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Reasons for Recommendation

The development is recommended for permission as it is considered that it is acceptable in terms of its impact on the character of the area including heritage assets and would not harm neighbouring residential amenity and complies with the policies of the adopted Development Plan.

General Comments

The application is reported to Committee because of the number of Objections received contrary to the Officer's recommendation.

The application is a resubmission of 19/02057/FUL, which was dismissed at appeal due to the lack of appropriate mitigation for the release of nitrates into the River Itchen and after, The Solent. The other material considerations of the application remain as laid out in 19/02057/FUL.

Amendments to Plans Negotiated

None

Site Description

The application site is currently used by The Little Kitchen Company and planning permission was granted in 2018 to change the use of the ground floor of the building from A1 retail to mixed use A1/B1. There is residential accommodation on the first floor of the building.

The application site is located within Kings Worthy Conservation Area and is adjacent to The Old Post Office to the south west of the site which is a Grade II listed building. Access to the site is from an access track off London Road and there are 6 car parking spaces to the front of the site and two along the northern side of the building. There is also an access to the rear of the site from St Mary's Close which is a private and un-adopted road.

Proposal

The application seeks permission for alterations to the existing first floor flat reducing it from three bedrooms to two. The application also involves a first floor extension, loft conversion and roof alterations to create an additional two bedroom flat. A single storey outbuilding is also proposed to the rear of the property and there are also proposed alterations to the existing parking layout to the front and rear of the site.

Relevant Planning History

19/02057/FUL (Refused 23.06.2020, Appeal dismissed 25.05.2021) (AMENDED PLANS)
Alterations to existing first floor flat reducing it from three bedrooms to two. First floor extension, loft conversion and roof alterations to create an additional two bedroom flat. Proposed single storey outbuilding to the rear of the property in addition to that previously permitted under application ref no. 18/02758/FUL. Alterations to existing parking layout at front and rear of property.

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18/02758/FUL (Permitted 30/01/2019) - Change of use of ground floor from A1 to mixed use; A1/B1 plus associated alterations. Replacement of existing outbuilding. Alterations to existing signage and illumination to signage.

Consultations

HCC Countryside Services: Rights of Way

- No response received.

Representations:

Councillor Jackie Porter, HCC Itchen Valley Division

I object to this application because it constitutes overuse of the site for the following reasons:-

Current and planned working practices of the Little Kitchen Company take place outside the red line boundary

Para 1.3 of the planning statement shows the red line boundary of the site. However the Little Kitchen Company vehicles are frequently seen parked on the highway to the north of the property boundary. These vehicles block the highway.

Seeing the vehicles parked on the highway (and stationary) on so many occasions indicates that the business has not made provision for loading and unloading of food products onto their vans. The loading process is a fundamental part of the business process for a catering company and should be accommodated on site, and not block the public highway in such a restricted area.

There are vehicle spaces within the red line boundary that could be used for this process, but on occasions when they block the road, these are already in use by the company. During the pandemic, the number of occasions this occurs has been less, but the success of the business and the frequency of blockage of the public highway brings them into conflict with their neighbours.

Access onto St Mary's Close risks safety of pedestrians

Historically, the property has not had the right of access to use St Mary's Close.

The residents run a management group that maintains the road as a public footpath and as a drive to their homes, a right which is written into their deeds.

Little Kitchen Company do not have that right, and therefore do not contribute to the cost, and in fact are proposing the use of the road for commercial vehicles.

This application if successful would introduce many more vehicles (seven spaces, but vehicles might be loading and unloading, so we do not know the likely number of vehicle movements) onto the very narrow St Mary's Close with no passing places and which is used by pedestrians hourly and even more frequently in the summer months.

The creation of seven spaces to the rear of the property will be equivalent to the likely vehicle movements to the rest of the road in total, thereby increasing traffic movements by 100%.

To facilitate these movements, the Little Kitchen Company has already created access onto the Close, without reference to the road conditions. This is already causing concern

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from the Management Organisation, even before two additional flats and an additional outbuilding in the land at the rear is added.

The proposed outbuilding includes food storage

This suggests that use of the site now also constitutes food processing rather than the original function of a sales office and the applicant would therefore need a change of use. There would be an unacceptable change to the character of the conservation area and affect the setting of the right of way

There is already some living accommodation above the property but the changes proposed to include two separate dwellings with stairs, an additional building and vehicle parking will convert the rear of the properties into an area of hard landscape. There has been creeping development over time, and the character of the property is changing unacceptably.

The proposed plans do not allow for significant biodiversity net gain on the site, and take it 'out of character' along the rear of the properties onto St Mary's Close. These changes will unacceptably 'grey' the nature of the Conservation area here, and the rear 'industrial use' entrance will affect the setting of the right of way".

Councillor Steve Cramoysan, WCC The Worthys' Ward.

I'd like to register this objection to this planning application on the grounds of it being over development. The most egregious indication of this the volume of vehicles that park on the frontage, the public spaces and access the rear via a private road to which this property does not have the established right to use.

Introduction.

Little Kitchen Company (LKC) is a successful local company. They employ local staff, and appear to be recovering quickly as the pandemic is coming under control. There is every reason to believe that this growth will continue.

But planning process should offer neighbours some protection from the downsides of nearby successful businesses.

The planning application claims to be:

- 1) Alterations to existing first floor flat reducing it from three bedrooms to two.
- 2) First floor, extension, loft conversion and roof alterations to create an additional self-contained flat
- 3) Proposed single storey outbuilding to the rear of the property in addition to that previously permitted under application ref no. 18/02758/FUL.
- 4) Alterations to existing parking layout at front and rear of property.

This application is similar to an application 19/02057/FUL which was refused by the planning committee on the grounds of it being over development. The applicant appealed against the reasons given in the detailed refusal notice. The Planning inspector refused the appeal.

LKC was granted permission to operate from the premises via planning application 18/02758/FUL permitted in Jan 2019.

This planning application was for a change of use from the Rod Box to the Little Kitchen Company. The Application clearly states an intent to use 8 existing spaces. 6 to the front and 2 along the side – accessed from the front. No reference was made to any spaces at the rear of the property.

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As a local ward councillor as far as I can recall there was no access to the Rod Box property from St Mary's Close. Local residents confirm this and claim that the people who operated the Rod Box have stated that they would be prepared to sign statements to this effect.

On this basis, I believe the current application 21/02698/FUL and the previous one 19/02057/FUL, to be misleading as both refer to at least 5 spaces accessed from the rear as if this was already permitted. As such I don't believe the Planning committee or the planning inspector properly assessed the damage to the local amenity for neighbours. Following the original planning permission 18/02758/FUL, LKC unilaterally took down the fence at the rear, and created a gravel parking area. There is no evidence that a planning application had been submitted, less still that it had been permitted.

Planning application point 4. "Alterations to existing parking layout at front and rear of property." is therefore misleading. It should state that it is requesting alterations to the parking layout at the front, and the establishment of a parking area to the rear of the property. These are in fact two separate items which should be considered separately. This area is a conservation area. Local residents believe they have to get planning permission to do anything including moving fencing. This should apply to LKC.

Is there alternative access to the rear garden for parking?

Yes. Access is available should the applicant really feel they need it. There is a space to the north side of the property that would allow vehicles to access from the front and park in the rear. They would be accessing from the main London Road as vehicles have always accessed the property when it operated as the Rod Box.

Parking capacity – even with the current unapproved use of the rear garden

It is already clear, that with the current business operations, there are more vehicles associated with it, than can be accommodated by the parking at the front and at the rear. I pass the site frequently and observe all their parking spaces at the front occupied – including several branded vans parked. All the spaces around the turning area next to the Church are occupied. This is a recent phenomenon. Usually there are also several cars parked on the access road that runs across the front of their parking spaces towards the church. This narrow access road is a right of way. It was often the preferred route used by funeral directors for their hearses going to the church. While there is an alternative access, that does not mean that it is okay to block the right of way for most of the day. See Picture 1 attached (Photos submitted by Councillor Steve Cramoysan can be viewed in his representation on the council's public website).

The proposed development will drive a need for more parking spaces

The current business operations exceeds the available parking. Expansion of the working space through the proposed single-story building is highly likely to lead to more staff – if not immediately, in the medium term as the business expands and utilises the space. Further, the creation of 2 x 2 Bedroom flats will add to the number of people coming and going. Only the applicant can know what use they expect from the flats, but the configuration would lend itself to an HMO, as much as it would 2 families.

With 2 families it is likely that this would lead to 4 additional vehicles. If either flat was operated as an HMO, there could be more. This is on top of the current number of vehicles related to the business which is clearly too many.

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Are there alternatives to expanding the parking on the property?

Yes. There is a large development known locally at the Bacardi-Martini building, at the bottom of Church Green Close. There is a substantial amount of parking at this site. As far as I am aware, since the pandemic, this site is underutilised. It is a short safe walk to the LKC premises. See Picture 2 attached. The LKC could approach the owners of the site and explore the opportunity to rent unused spaces for their staff to park there. This would obviate the need for additional parking at the rear of the LKC property.

Conditions: If Planning committee was minded to grant permission

While I believe that the application is an over development, I am aware that planning law doesn't always protect residents in the way that they might expect. In the event that the planning committee was minded to grant planning permission, I suggest the following conditions as a minimum.

- 1) The boundary of the rear of the property should be restored to something similar to a fence. A gate could be installed that is closed by default and only opened to allow vehicles to access or leave and should then be closed.
- 2) Any use of the rear access should be limited to residents of the two flats. The comings and goings of residents will be more similar to those of other residents in St Mary's close, than the comings and goings of staff and commercial vehicles servicing the LKC business. Residents of the LKC property will be more likely to value a good relationship with neighbours.
- 3) All staff and commercial vehicles should access the LKC business from the front of the building.

Existing conditions:

Residents report that sometimes the business is in operation outside of the hours permitted by its planning permission Planning Application Reference: 18/02758/FUL. All existing conditions should be retained and the applicant reminded of them."

Kings Worthy PC

Comments:

Firstly, the Parish Council feel that there have been procedural issues with this application. The orange notice for the proposal has only been erected at the rear of the property in a private road. No notice was erected to the front of the property facing the public highway and thus many members of the public are likely unaware of the application. We have also been made aware that the neighbour notification list for this application is different to the previous meaning less people were notified.

Councillors wish to object to the application on the following grounds:

- The parking area to the rear is identified as existing parking on the existing site plan and existing parking for commercial only. As highlighted in the previous application, there is doubt as to the planning status of the parking area to the rear of the building. It is not mentioned in any of the documentation for application 18/02758/FUL and therefore from a planning perspective, should not be treated as existing. I note there has been enforcement action taken in relation to the current parking area.
- We feel that the parking area to the rear is not large enough to accommodate the number of spaces proposed. The access onto St Marys Close (a private road) will result in a significant detrimental impact on both the residents of St Marys Close and the character of the conservation area.

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- The current application proposes to use the rear parking area for commercial vehicles only. I note that the applicant has previously agreed, as part of the appeal process for 19/02057/FUL, to a condition to restrict all commercial vehicle access to the front, via London Road. The current proposal would therefore further increase the detrimental effect as mentioned above but is also go against the recommendation of the planning inspector.
- There is also an issue of the suitability of access for commercial vehicles given their increased size and the narrowness of both the access road (St Marys Close) and the proposed access to the site. This is evidenced by difficulties larger vehicles are having using the current site.
- We also note that St Marys Close forms part of a right of way called St Swithun's Way. As a designated long distance route, this footpath is well used and any increase in vehicular use, whether residential or commercial, will have an impact on the safety of the public using the path.
- There are currently significant issues with parking at the front of the site with vehicles routinely blocking area to the front which is both outside the application boundary and not within the control of the applicant. The number of vehicles currently using the site already use public spaces further up the road as overspill from the site.
- The proposed additional outbuilding and increase in habitable dwellings on the site will result in additional traffic further compounding the issues above.
- Given the lack of adequate parking provision any large delivery vehicles will need to park on the road (likely blocking part of the pavement) to access to site via the front causing a hazard.
- The proposed parking to the side of the building is limited in width making it unsuitable for the proposed use particularly given the effect on the side access door for the existing flat. The proximity of the cars to the property would also be a fire hazard both in relation to risk of fire and the ability to escape from the property via the side door.
- The proposed outbuilding is shown on the floorplans as additional catering kitchen space. We have assumed, given the information provided, that there is no proposed extraction equipment to be located in this building which would create a significant noise and air quality impact of the surrounding area.
- However, given the proposed location of the additional outbuilding towards the boundary of the old post office and neighbouring properties in St Marys Close, there would be a significant noise impact if this building were to contain refrigeration equipment.
- To summarise, whilst we are happy to see a local business expanding the proposal is not suitable for the site, particularly given its location in the conservation area

9 Objecting Representations received from different addresses citing the following material planning reasons:

- Overdevelopment of the site;
- Adverse effect on the conservation area;
- Vehicles using the rear of the site consistently use other peoples' drives to turn;
- The right of way is often blocked by LKC vehicles;
- The access into the site from St Mary's Close needs planning permission;
- LKC commercial vehicles use the rear of the site; they are supposed to use the front;

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- The proposed outbuilding represents an increase in the level of day to day activity of the business.

Relevant Government Planning Policy and Guidance

National Planning Policy Framework

Section 4 of National Planning Policy Framework 2021

Section 16 of the National Planning Policy Framework 2021

National Planning Legislation

Section 66 of Planning (Listed Building and Conservation Areas) Act 1990

Section 72 of Planning (Listed Building and Conservation Areas) Act 1990

Winchester Local Plan Part 1 – Joint Core Strategy (LPP1). DS1 – Development Strategy and Principles

Policy DS1 – Development Strategy and Principles

Policy MTRA1 – Development Strategy Market Towns and Rural Areas

Policy MTRA2 – Market Towns and Larger Villages

Policy CP13 – High Quality Design

Policy CP20 – Heritage and Landscape Character

Winchester District Local Plan Part 2 – Development Management and Site Allocations

Policy DM15 – Local Distinctiveness

Policy DM16 – Site Design Criteria

Policy DM17 – Site Development Principles

Policy DM18 – Access and Parking

Policy DM19 – Development and Pollution

Policy DM20 – Development and Noise

Policy DM23 – Rural Character

Policy DM27 – Development in Conservation Areas

Policy DM29 – Heritage Assets

Supplementary Planning Document

National Design Guide 2019

High Quality Places 2015

Air Quality SPD September 2021

Kings Worthy Village Design Statement 2007

Kings Worthy Conservation Area: A Technical Assessment

Other relevant documents

Climate Emergency Declaration Carbon Neutrality Action Plan 2020 – 2030

Statement of Community Involvement 2018 and 2020

Position Statement on Nitrate Neutral Development – February 2020

Historic England Guidance

Constructive Conservation in Practice 2008

Constructive Conservation Sustainable Growth for Historic Places 2013

Conservation Principles Policies and Guidance 2008

Historic Environment Good Practice Advice in Planning: 4 Published 30 June 2020

Planning Considerations

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Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Paragraph 47 of the NPPF requires that applications for planning permission must be made in accordance with the Development Plan unless material considerations indicate otherwise. The application site is located within the settlement boundary of Kings Worthy where the principle of new residential development is accepted provided it is in accordance with the relevant policies of the development plan. Policy DS1 of LPP1 also states that the market towns and rural area will make provision for 2,500 new homes.

The principle of a commercial use (mixed A1/B1) on the site has already been established under application 18/02758/FUL. The Little Kitchen Company is a catering business which uses the existing premises as a catering kitchen for the production of food to be consumed off site for events. There is also a retail space within the existing ground floor of the building for customers to visit and order food for events. This application therefore only seeks to extend the established commercial use by providing one additional outbuilding to be used in connection with the Little Kitchen Company for the preparation of food and storage. It also seeks to provide one new residential unit within the second floor or the building.

Assessment under 2017 EIA Regulations.

The development does not fall under Schedule I or Schedule II of the 2017 Environmental Impact Assessment Regulations, therefore an Environmental Impact Assessment is not required.

Impact on character and appearance of area

This application is a resubmission of 19/02057/FUL which was refused by the council's committee and dismissed at appeal. The sole reason for dismissal related to the Inspector being unable to confirm that appropriate mitigation could be secured against the release of nutrients from the residential development into the Solent. On all other aspects of the application, the Inspector concurred with the case officer's recommendation to approve.

The application site is located within the local centre of Kings Worthy, therefore any proposal will be subject to Policy DM7 of WDLPP2. Changes of use that result in a net loss of town centre uses (A1-A5, B1, C1, D1, D2) at ground floor level will not be permitted within the boundaries of identified centres. The new residential unit will not impact upon the current A1/B1 use at a ground floor level and is considered to accord with the stipulations of Policy DM7.

The new residential unit will be in the form of a two bedroom flat and the existing flat at a first floor level will be reduced from a three bedroom to a two bedroom. Whilst the reduction in bedrooms to the existing flat does not in itself require planning permission, the external alterations do. The provision of 1 additional 2 x bedroom flat is considered to accord with Policy CP2 of LPP1 which requires the majority of new homes to be in the form of 2 and 3 bedroom units.

The main physical changes to the appearance of the building will be the addition of rooflights to the front and rear. Whilst there is no overall increase in the height of the

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roof, the highest section of the existing roof will be extended by approximately 2m to the south. This will create an additional mass at first and second floor level however, the proposal will maintain the overall form and appearance of the building by retaining the distinctive dual height gabled roof.

The proposal also seeks consent for an additional, timber-clad outbuilding, along with that granted under 18/02758/FUL which is yet to be constructed, to be located to the rear of the site adjacent to the southern boundary. This will be used by the business as additional catering space. In response to the 2019 application, the council's Environmental Protection officer did not consider this use to be of concern, provided that there was no significant commercial refrigeration plant which could cause a noise nuisance. A condition was recommended to control this use in line with policy DM20 of LPP2. The proposed outbuilding will remain subservient in size and appearance to the main property.

Significant concern has been expressed in relation to the access that has been created to the site from St Mary's Close. The new access to the site was constructed before application 18/02758/FUL was implemented and does not benefit from planning consent. This application seeks to regularise the access and will also ensure that the parking provision of 7 spaces is for staff of the business only and not for commercial vehicles associated with the business or any deliveries/collections associated with the business. The area to the front of the property is to be utilised by commercial vehicles, with 6 spaces set aside; there will be 2 spaces at the northern side of the building which will be for use by the occupants of the flats. Although the formalised parking arrangement to the rear, with a central access and turning area, results in a larger expanse of hard landscaping it will also result in a more organised parking arrangement which is not considered to cause significant visual harm over and beyond the established car parking situation. There is no increase in the overall number of existing car parking spaces at the site. The inspector recommended that should any future consent be granted, a condition should be applied which ensures an appropriately designed solid rear boundary treatment, including solid access gates

The proposals therefore accord with policies DS1, MTRA1, MTRA2 and CP13 of LPP1 as well as DM1, DM7, DM15, DM16, DM17 and DM18 of LPP2.

Development affecting the South Downs National Park

The application site is located 100m from the South Downs National Park

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) updated 2021. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 176 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

However, due to its location within a built up area and modest scale, the development will not affect any land within the National Park and is in accordance with Section 11a of the National Parks and Access to the Countryside Act 1949.

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Historic Environment

The development is situated immediately to the north-east of The Old Post Office, a Grade II listed building and is within the Kings Worthy Conservation Area. The following legislation and policies are taken into account in the assessment and determination of this planning and listed building application.

Relevant Legislation

The preservation of the special architectural/historic interest of the listed building and its setting (S.66 P(LBCA) Act 1990; Policy DM29 & DM30 of the Winchester District Local Plan Part 2 Adopted 2017; Policy CP20 Winchester District Joint Core Strategy; NPPF (2021) Section 16.

The preservation or enhancement of the character or appearance of the conservation area (S.72 P(LBCA) Act 1990; Policies DM27 & DM28 of the Winchester District Local Plan Part 2 Adopted 2017; Policy CP20 Winchester District Joint Core Strategy; NPPF (2021) Section 16.

Guidance

The consideration and assessment of due regard is required in relation to the relevant legislation and guidance.

As such due regard has been given to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which confirms that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Listed Building/Structure. Case law has established that where an authority finds that a development proposal would harm the setting of a listed building, it must give that harm “considerable importance and weight”.

The historic environment section of the Planning Practice Guidance further outlines the role of the Local Planning Authority in considering the effects of new development that are in the vicinity of or affect the setting of listing buildings and heritage assets. Paragraph 199 of the NPPF advises that great weight should be given to the conservation of a heritage asset in considering the impact of a proposal on its significance (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Policy CP20 of WDLPP1 and Policies DM27 and DM29 of WDLPP2 ensure that development preserves and enhances heritage assets and their settings.

The adjacent listed building, The Old Post Office, is now a house and partly dating to the 17thC, encased in the 18thC and extended in the early 19thC. According to the historic England list entry, it is thought to have been the oldest Post Office set up in the country, having started on March 17th 1845.

Further significance associated with this building lies within its L-shaped, 3 bay timber frame and timber frame core encased in and extended in brick, since colour-washed and

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old plain tile and slate roof. The proposed alterations to the roof of the application site are not considered to detract from the historic significance of the listed building given the degree of separation between the two buildings. The proposed outbuilding will be located towards the southern boundary with The Old Post Office, however will be single storey in height and afforded screening by the current fence and vegetation along the boundary and will also be screened by an outbuilding within the rear amenity space of the listed building.

The proposed development is considered to result in a degree of less than substantial harm to the significance of the setting and historic interest of the listed building, however this is deemed to be acceptable and is in accordance with Section 16 para 199 of the NPPF (2021), S.66 of the (Listed Buildings and Conservation Areas) Act and Policy CP20 of WDLPP1 and DM29 of WDLPP2 and the historic environment section of the Planning Practice Guidance.

The site lies within the Conservation Area of Kings Worthy. Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area. The existing building is not considered to have any special architectural merit, however it is recognised within the Kings Worthy Conservation Appraisal as being one of the few commercial premises within the area. The building will still be easily readable as commercial premise from London Road and there are no proposed alterations at the ground floor level. The extension of the roof is not considered to significantly alter the character and appearance of the building and the addition of well positioned rooflights is also not considered to harmfully impact upon it. The proposed outbuilding will be constructed in natural timber cladding which is considered to help reduce the visual impact of it from St Mary's Close and will remain subservient within the plot. The boundary treatment to St Mary's Close will need to be of a high quality and use good quality materials. This will be controlled by condition.

The proposals in their appearance, size, siting, detailing and the materials used are considered not to involve the erosion of character of the Conservation Area. Based upon the above assessment it is considered that the proposed development would conserve the character, appearance and historic interest of the Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in compliance with DM27 of LPP2, CP20 of LPP1 and para 16 of the NPPF and the historic environment section of the Planning Practice Guidance.

It is considered that it will result in a degree of less than substantial harm to the significance of the setting and historic interest of the listed building, Section 16 para 199 of the NPPF, S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy CP20 of WDLPP1 and DM29 of WDLPP2 and the historic environment section of the Planning Practice Guidance. Despite this level of harm, the proposals are considered to be acceptable in line with relevant legislation and local plan policy.

It is considered that the proposal will preserve the character or appearance of the conservation area in accordance (S.72 P (LBCA) Act 1990; and preserve or enhance the character and historic interest of the Conservation Area in accordance with Policies DM27 & DM28 of the Winchester District Local Plan Part 2 Adopted 2017; Policy CP20 Winchester District Joint Core Strategy; NPPF (2021) Section 16.

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The planning inspector in his decision for the 2019 application concurred with the above analysis of the development in respect to the impact on the conservation area. There have been no material changes to the proposals involving the building or the rear parking area and outbuilding therefore it is considered that they are in accordance with the inspector's assessment.

Neighbouring amenity

The nearest neighbouring properties are those on St Mary's Close which is a private single track road and in addition, a well-utilised public right of way. The main issue raised is the impact of additional traffic associated with the business, which is impacting on the residential amenity of local residents. This includes ad-hoc parking, blocking in residents and regular deliveries to the rear of the site. In addition, the existing boundary fence was removed some time ago and the rear of the site has been used for commercial and staff parking.

The inspector had regard in his report to the impact on the character and appearance of the area arising from the additional commercial vehicular traffic using the Close and any associated activities within the formalised parking area to the rear (Para. 17 of inspector's report – 19/02057/FUL). During that appeal, the appellant agreed to a planning condition to ensure that commercial traffic associated with the site, including delivery vehicles, would only access the site from the front, via London Road. It is anticipated that this would ease the amount of traffic using St Mary's Close and any knock-on disruption to residential amenity. This, as well as the retention of the rear parking area for staff use only and the timing of this use of the parking area, would also help to reduce any impact from traffic noise. A condition detailing the timing of the staff parking area use is considered to be expedient in this instance.

Also of concern to residents is the safety of any walkers using the right of way, which may be affected by the increased number of vehicles using the Close. Notwithstanding the above, the right of way has always been subject to vehicular use by the residents of the Close. It is therefore not considered that there would be significant additional harm caused to the users of the right of way.

The applicant has confirmed that the proposed outbuilding will be used for storage and food preparation and that no cooking or extraction equipment will be installed within the building. The use of the outbuilding will be low key and ancillary to the operation of the business in the main building. It is considered that a condition would be sufficient to restrict the use of the outbuilding and to protect the amenity of the neighbouring properties from noise and smells (see condition 4).

With regards to the impact on amenity resulting from the creation of an additional residential flat, there have been no external changes from the 2019 application. The proposal involves the installation of roof lights to the front and rear however, in line with the 2019 assessment it is not considered that these would cause significant harm by means of overlooking towards neighbouring properties.

Therefore the proposal complies with policies DS1 and CP13 of LPP1, DM16, DM17 and DM19 of LPP2.

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Notwithstanding the comments above regarding traffic disruption at the rear of the property, concerns have been raised with regards to parking arrangements to the front on London Road. 6 on-site spaces have been allocated for the use of the business and its visitors however, it has been claimed that commercial vehicles regularly park in the access road running parallel with London Road. It is acknowledged that this is a significant concern of local residents due to reasons of over-parking and blocked access onto London Road and nearby residential properties. However, as noted above, the Inspector previously imposed a condition to ensure that commercial traffic associated with the site, including delivery vehicles, would only access the site from the front, via London Road. The access road itself does not fall within the redline site and therefore it would not be possible to prevent vehicles parking here.

Two spaces have been allocated to the side of the building for use by the occupants of the 2 no two bedroom flats. This does not strictly comply with the WCC Parking Standards SPD which requires 2 spaces for a 2 bed property however, the site benefits from a regular bus link to Winchester and is therefore considered to be sustainable in parking terms and is not required to comply with the 2 space requirement.

The benefits of the formal on-site parking area to the rear for the use of staff, have been discussed above.

Therefore the proposal complies with policy DM18 of LPP2 in that there is no significant impact on highways safety and the parking provision is appropriate for the nature of the development.

Ecology and Biodiversity

The proposal will have no impact as it is not Development within, bordering or in close proximity to a European Protected Site (i.e. River Itchen SAC, The Solent SAC, SPAs, Ramsar Sites) or is not overnight accommodation affecting Nitrates.

Due to the nature of the development and the distance between the application site and the European Protected Site of the Solent SAC and SPA and the River Itchen SAC, an Appropriate Assessment under the Conservation of Habitats & Species (Amendment) Regulations 2011 is not required.

Therefore the proposal complies with policy CP16 of LPP1.

Appropriate Assessment.

The application is for the sub-division of an existing flat and the creation of additional space in order to create a 2nd flat. Each flat has 2 bedrooms so that development only results in an increase of 1 bedroom. Accordingly, the application will have a likely significant effect in the absence of avoidance and mitigation measures on European and internationally protected sites as a positive contribution of 1.205 Kg/N/year is made. The authority has concluded that the adverse effects arising from the proposal are wholly consistent with, and inclusive of the effects detailed in the Winchester City Council Position Statement on nitrate neutral development and the guidance on Nitrates from Natural England.

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The authority's appropriate assessment is that the application coupled with a mitigation package secured by way of a Grampian condition complies with this strategy and would result in nitrate neutral development (see condition 8). It can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above in this regard.

The proposed application differs from that dismissed at appeal in that there is now a higher degree of certainty with regards to available nitrate mitigation credit schemes with local availability. The Solent Nutrient Market Update, December 2021, available on the council's website, gives details of local partners.

This represents the authority's Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework 2021.

Sustainable Drainage

The approved hardstanding to be used for parking is constructed of gravel which will allow surface water to drain into the ground and not directly onto St Mary's Close. Details regarding provision of foul and surface water drainage will be required by condition (see condition 9). The proposal therefore complies with policy DM17 of LPP2.

Equality

Due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The Local Planning Authority has given due regard to this duty and the considerations do not outweigh any matters in the exercise of our duty.

Planning Balance and Conclusion

The proposal is a direct resubmission of 19/02057/FUL, which was dismissed at appeal on the basis of inadequate nitrates mitigation. All other material planning considerations remain the same and were accepted by the inspector. The development therefore accords with the development plan as stipulated by Para. 47 of the NPPF (2021).

Recommendation

APPROVE, subject to the following conditions:

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2. The development hereby approved shall be constructed in accordance with the following plans:

Location Plan Dwg No 1818_001 Rev A received 18.10.2021
Proposed Block Plan Dwg No 1818_1000 Rev B received 18.10.2021
Proposed Site Plan Dwg No 1818_1101 Rev D received 18.10.2021
Ground Floor As Proposed Dwg No 1818_2000 received 18.10.2021
First Floor As Proposed Dwg No 1818_2100 received 18.10.2021
Second Floor As Proposed Dwg No 1818_2200 Rev A received 18.10.2021
East and West Elevations As Proposed Dwg No 1818_3000 Rev C received 18.10.2021
North and South Elevations As Proposed Dwg No 1818_3001 Rev B received 18.10.2021
Outbuilding Elevations As Proposed Dwg No 1818_3002 Rev A received 18.10.2021

Reason: In the interests of proper planning and for the avoidance of doubt and to ensure the development is carried out in accordance with the relevant policies of The Development Plan.

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those as detailed in section 8 (materials) of the associated application forms.

Reason: To ensure a satisfactory visual relationship between the new development, the existing and the surrounding Conservation Area in accordance with Policy DM15, DM16, DM27 of Winchester District Local Plan Part 2 (2017) and The High Quality Places SPD (2015).

4. The outbuilding hereby approved shall not be used for any purpose other than for cold food preparation and storage in association with the main business. No cooking or heating of food shall take place and no extraction equipment shall be installed anywhere in the outbuilding.

Reason: To protect the amenities of nearby residential properties in accordance with Policy DM1 and DM19 of Winchester District Local Plan Part 2.

5. Details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of this consent and these works shall be carried out as approved. These details shall include the following;

- planting plans, including the proposed planting along the boundaries of the site.
- schedules of plants and replacement trees, noting species, planting sizes and proposed numbers/densities where appropriate.
- details of materials to be used in hard surfacing
- details of any means of enclosure (fencing/walling) and all boundary treatments. The fencing to be partially reinstated at the St Mary's Close entrance to the site shall be a solid boundary treatment and contain a gate which can be closed outside of office hours.

All hard and soft landscape works shall be carried out in accordance with the approved details. Hard landscaping works shall be completed prior to the completion of the

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development hereby approved. The soft landscaping shall be carried out in the first planting season following the completion of the development.

If within a period of five years after planting any tree or plant is removed, dies or becomes, in the opinion of the Local Planning Authority, seriously damaged, defective or diseased another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season, unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity of the area and to ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

6. The parking provision for the site shall be laid out in accordance with approved plan 1818_1101 Rev D and shall not vary in any way unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the amenities of local residents.

PRE COMMENCEMENT CONDITIONS

7. Prior to the construction of the new outbuilding, hereby approved, a tree protection statement and methodology must be submitted to and approved in writing by the Local Planning Authority which demonstrates how the tree to the south of the site will be protected during construction.

Reason: To protect the amenity value of the protected tree in accordance with Policy DM24 of WDLPP2.

CONDITIONS ONLY RELATING TO NEW RESIDENTIAL UNIT

8. The development hereby permitted shall NOT BE OCCUPIED until:

- a) A water efficiency calculation which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to and approved in writing by the Local Planning Authority
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European sites by the development and be implemented in full prior to first occupation and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation have been secured and submitted to the Local Planning Authority.

Reason: To accord with the Conservation of Habitats and Species Regulations 2017, and Policy CP11, CP16 and CP21 of the Winchester District Local Plan Part 1.

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9. Detailed proposals for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The approved details shall be fully implemented before development commences.

Reason: To ensure satisfactory provision of foul and surface water drainage.

Informatives:

1. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester District Local Plan Part 1 (2013): DS1, CP13, CP2, CP11, CP16, CP21

Winchester District Local Plan Part 2 (2017): DM15, DM16, DM17, DM18, DM27, DM29, DM19

Winchester District High Quality Places Supplementary Planning Document

2. In accordance with paragraph 38 of the NPPF (2021), Winchester City Council (WCC) take a positive and proactive approach to development proposals, working with applicants and agents to achieve the best solution. To this end WCC:

- offer a pre-application advice service and,
- update applicants/agents of any issues that may arise in the processing of their application, where possible suggesting alternative solutions.

3. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out above, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

4. All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Flexibility of hours may be acceptable due to the Covid-19 emergency in line with the Business and Planning Bill 2019-21 <https://services.parliament.uk/Bills/2019-21/businessandplanning.html>

5. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served. Where construction site working hours are limited by a planning condition you can apply under Section 74B of the Town and Country Planning Act 1990 which provides a temporary fast track to vary existing conditions.

<https://www.gov.uk/government/publications/construction-working-hours-draft-guidance/draft-guidance-construction-site-hours-deemed-consent>

6. Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or

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private roads. Any damage to these areas should be remediated as soon as is practically possible.

For further advice, please refer to the Construction Code of Practice

<http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>