

# Planning Committee



Application Address	St Swithuns House, 21 Christchurch Road, Bournemouth, BH1 3NS
Proposal	Prior Approval Procedure - Change of use of offices (Class E) to 14 flats (Class C3)
Application Number	7-2023-5931-AV
Applicant	Westbourne Holdings Ltd & Ophir Finance Co Ltd
Agent	Pure Town Planning
Ward and Ward Member(s)	East Cliff and Springbourne Councillor Anne Filer Councillor David Kelsey Councillor Roberto Rocca
Report status	Public Report
Meeting date	20 April 2023
<b>Recommendation</b>	<b>Grant Prior Approval</b>
Reason for Referral to Planning Committee	Application submitted on behalf of Councillor Mike Greene and Councillor Nicola Greene
Case Officer	Victoria Noakes

## Description of Proposal

1. A prior approval procedure application has been submitted) under Class MA of part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is proposed to change the use of existing offices to 14 flats. These consist of a mix of 1-bedroom flats and studio flats.
2. The application is made under Part 3 of the Town and Country Planning (General Permitted Development) Order. In effect, permitted development rights establish that the principle of the development to which they relate is acceptable but only if relevant restrictions, limitations and conditions are met.

## Description of Site and Surroundings

3. The site is located on the corner of Christchurch Road and Gervis Road; a major junction on the route between the town centre and Boscombe with the area dominated by the St. Swithun's roundabout. The current use of the building is as Offices and previously it was occupied by BCHA (Bournemouth Churches Housing Association) but is now vacant.
4. It is a large, detached and two-storey in form however it is set back from the street frontage. It is noted that the site benefits from access from both Christchurch Road and Gervis Road. It is located within the East Cliff Conservation Area.

## **Relevant Planning History**

5. **7-2022-5931-AU:** Extensions and alterations involving replacement of conservatories, installation of first floor terraces to North, East and West elevations, alterations to fenestration including addition of roof lights and erection of bin and cycle stores – GRANTED BY PLANNING COMMITTEE
6. Note: this application facilitated the physical works to the site in anticipation of the change of use now proposed. The approved changes can be summarised as follows:
  - Erection of single storey extensions to replace existing conservatories
  - Installation of first floor terraces
  - Provision of disabled access ramp
  - Alterations to doors and fenestration
  - Erection of bin and cycle stores
7. **7-2022-5931-AT:** Prior Approval Procedure - Change of use of offices (Class E) to 14 flats (Class C3) – REFUSED for the following reasons:

*The applicant has failed to demonstrate that the proposed development can be serviced safely from the A35 Christchurch Road by refuse collection vehicles. The proposed access, parking and turning layout will likely result in large service vehicles, including refuse collection vehicles, having to wait across the footway and/ or carriageway thereby obstructing the free flow of traffic along a County Distributor Route. Additionally, the retention of a vehicular access onto Gervis Road would perpetuate conflicting movements within the St Swithuns Roundabout. Accordingly, the proposal would be prejudicial to highway safety and would fail to demonstrate a safe access and thus would be contrary to the requirements of part MA2.2(a) Schedule 2 Part 3 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).*

*The proposed development fails to meet the nationally described space standards as required by paragraph (9A) of Article 3. of the General Permitted Development Order 2015 (as amended).*
8. This current application is a resubmission of this previously refused application. This previous application was not referred to the Planning Committee given at that time, the involvement of Councillor Mike Greene and Councillor Nicola Greene was not known.
9. This current application differs to the previous application in the following ways:
  - Alterations to bed-spaces to meet DCLG Technical Space Standards
  - Additional details in relation to large vehicle movements and access to the site
  - Change to parking layout
  - Relocation of bin store
10. **7-2018-5931-AR:** Outline submission for the demolition of the existing building and erection of a block of 19 flats with cycle and bin storage and formation of parking spaces - REFUSED

## **Constraints**

11. With respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area – section 72 - Planning (Listed Buildings and Conservation Areas) Act 1990.
  - The East Cliff Conservation Area
12. Tree Preservation Order – no. 86a – Area TPO

## **Public Sector Equalities Duty**

13. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

## **Other relevant duties**

14. In accordance with section 40 Natural Environment and Rural Communities Act 2006, in considering this application, regard has been had, so far as is consistent with the proper exercise of this function, to the purpose of conserving biodiversity.

## **Consultations**

15. **Local Highways Authority: No objection subject to conditions**

### Summary of comments

- The site is located in Zone B according to the LPA's Parking Standards SPD;
- The site currently has two entrances which are to be retained by the proposal;
- As the site is located in Zone B of the LPA's Parking Standards SPD zero car parking would be expected for the proposal;
- A total of 11 car parking spaces are proposed, a significant overprovision;
- Tracking diagrams indicate there is sufficient on-site manoeuvrability for servicing;
- Cycle store is considered acceptable.

16. **Environmental Health: No objection subject to conditions**

### Comments

'I have checked the site for its locality to any trigger zones for contaminated land related issues and have no concerns in that regard. However, given the proposed site is to be located on a busy road and commercialised area it is likely to be subject to relatively high external noise levels from vehicular movements, general street noise and other light commercial activities occurring within this area. Accordingly, a noise impact assessment would need to be submitted to investigate the existing background noise climate. Subject to any adversity identified from the survey noise control mitigation measures would need to be submitted for prior approval, please see below for specific details on this and other recommendations with regards hours of operation for the construction phase of the project'

17. **Heritage Officer: No objection**

### Comments

*'As stated in the Conservation Consultation Report submitted for application number 7-2022-5931AT, 21 Christchurch Road / St Swithun's House, despite being extended and altered, is still recognisable as a typical Victorian villa, which was originally a single dwelling. While the proposed change of use of the premises from office to flats would not be entirely in line with the historic character of the property and of the Conservation Area (CA) as an area of substantial villas, it would generally be appropriate given it would reflect the historic residential character of St Swithun's House and of the CA. Hence, the proposed change of use would be acceptable in principle, subject to the acceptability of the external changes proposed in planning application 7-2022-5931-AU'.*

## **Representations**

18. Site notices were placed outside the site on Gervis Road and Christchurch Road on 17/2/2023 with an expiry date of 10/3/2023.
19. During the public consultation process, one representation was received in support of the proposal. One letter of objection was also received raising the following issues:
  - -Negative on neighbouring amenity
  - -Poor amenity standards for future occupiers
  - -Loss of existing employment site
  - -Lack of car parking provision
  - -Proposal does not consider impact on conservation area

## **Key Issues**

20. The key issue(s) involved with this proposal are whether the criteria and conditions of the permitted development legislation are met.

## **Policy Context**

21. Local documents:

### **Bournemouth District Wide Local Plan (2002):**

- 4.4 Development within a Conservation Area
- 4.25 Trees and Landscaping
- 8.1 District Distributor Roads

### **Bournemouth Plan: Core Strategy (2012):**

- CS6 Delivering Sustainable Communities
- CS16 Parking Standards
- CS17 Encouraging greener vehicle technologies
- CS18 Increasing opportunities for cycling and walking
- CS38 Minimising pollution
- CS39 Designated Heritage Assets
- CS41 Design Quality
- BCP Parking Standards SPD (January 2021)

### **Supplementary Planning Documents**

East Cliff Conservation Area Appraisal & Management Plan

22. **National Planning Policy Framework (“NPPF” / “Framework”)**

- The policies in the Framework are material considerations which should be taken into account in dealing with applications.

## Legislation

24. This section of the report relates to whether the proposal meets the relevant criteria to be considered as permitted development:
25. Class MA (change of use of commercial, business and service uses to dwellinghouses) of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows for development consisting of:

*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.*

26. However, the legislation states that development is not permitted under Class MA:

- a) 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 vacant and is known to have been vacant since 31/05/2022. It was vacant at the time this application was made (01/02/2023). The building has therefore been vacant for the 3 months immediately prior to the date of this application in accordance with the legislation.*

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

*The site planning history shows that the previous use fell within Use Class E (offices) with the building occupied by Bournemouth Churches Housing Association and used as office accommodation. This use occurred for a continuous period of at least 2 years prior to the date the application for prior approval was made. This part of the legislation is thus satisfied.*

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

*The cumulative floorspace of the existing building changing use does not exceed 1,500 square metres.*

- d) if land covered by, or within the curtilage of, the building

- i. is or forms part of a site of special scientific interest;
- ii. is or forms part of a listed building or land within its curtilage;
- iii. is or forms part of a scheduled monument or land within its curtilage;
- iv. is or forms part of a safety hazard area; or
- v. is or forms part of a military explosives storage area;

*The application and site are not covered by any of these designations. This part of the legislation is thus satisfied.*

- e) if the building is within

- i. an area of outstanding natural beauty;
- ii. an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981
- iii. the Broads;
- iv. a National Park; or
- v. a World Heritage Site;

*The application and site are not covered by any of these designations. This part of the legislation is thus satisfied.*

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

*This is not the case in respect of the application site. This part of the legislation is thus satisfied.*

- g) before 1 August 2022, if
  - i. 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
  - ii. 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.

*This date has now passed and thus the above is not relevant to the assessment of this application.*

The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order

- a) the following classes of the Schedule as it had effect before 1st September 2020—
  - i. Class A1 (shops);
  - ii. Class A2 (financial and professional services);
  - iii. Class A3 (food and drink);
  - iv. Class B1 (business);
  - v. Class D1(a) (non-residential institutions – medical or health services);
  - vi. Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
  - vii. Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;
- b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

*The use comprised a Class E Use satisfying this part of the legislation.*

### **Conditions of legislation:**

- 27. Given that the proposal meets the relevant criteria to comprise permitted development, this section of the report now relates to whether the proposal is acceptable having regard to issues (conditions) which fall to be assessed.

**MA2:** The legislation at MA.2 (1) sets out several conditions which the local planning authority should consider development under Class MA against to determine whether prior approval will be required:

#### **(a) Transport impacts, particularly to ensure safe site access**

- 28. As set out in Paragraph 15 above, the Highway Authority are Officer is satisfied that the proposal would not result in any unacceptable transport or highway impacts.
- 29. The Highway Authority request a number of planning conditions if the application is granted. These are listed below. It is noted that one of the suggested conditions relates to the installation of Electric Vehicle charging points. A condition requiring details of these charging points has been added to the previously approved full planning application which encompasses the physical works. It is considered appropriate to add a condition which ties in with the previously approved details to ensure its implementation. Subject to the conditions the proposal is considered to accord with Policies CS16 and BCP Parking Standards and is acceptable having regard to issues pertaining to transport impacts.

(b) Contamination risks in relation to the building

30. There are no known contamination risks within the vicinity of this site. Accordingly, there are no associated objections and the proposal satisfies this condition.

(c) Flooding risks in relation to the building

31. The site is located within Flood Zone 1 so there is a low flood risk associated with the site. The proposal satisfies this condition

(d) Impacts of noise from commercial premises on intended occupiers of the development

32. No objections have been raised regarding a noise impact on future occupants from Environmental Health. This is subject to a condition as set out in para 16 of this report where a noise report is to be submitted. As such the proposal is considered to be line with Policy CS38 which seeks to minimise pollution and CS41 which requires a high standard of amenity to be provided to future occupants. The proposal satisfies this condition

(e) where

- i. the building is located in a conservation area, and
- ii. 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

33. The site falls within the East Cliff conservation area. The Heritage Officer was consulted and raised no objection. It is considered that the change of use is considered generally appropriate given the historic residential character of the conservation area and with the building retained. As such, the proposal is considered to accord with the above criteria as well as Policies CS39 and 4.4 which seek to protect designated heritage assets. The proposal satisfies this condition.

(f) Provision of adequate natural light in all habitable rooms of the dwellinghouses

34. The plans show that this would be met and there would be adequate natural light to habitable rooms due to fenestration serving these areas. This fenestration would not be high level or obscure glazed. The proposal satisfies this condition.

(g) 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

35. The location is not considered to be important for any of the uses identified and is within an area surrounded by other residential uses. The proposal satisfies this condition.

(h) 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 2006, the impact on the local provision of the type of services lost

36. The proposal does not result in the loss of this service. The proposal satisfies this condition.

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

37. The interpretation of Class MA at paragraph MA.3. states that development meets the fire risk condition if the development contains two or more dwellings and satisfies 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. The height condition is 18m or more in height and 7 or more storeys. In this instance, the building is below this height and would not require an assessment. The proposal satisfies this condition.

### Size of Residential Units

38. Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—
- a) where the gross internal floor area is less than 37 square metres in size; or
  - b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.
39. The proposed accommodation schedule submitted with the application shows that all the residential unit sizes are in line with the above and therefore meet the space standards set out by the Department for Communities and Local Government:
- Flat 1: 40 sqm
  - Flat 2: 54 sqm
  - Flat 3: 61 sqm
  - Flat 4: 39 sqm
  - Flat 5: 54 sqm
  - Flat 6: 60 sqm
  - Flat 7: 58 sqm
  - Flat 8: 39 sqm
  - Flat 9: 55 sqm
  - Flat 10: 54 sqm
  - Flat 11: 46 sqm
  - Flat 12: 40 sqm
  - Flat 13: 57 sqm
  - Flat 14: 58 sqm

### **Heathlands Mitigation:**

40. It is a condition of any planning permission granted by a general development order that development which:
- (a) 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*
  - (b) 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.*
41. The proposed development would result in the formation of an additional flats. The site lies in the vicinity (within 5km and beyond 400m) of designated Dorset Heathlands SPA (Special Protection Area), Ramsar Site and Dorset Heaths SAC (Special Area of Conservation) such as Turbary & Kinson commons and Bourne Valley located in the Borough. The proximity of the European sites (SPA and SAC) raises considerations on the requirements of the Habitats Directive 1992 for these sites to be maintained or, where necessary, restored at a favorable conservation status (Article 3 (1)).
42. Owing to the proximity of the proposal to the European sites, the additional residential development, in combination with other dwellings proposed near to the European sites, would be likely to have a significant effect on the heathland interest features of these sites in the context of Regulation 48. Whilst on its own the development may not adversely affect the integrity of the European sites, in combination with other dwellings proposed near to the European sites, the development without mitigation would be likely to contribute to a deterioration of the quality of lowland heathland and its interest features.



43. The Dorset Heathlands Planning Framework SPD sets out an approach to the mitigation of the harmful effects of residential development in South East Dorset on Dorset's lowland heaths. This requires that all new residential development between 400m – 5km from protected Heathlands shall be subject to a financial contribution towards heathland mitigation measures in the borough. Natural England considers that the proposal will place additional demands on European sites and without this contribution, would adversely affect the quality of lowland heathland and its interest features.
44. As such, if this prior approval was to be given, at present it is considered that appropriate mitigation would need to be secured to enable approval to be given by the local planning authority under regulation 77 Conservation of Habitats and Species Regulations 2017. This is something that would need to be resolved prior to the development commencing but separately from this prior approval application process.

### **Planning Balance/Conclusion**

45. The application is for prior approval rather than for a general planning permission but notwithstanding, the conditions (as applicable) set out in MA2 require assessment. The key requirement is that the development meets the criteria set out within MA.1 and MA.2 of Part 3, Class MA of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
46. Further, none of the relevant limitations or exceptions are considered to apply in this case. The revised proposal is also considered to overcome the previous refusal reasons due to changes to the bed-spaces and additional vehicle tracking information. As such, the criteria and conditions are met, and prior approval is therefore both required and approved subject to a series of necessary conditions set out below:

### **Recommendation**

**That (a) prior approval is required; and (b) prior approval is given subject to the following conditions:**

### **Conditions**

1. Development to be carried out in accordance with plans as listed  
The development hereby permitted shall be carried out in accordance with the following approved plans: Location and Block Plan - Drawing no. 2218 02, Proposed Site Plan - Drawing no. 2218 02B, Proposed Ground Floor Plan - Drawing no. 2218 03A, Proposed Ground Floor Plan (walls to be removed) - Drawing no. 2218 04A, Proposed First Floor Plan - Drawing no. 2218 05A, Proposed First Floor Plan (walls to be removed) - Drawing no. 2218 06A, Existing and Proposed Elevations - Drawing no. 2218 07, Existing and Proposed Elevations - Drawing no. 2218 08

Reason: For the avoidance of doubt and in the interests of proper planning.

2. Turning and parking  
Before the development is occupied or utilised the turning and parking shown on the hereby approved plans must have been constructed. Thereafter, these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.

3. Cycle parking  
Before the development is occupied or utilised the cycle parking facilities shown on the hereby approved plans must have been constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper construction of the parking facilities and to encourage the use of sustainable transport modes.

4. EV Charging  
No part of the development shall be occupied unless the details of the Electric Vehicle Charging Points have first been fully provided in accordance with the requirements of planning permission 7-2022-5931-AU approved on 20 March 2023.

Reason: To ensure the proper construction of the parking facilities and to encourage the use of sustainable transport modes.

5. Noise survey  
All residential units shall be designed so as not to exceed the noise criteria based on current figures by the World Health Organization Community Noise Guideline Values/BS8233 "good" conditions given below:
- Dwellings indoors in daytime: 35 dB LAeq,16 hours
  - Outdoor living area in day time: 55 dB LAeq,16 hours
  - Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LMax)
  - Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LMax)

Prior to the first occupation of the development, a noise assessment shall therefore be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS4142: 2014 "Method of rating industrial noise affecting mixed residential and industrial areas" and BS 8233: 2014 "Sound Insulation and Noise Insulation for Buildings - Code of Practice". The survey shall also include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures.

This noise assessment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: In order to safeguard the amenities of future occupiers of the noise sensitive development.

6. Restriction on hours of construction, demolition & operation  
No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of between 8am to 6pm Monday to Friday and 8am to 1pm Saturdays and at no time on Sundays, Bank or Public Holidays.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

### **Informative Notes**

1. **Informative Note: Separate approval required under regulations 75-77 of the Conservation of Habitats and Species Regulations 2017 before development can be begun**

The applicant is advised that it is a condition of this permission that development must not commence until the developer has received separate written notification of the approval of the Local Planning Authority under regulations 75-77 of the Conservation of Habitats and Species Regulations 2017. The applicant will be required to satisfy Natural England that the development would not adversely affect the integrity of the Dorset Heathlands European sites and should be aware that a financial contribution in accordance with the Dorset Heathlands Planning Framework will be required.

2. For the avoidance of any doubt, the applicant is advised that this prior approval is for the Use Class C3 use only. If any part of the building would become occupied at any time by between 3 and 6 unrelated individuals who would share basic amenities, this will constitute a change of use and planning permission will be required. The Council has introduced an Article 4 Direction removing Permitted Development rights for changes of use from Use Class C3 to C4 Houses in Multiple Occupation.
3. Statement required by National Planning Policy Framework (APPROVALS)  
In accordance with paragraph 38 of the revised NPPF the Council, as Local Planning Authority, takes a positive and proactive approach to development proposals focused on solutions. The Council works with applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions. In this instance the application was acceptable as submitted and no further assistance was required.

**Background Documents:**

Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application the subject of this report including all related consultation responses, representations and documents submitted by the applicant in respect of the application.