections/concerns regarding contamination risks.

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 Flood Zone 3 and the entire site is identified to be at high risk of flooding from groundwater in the Strategic Flood Risk Assessment.

Flood Zones 2 and 3 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 the LPA that the site can be considered as being in

Flood Zone 2 and have referred to the national flood risk standing advice (Advice note 1 on the local flood risk standing advice document, attached at appendix A).

Whilst only a small area of the ground floor is 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, it should be assumed that the rest of the building/site is in FZ2. The relevant Flood Risk advice refers to the need to consider floor levels, extra flood resistance and resilience measures, access and escape and surface water management.

Floor levels are not proposed to be amended and, in these instances, the standing advice refers to the need to include extra flood resistance and resilience measures.

The supporting documentation includes a Flood Risk Assessment. This is actually relevant to an alternative informal redevelopment proposal on the site *('UK Flood Risk Consultants has been commissioned to prepare this Flood Risk Assessment (FRA) in support of a proposal consisting of change of use to demolish vacant ex- kitchen showrooms/ retail premises and build 4-5 x townhouses to the front of the site and a newbuilt 'stable conversion' to the rear of the site (to accommodate 3 x flats and ancillary accommodation and garage to Loder House, 16 Endless Street'*) and is not specific to the proposed change of use. The suggested use of first floor during a flood event providing a safe haven for the occupants will not apply to the ground floor units. However, the FRA does include a list of flood resilient measures and flood warning services that could be employed to the change of use proposals:

In order to minimise the damage and to enable quick recovery and clean up after the flooding event, it is proposed that flood resilient measures will be implemented. As the site is located within a flood zone area, it will be necessary to make sure that the occupants are fully aware of the flood risk and flood warning and evacuation during an extreme event. If necessary, during a flood event the first floor will provide a safe haven for the occupants.

• Water, electricity and gas meters will be located above predicted flood level.
• Non-return valves will be used in the drainage system to prevent back-flow of diluted sewage in situations where there is an identified risk of the foul sewer surcharging.
• All service entries will be sealed (e.g. with expanding foam or similar closed cell material).
• Closed cell insulation will be used for pipes which are below the predicted flood level.
• Boiler units and ancillary devices will be installed above predicted flood level and preferably on the first floor of two-storey properties.
• Wiring for telephone, TV, Internet and other services will be protected by suitable insulation to minimise damage.
• Building materials that are effective for a 'water exclusion strategy' will be used which include: engineering bricks, cement-based materials including water retaining concrete and dense stone.

The occupants are advised to utilise the Environment Agency's Flood Warning Service available near the site.

The entire site is also identified to be at high risk of flooding from groundwater in the Strategic Flood Risk Assessment, but there are no requirements to consult the EA or require the FRA to consider this type of flood risk. It would be appropriate to add an informative advising the applicant of the identified risk of groundwater flooding instead (and that they may wish to incorporate additional flood mitigation measures which may require separate planning consent).

It is therefore considered that **the prior approval of the LPA is required** in respect of 'Flooding risks in relation to the building', but the details submitted in respect of mitigation contained within the FRA (which would not result in external alterations to the building) can be conditioned.

Any further works to mitigate flood risk may require separate planning approval.

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

The public protection officer advised that a noise impact assessment would be required to demonstrate that internal ambient noise levels are achievable in the habitable rooms, particularly as the development is joined to a licenced premise.

A report was submitted which included guidance for any new external façade elements. A further technical note has confirmed that this guidance 'would be applicable should any window need to be replaced, for example for thermal, security or other reasons. However, if all external façade elements are to be retained, the guidance in Section 8.0 would not be relevant.'

Following this clarification that the existing structure and windows of the development will mean internal ambient internal noise levels in accordance with WHO/ BS8233 will be achieved inside the habitable rooms, the public protection officer has no further observations to make.

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.

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. The Conservation Officer has raised no concerns with regard to the proposed change of use on the character or sustainability of the conservation area.

In conclusion, **the prior approval of the LPA is NOT required** in respect of 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 elevation plans submitted with the application show no external changes are proposed to the building. However, the proposed floor plans show the ground floor shower room to Unit 2 changing an existing doorway access in the side elevation. No external alterations are permitted under Class MA (and there are also no permitted development rights applicable if Prior Approval is granted). Therefore, planning consent would be required for changing the doorway on this elevation. The existing building is however, already well served by windows and the floor plans indicate that the habitable rooms would benefit from adequate natural light. It is therefore considered that the change of use could take effect without any external alterations enabling the Class MA prior approval application to proceed on this basis. An informative can be added confirm that no external alterations are permitted under Class MA.

In conclusion, **the prior approval of the LPA is NOT required** in respect of 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;

Although there are nearby commercial uses, the site is not within an area where there are any general/heavy industry, waste management, storage/distribution or mix of such uses.

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

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 only 2 storeys high. Dorset & Wiltshire Fire and Rescue Service Fire Safety Advisor has however, made comments on the application referring to building regulations requirements and their own recommendations to improve safety and reduce property loss in the event of fire, which can be added as an informative.

Other Matters:

Clause 3 of the GPDO (Permitted Development)

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 in respect of the Habitat Regulations and Floor Areas of the proposed units:

Habitat Regulations:

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.

The site is also within the recreational buffer of the New Forest SAC, SPA and RAMSAR sites and thus the creation of new households in this area has potential to increase pressure on these designations.

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.

Matters of ecology are not issues that are identified in the Class MA criteria for consideration as part of the prior notification process. It is also not appropriate to insist that the applicant instead applies for planning permission on this matter.

However, this part of the overall GDPO makes it clear that permitted development rights do not override the requirements of the Conservation of Habitats and Species Regulations (the Habitats Regs) and that Regulations 75-78 still apply. The Habitats Regs address the requirements for protecting sites that are

internationally important for threatened habitats and species (for example, as is relevant in this instance, SACs and SPAs (often referred to as European Sites). This includes a requirement for assessment of 'plans and projects' by 'the competent authority' (e.g., the local planning authority) which are likely to have a significant effect on the sites.

Regulation 75 of the Habitats Regs states that it is a condition of any planning permission granted by the GPDO made on or after 30 November 2017 for development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and which is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77. Essentially the purpose of Regulation 75 is to, therefore, ensure that, when necessary, permitted development is subject to Appropriate Assessment in the same way as development requiring a planning application.

Regulation 77 sets out the process for applying for the written approval of the local planning authority as to whether the development is likely to have an adverse effect upon the integrity of a European Site. It states that an application to the local planning authority for approval, must be made with a relevant fee paid. This process is outside of the Class MA considerations and is undertaken separately to the Class MA Prior Notification Procedure.

This part of the GDPO however confirms that the approved permitted development cannot be lawfully commenced until the application under Regulation 77 of the Habitats Regs has been made and approved by the local planning authority. Therefore, and although a Prior Notification application can be approved without the Appropriate Assessment taking place, the commencement of the development cannot lawfully happen until the separate application under Regulation 77 is approved. An informative can be attached to the decision to draw this to the applicant's attention.

Floor areas:

(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 35 S.I. 2010/490. Commented [S19]: Replaced by 2017 No. 1012 (Page 12 of 266) Department for Communities and Local Government on 27th March 201536.
(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.

Floor areas to each unit are included with the application documentation, meeting the required internal floor areas:

unit	floor area (sqm)		built-in storage (sqm)	no. of bed spaces (persons)
1	46 sqm	495 sqft	2.2	1b1p
2	37 sqm	398 sqft	2.2	1b1p
3	46 sqm	495 sqft	2.4	1b1p
4	40 sqm	429 sqft	1.6	1b1p

Processing of the application:

During the course of the application, it was noted that dimensioned plans had not been provided. The provisions of Paragraph W of Part 3 of the GPDO set out the procedure and requirements for applying

for prior approval.

(2) The application must be accompanied by—

(bc) in relation to development proposed under Class G, M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, ***the dimensions and proposed use of each room****, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;*

Whilst the floor plans are drawn to scale and floor areas are given for each unit – the floor plans did not include dimensions to each room, which is a specific requirement of paragraph W (bc) and the application was considered invalid without this. Following receipt of amended plans including the dimensions to each room being provided, the application was restarted with a new start date of 18/01/2024.

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.

The prior approval of the LPA is only required in respect of the transport impacts of the development to ensure cycle parking is provided and flooding risks in relation to the building to ensure flood risk mitigation is provided.

This prior approval may be granted, subject to appropriately worded conditions to secure cycle provision on the site for the dwellings and flood risk mitigation measures being employed.

Subject to conditions, the proposals would satisfy the requirements of Class MA, paragraphs MA.2 and MA.3; and Clause 3 – Permitted Development of the GPDO thereby confirming that prior approval of the Local Planning Authority may be granted subject to conditions.

RECOMMENDATION:

The local planning authority has determined in this case that its prior approval will be required in respect of the transport impacts of the development and flooding risks in relation to the building. This prior approval is **GRANTED** subject to conditions.

(1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Plan Reference: 0092-pd003 _ existing ground floor plan
Plan Reference: 0092-pd002 _ existing site plan
Plan Reference: 0092-pd004 _ existing floor plans
Plan Reference: 0092-pd006 _ existing elevations
Plan Reference: 0092-pd007 _ existing elevations
Plan Reference: 0092-pd001 _ location and block plans
Plan Reference: 0092-pd005b _ units 1 - 4 _proposed floor plans, received by this office 18/01/2024
Plan Reference: 0092-pd007 _ units 1 - 4 _proposed floor plans _ showing dimensions, received by this office 18/01/2024
Document Reference: Flood Risk Assessment
Document Reference: Clement Acoustics External Building Fabric Report (18845-EBF-01) dated 12/01/2024 and clarified by Clement Acoustics Technical Note, dated 01/02/2024 (confirming that acceptable internal noise levels would be achieved without any new external façade elements in Section 8.0)
REASON: For the avoidance of doubt and in the interests of proper planning.

(2) The dwellings hereby approved shall not be first occupied until the cycle parking has been provided

and laid out ready for use in accordance with approved plans. The cycle parking shall not be used other than for the parking of cycles in perpetuity.
REASON: To ensure that satisfactory facilities for the parking of cycles are provided.

(3) The development shall be completed in accordance with the Flood Resilient Mitigation Measures and Flood Warning and Evacuation Flood Mitigation measures outlined in sections 6.2 and 6.3 of the Flood Risk Assessment.
Reason: In the interests of managing flood risk.

INFORMATIVES TO APPLICANT:

Regulation 77 of the Habitat Regulations:

The Applicant is reminded that the site is situated within the catchment of the River Avon Special Area for Conservation and within the New Forest 13.8km Internationally protected sites zone of influence and therefore has potential to have an adverse effect upon the integrity of these European sites. Regulation 75 of the Habitats Regulations states that it is a condition of any planning permission granted by the Town and Country Planning (General Permitted Development) Order that development which is likely to have a significant effect must not begin until the developer has received written notification of the approval of the local planning authority under Regulation 77.

The approved permitted development cannot be lawfully commenced until an application under Regulation 77 of the Habitats Regs has been made and approved by the local planning authority. The purpose of the Regulation 77 application is, therefore, to enable the local planning authority, along with the appropriate nature conservation body, to make the Appropriate Assessment of the implications for the European site(s). The local planning authority can then only approve the Regulation 77 application if it is satisfied that the development would not adversely affect the integrity of the site(s).

More details are available on the council's website: https://www.wiltshire.gov.uk/article/3586/Planning-permission

Standard conditions:

The applicant's attention is drawn to the standard conditions under MA.2 (5) and (6):
(5) Development must be completed within a period of 3 years starting with the prior approval date.
(6) 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.

Extent of development permitted under Class MA & External alterations:

The developer is reminded that permitted development under Class MA only permits the change of use of a building and any land within its curtilage and does not include any provisions for any building or other operations and planning permission would be required for any such development.

No external alterations are permitted under Class MA (and there are also no permitted development rights applicable once Prior Approval is granted). Therefore, planning consent would be required for external alterations including changing the doorway on the north elevation of the building to unit 2. The new façade elements referred to in Section 8.0 of the External Building Fabric Report are also not approved by this prior approval application and would need separate consent. Flood mitigation works which affect/alter the external appearance of the building would also require separate consent.

Groundwater flood risk:

The site is identified to be at high risk of flooding from groundwater in the Strategic Flood Risk Assessment. The applicant may wish to consider/incorporate flood mitigation measures (which may

require separate planning approval).

Works to Highway – Consent Required by Highway Authority:

Any obstruction of or damage to the public highway were it to occur is covered under other legislation (Highways Act) and the highways authority recommend that details of construction vehicle routing, construction staff vehicle parking areas within the site are considered to ensure this does not occur. Local road cleaning, and measures to prevent excessive mud and dust being deposited on the public highway during construction works are also requirements under the Highways Act.

The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

Statutory nuisance:

The applicant should be aware that Councils must investigate complaints about issues that could be a 'statutory nuisance' (a nuisance covered by the Environmental Protection Act 1990 and Control of Pollution Act 1974). If a complaint of statutory nuisance is justified a legal notice can be served upon the person responsible, occupier or owner of the premises requiring that the nuisance be abated.
In light of this legislation, the Public Protection team recommend you will need to consider how noise & dust will be controlled during the construction phase. The Council recommends that noisy activities should not be carried out on site, outside the following hours: Monday to Friday 08.00 - 18:00, Saturday 08:00 - 13:00, Not at all on Sundays or Bank Holidays.

Dorset & Wiltshire Fire and Rescue Service Fire Safety Advisor comments:

This application falls within the area for which Dorset & Wiltshire Fire and Rescue Service is responsible for delivering an operational and emergency response.

Building Regulation Matters
In the event the planning permission is granted for this development, the development would need to be designed and built to meet current Building Regulations requirements. The Authority raises the profile of these future requirements through this early opportunity and requests the comments made under B5 of Approved Document B, The Building Regulations 2010 be made available to the applicant/planning agent as appropriate.

The assessment of this development proposal in respect of Building Control matters will be made during formal consultation, however early recommendations are identified on the attached schedules and relate to the following areas:

• Recommendations identified under B5 of Approved Document B relating to The Building Regulations 2010
• Recommendations to improve safety and reduce property loss in the event of fire

Recommendations Identified under B5 of Approved Document B

Summary
At this stage of the planning application Dorset & Wiltshire Fire and Rescue Service is required to make comment relating to section B5 of Approved Document B. Essentially, this relates to the provision of reasonable facilities to assist fire fighters within the building and to enable fire appliances to gain access to the building.

Complying with these requirements, in advance of the formal Building Regulations consultation process, will assist during that process and are made without prejudice to it.

Access and Facilities for the Fire Service

Consideration is to be given to ensure access to the site, for the purpose of fire fighting, is adequate for the size and nature of the development.

Water Supplies for Fire Fighting
Consideration should be given to the National Guidance Document on the Provision of Water for Fire Fighting and the specific advice of this Authority on the location of fire hydrants.

The proposed development should be served by the necessary water supply and fire hydrants for use in the event of fire. It is important these requirements are established prior to the commencement of development. This ensures a fire fighting water supply is in place during the construction phase, hydrants are connected at the right locations, at the right time and the cost is covered by the developer.

Recommendations to improve safety and reduce property loss in the event of fire
Dorset & Wiltshire Fire and Rescue Service's core objectives include the reduction of deaths, injuries and property damage caused by fire. The following recommendations are made with this in mind and, whilst not requirements, may become so during the formal Building Regulations consultation process and are made without prejudice to that process.

Domestic Sprinkler Protection
A core objective of the Dorset & Wiltshire Fire and Rescue Service is to support and encourage an increase in the provision of residential sprinklers in domestic properties. Residential sprinklers are not new and, although a British invention, significant developments have been made in the United States, Australia and New Zealand. In these countries there are whole communities with such installations and a zero fatality rate from domestic fires where a sprinkler system is installed. The following information may be of interest to you:

- Sprinklers work from a standard main, although a 32mm connection is required
- Are inexpensive to install, particularly in a new building
- Do not activate by accident causing unwanted damage
- Only operate through individually activated heads, not the whole system
- Are not unsightly as they fit flush to the ceiling behind a flat cover
- Cause less water damage in a fire than normal fire fighting operations
- Significantly reduce fire and smoke damage
- If you would like more information on these systems please contact this Authority.

Fire Warning Systems in Communal Areas of Purpose-built Flats
Fire detection and alarm systems are not normally provided in the communal parts of purpose built blocks of flats, as these areas should be kept sterile. However, such systems may be required in exceptional circumstances, or when identified by the fire risk assessment. The on-going ability to adequately manage the system must also be considered

Fire detection may also be required to operate automatically opening vents or magnetically locked fire exit doors, for example, but these may not incorporate a means to warn the occupants of the flats in the event of a fire.

A fire detection system provided in the communal parts must comply with BS5839 Part 1.

Appendix A: Standing advice for vulnerable developments for developments (including change of use) that will have a vulnerability classification 'more vulnerable'

Standing advice for vulnerable developments

For all relevant vulnerable developments, you should follow the advice for:

- floor levels
- extra flood resistance and resilience measures
- access and escape
- surface water management

Floor levels

You need to provide the:

- average ground level of your site
- ground level of the access road(s) next to your building
- finished floor level of the lowest room in your building

Finished floor levels should be a minimum of whichever is higher of 300mm above the:

- average ground level of the site
- adjacent road level to the building
- estimated river or sea flood level

You should also use construction materials that have low permeability up to at least the same height as finished floor levels.

Standards for the installation and retrofit of resistance measures are available in British Standard 851188-1:2019+A1:2021. State in your assessment all levels in relation to Ordnance Datum (also known as height above average sea level). You may be able to get this information from the Ordnance Survey. If not, you'll need to get a land survey carried out by a qualified surveyor.

If you cannot raise floor levels to meet the minimum requirement, you will need to:

- raise them as much as possible
- consider moving vulnerable uses to upper floors
- include extra flood resistance and resilience measures

When considering the height of floor levels, you should also consider any additional requirements set out in the SFRA. Flood water can put pressure on buildings causing structural issues. If your design aims to keep out a depth of more than 600mm of water, you should get advice from a structural engineer. They will need to check the design is safe.

Extra flood resistance and resilience measures

Follow the guidance in this section for developments in flood risk areas where you cannot raise the finished floor levels to the required height. You should design buildings to exclude flood water where possible and to speed recovery in case water gets in.

Make sure your flood resilience plans for the development follow the guidance in the CIRIA Property Flood Resilience Code of Practice. Please note that the code of practice uses the term 'recovery measures'. In this guide we use 'resilience measures'.

Flooding can affect the structural stability of buildings. If your building design would exclude more than 600mm of flood water, you should get advice from a structural engineer. They will need to check the design is safe. Only use resistance measures that will not cause structural stability issues during flooding. If it is not possible to safely exclude the estimated flood level, exclude it to the structural limit then allow additional water to flow through the property.

The design should be appropriately flood resistant and resilient by:

- using flood resistant materials that have low permeability to at least 600mm above the estimated flood level
- making sure any doors, windows or other openings are flood resistant to at least 600mm above the estimated flood level
- using flood resilient materials (for example lime plaster) to at least 600mm above the estimated flood level
- by raising all sensitive electrical equipment, wiring and sockets to at least 600mm above the estimated flood level
- making it easy for water to drain away after flooding such as installing a sump and a pump
- making sure there is access to all spaces to enable drying and cleaning
- ensuring that soil pipes are protected from back-flow such as by using non-return valves

Standards for the installation and retrofit of resistance measures are in British Standard 851188-1:2019+A1:2021.

Standards for speeding the recovery of buildings after a flood are in British Standard 85500:2015.

Standards for dealing with and preventing water from the surrounding ground entering below ground structures such as basements are in British Standard 8102:2009.

You will also need to comply with relevant Building Regulations in Part P. They set minimum and maximum heights for certain electrical infrastructure.

Temporary or demountable flood barriers are not appropriate for new buildings. Only consider them for existing buildings when:

- there is clear evidence that it would be inappropriate to raise floor levels and include passive resistance measures
- an appropriate flood warning or other appropriate trigger is available

If proposals involve the development of buildings constructed before 1919, refer to Flooding and Historic Buildings guidance produced by Historic England.

Access and escape

You need to provide details of your emergency escape plans for any parts of a building that are below the estimated flood level. Follow the Flood Risk Emergency Plans for New Development guidance.

Make sure your plans show:

- that any single storey buildings or ground floors without access to upper floors can access a safe refuge above the estimated flood level
- that any basement rooms have clear internal access (for example a staircase) to an upper floor above the estimated flood level
- a safe route of access and escape which is set above the estimated flood level and connects the site to an area away from flood risk

You will also need to comply with relevant Building Regulations in Part B. They require you to provide suitable access for the fire service.

Surface water management

You should use SuDS for all:

- developments involving surface water drainage in flood risk areas
- major developments involving surface water drainage

If you do not include SuDS in these circumstances, you need to provide the LPA with clear evidence of why their use would be inappropriate.

In major developments SuDS should also provide multifunctional benefits where possible.

You should include information about SuDS in a sustainable drainage strategy or as part of your FRA. See section 6: surface water management of the site-specific flood risk assessment: checklist for the information you need to include.

Your plans for the management of surface water need to meet any requirements set out in your local authority's:

- surface water management plan where available
- SuDS guidance where available
- SFRA

They also need to meet the requirements of the planning practice guidance and the approved building regulations Part H: drainage and waste disposal. Read section H3 rainwater drainage.

Refer to the non-statutory technical standards for guidance on the design, maintenance and operation of SuDS. Further guidance on how to design SuDS to maximise their benefits is in the CIRIA Suds Manual.

You can follow Water UK's Design and Construction Guidance to design and construct SuDS. This will ensure they qualify for adoption by the relevant water and sewerage company.

You need planning permission to surface more than 5 square metres of a front garden using a material that cannot absorb water.