

ITEM: 4

Application Number: 10/01686/FUL

Applicant: Mr Les Oats

Description of Application: Change of use of ground floor solarium (class D2), beauty salon (sui generis) and residential flat into a single family dwelling

Type of Application: Full Application

Site Address: 73/77 ST EDWARD GARDENS PLYMOUTH

Ward: Eggbuckland

Valid Date of Application: 01/10/2010

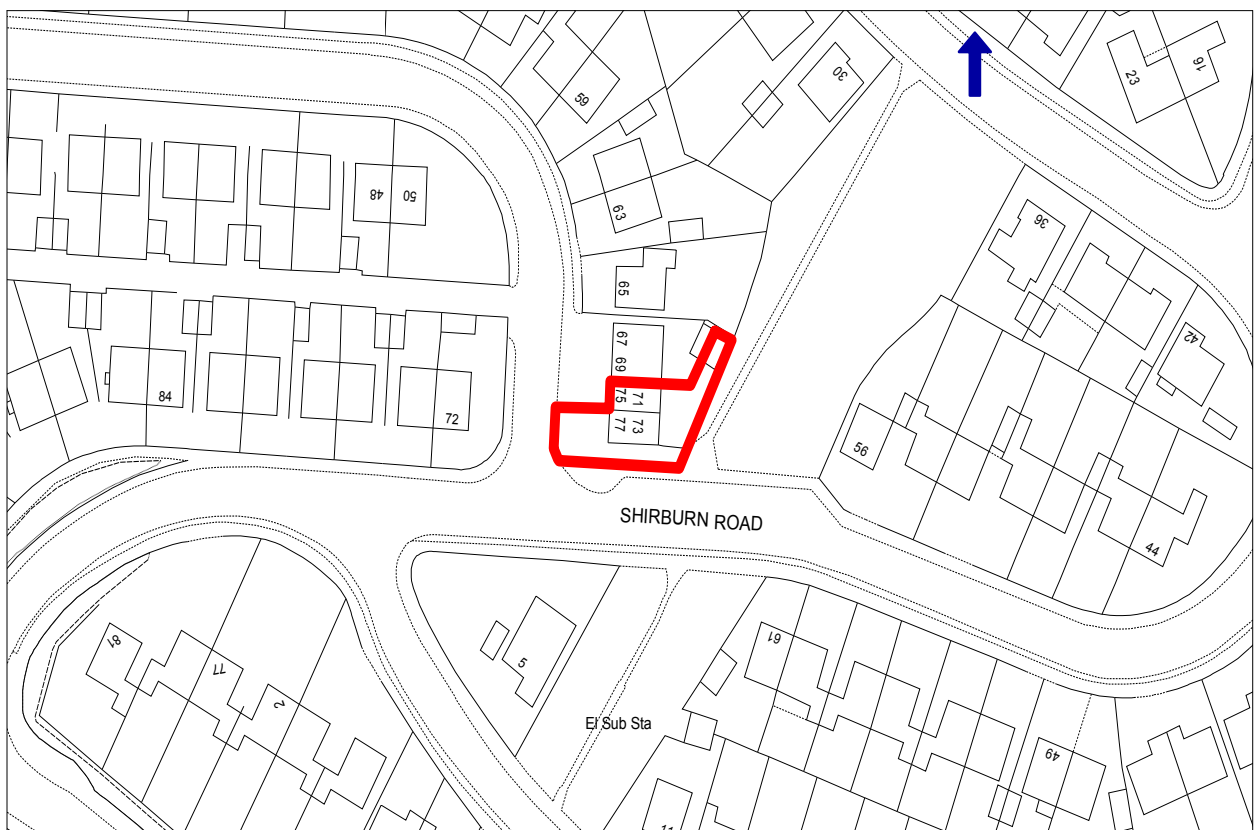
8/13 Week Date: **26/11/2010**

Decision Category: Member/PCC Employee

Case Officer : Kirsty Barrett

Recommendation: Grant Conditionally

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OFFICERS REPORT

This application has been brought to committee due to the Agent being a PCC employee

Site Description

73/77 St Edward Gardens is currently in use as a tanning salon on the ground floor with a residential flat above. The property is situated on a prominent corner plot at the junction with Shirburn Road. To the rear of the property is a large area of public open space. The property is situated on a sloping site that runs downwards from north to south.

Proposal Description

Change of use of ground floor solarium (class D2), beauty salon (Sui generis) and residential flat into a single family dwelling

Relevant Planning History

06/01188/FUL- Formation of room in roof space to enlarge existing first-floor flat, including rear dormer windows- Granted conditionally

93/00621/FUL- Change of use from newsagents to solarium and beauty salon- Granted conditionally

Consultation Responses

Plymouth City Airport- No objections

Transport- No objection as the proposal includes adequate off-street parking by way of a garage and a driveway for provision of at least two cars.

Public Protection Services- Object to lack of information and recommend conditions

Representations

None received

Analysis

The main issues to consider with this application are: impact on the amenities of neighbouring properties, effect on the character and appearance of the area and highway safety, and loss of the commercial unit.

73/77 St Edward Gardens occupies a corner plot at the end of a small terrace of commercial units serving the Eggbuckland area of the City. The existing ground floor of the property is currently split between two different uses, Solarium (D2) and Beauty Salon (sui generis). The first and second floors of the property are used for residential use.

The Eggbuckland Sustainable Neighbouring Assessment identifies that there is a limited range of shops and community facilities in this area. However the stores at St Edward Gardens are not defined as a 'neighbourhood centre' and

are not explicitly referred to in this Neighbourhood Assessment therefore whilst it is undesirable to lose the commercial use element of the property, evidence has been supplied to show the use is no longer viable and therefore the proposed change of use is supported.

The design and layout of the residential accommodation ensures adequate amenity for future occupiers. All habitable rooms will have adequate outlook and light.

Adequate external amenity space is provided. In this regard, the property benefits from a front and side garden which is currently associated with the commercial use. The existing residential unit does not benefit from any outdoor space. Therefore the proposal to enlarge this residential unit will improve the existing situation by allowing occupiers to use the garden space. The Council's Development Guidelines Supplementary Planning Document (SPD) sets out minimum standards for outdoor space. In accordance with these standards a flat and/or terraced dwelling should benefit from 50m² of outdoor space and therefore the proposal of approximately 71 m² is considered to be adequate external space.

With regard to the external changes proposed, external alterations are minimal and retain the character and appearance of the commercial premises. The large shop front windows are replicated in order to minimise to impact visually in the context of the adjacent buildings and the wider area which is mainly residential.

The change of use is not considered to have any negative impact to neighbouring amenity as no extensions or additions are proposed to the external appearance of the property.

Public Protection service have objected to lack of information, but the case officer considers that the information required can be conditioned.

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Section 106 Obligations

None

Equalities & Diversities issues

None

Conclusions

This application is recommended to Grant Conditionally

Recommendation

In respect of the application dated **01/10/2010** and the submitted drawings, **design and access statement, 01, 02, 03, 04, 05, 06, commercial viability statement**, it is recommended to: **Grant Conditionally**

Conditions

DEVELOPMENT TO COMMENCE WITHIN 3 YEARS

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

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

RESTRICTIONS ON PERMITTED DEVELOPMENT

(2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order or the 1995 Order with or without modification), no development falling within Class A of Part 1 of the Schedule to that Order shall be carried out unless, upon application, planning permission is granted for the development concerned.

Reason:

In order to ensure the protection of existing elevations and limit impact to surrounding properties and commercial units, in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

LAND QUALITY

(3) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 4 to 8 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 8 has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

LAND QUALITY: DESK STUDY

(4) A Desk Study and Site Reconnaissance, in addition to any assessment provided with the planning application, which includes a preliminary conceptual site model identifying plausible pollutant linkages as a basis for

assessing risks. The Desk Study and Site Reconnaissance must determine the need and scope for further investigation and site characterisation. The written report is subject to the approval in writing of the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

LAND QUALITY: SITE CHARACTERISATION

(5) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

LAND QUALITY: SUBMISSION OF REMEDIATION SCHEME

(6) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

LAND QUALITY: IMPLEMENTATION OF APPROVED REMEDIATION SCHEME

(7) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

LAND QUALITY: REPORTING OF UNEXPECTED LAND CONTAMINATION

(8) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must

be prepared in accordance with the requirements of condition 5 , which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 6.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: impact on the amenities of neighbouring properties, effect on the character and appearance of the area and highway safety, and loss of the commercial unit. the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS28 - Local Transport Consideration
CS34 - Planning Application Consideration
CS08 - Retail Development Considerations
CS02 - Design
SPD1 - Development Guidelines