

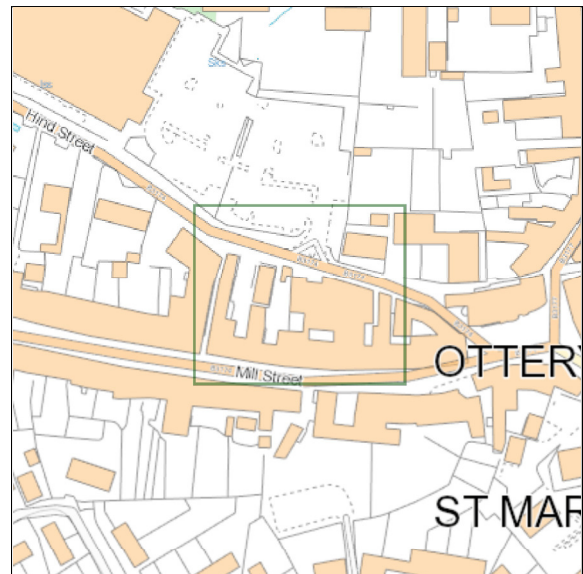
Ward Ottery St Mary

Reference 18/2824/FUL

Applicant Regenerate Property Ltd

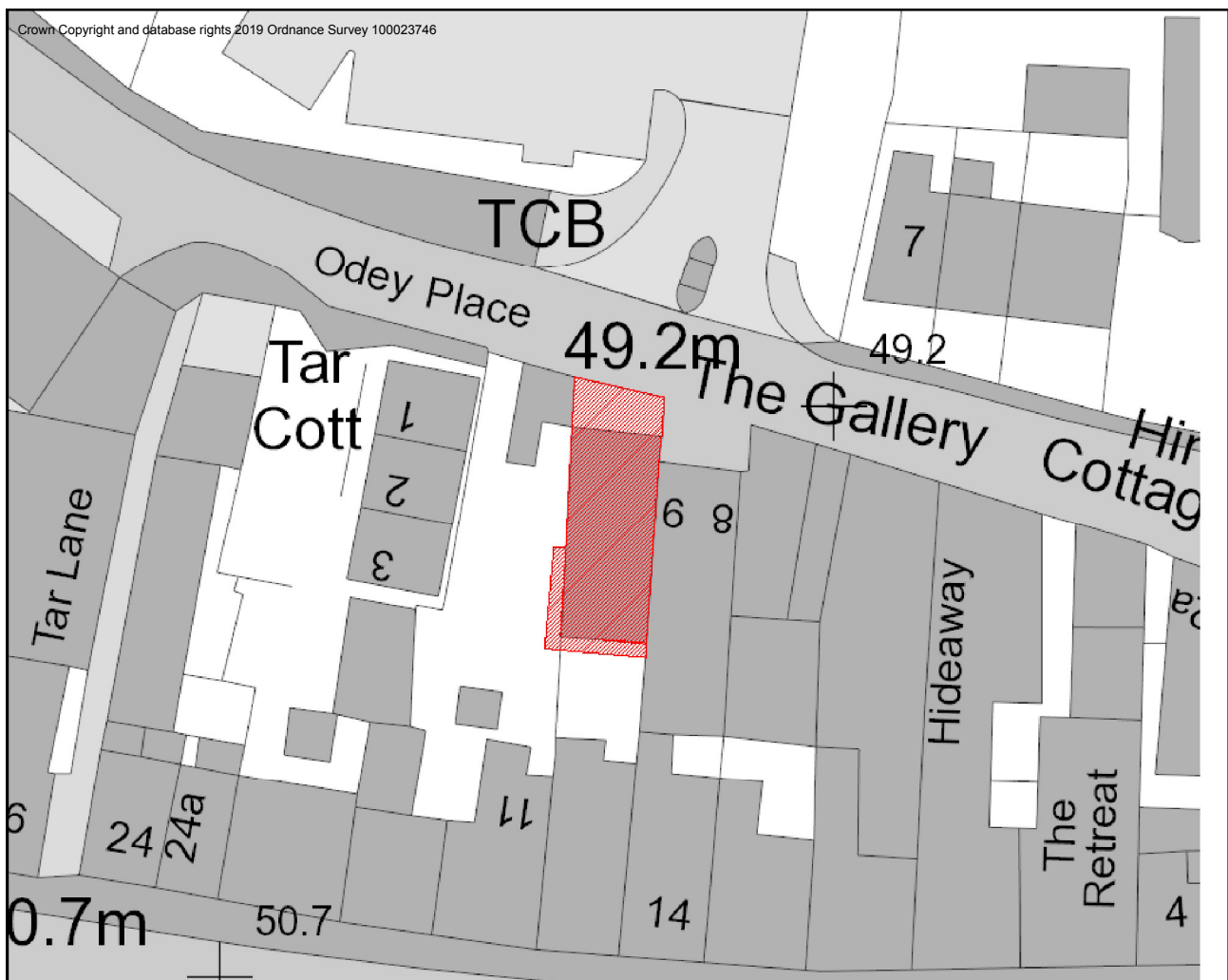
Location The Salvation Army Hind Street Ottery St Mary
EX11 1BW

Proposal Proposed change of use of existing premises
(D1) into two residential flat units



RECOMMENDATION:

1. Adopt the Habitats Regulation Appropriate Assessment that forms part of the report;
2. APPROVE subject to conditions.



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| | | Committee Date: 3rd December 2019 |
| Ottery St Mary (Ottery St Mary) | 18/2824/FUL | Target Date: 11.02.2019 |
| Applicant: | Regenerate Property Ltd | |
| Location: | The Salvation Army Hind Street | |
| Proposal: | Proposed change of use of existing premises (D1) into two residential flat units | |

RECOMMENDATION:

- 1. Adopt the Habitats Regulation Appropriate Assessment that forms part of the report;**
- 2. APPROVE subject to conditions.**

EXECUTIVE SUMMARY

This application is before Members because the officer recommendation differs from the view of a Ward Member.

Planning permission is sought to convert the building from a D1 use to 2 flats.

The site is located within the Built-Up Area Boundary where development is acceptable but the site is also located within the town centre and proposes the loss of a community facility. Strategy 32 and Policy E9 of the Local Plan only support the loss of community, employment and commercial uses where the property has been adequately marketed for at least 12 months without success and where there is no evidence of a lack of supply of such premises.

It is considered that the building has been sufficiently marketed for 13 months. Whilst this marketing could arguably have been improved through a reduced guide price and clearer details on the website of the marketing agent, the proposal attracted non-residential interest, and one offer, that did not proceed for various reasons. In light of this and given that officers cannot demonstrate that there is a shortage in supply of such facilities in the locality, the principle of the development is considered to be acceptable. The site being very well located for residential use and there being some benefits from the provision of two small units that should be reasonably affordable as a result.

There are no impacts on the amenity of adjoining residents, the proposal will conserve the Conservation Area and any risks to flooding can be sufficiently mitigated through the raising of floor levels and sockets. As such, the application is therefore supported.

CONSULTATIONS

Local Consultations

Parish/Town Council 09.01.2019

Ottery St Mary Town Council supports this application after much discussion

Further comments:

The Town Council does not support this application as it is commercial premises in the town's main shopping area and it has not been sufficiently demonstrated that it has been fully marketed.

Ottery St Mary Town - Cllr P Faithfull

This property is in my ward. My view, based on the information presently available to me is that it should be refused.

I am somewhat surprised that this building has been classed as D2 - Cinema, Bingo hall, dance hall etc. until recently this building was a meeting place for the local Salvation Army, which as far as I am aware is a religious based organisation. Of the few times I have been to meetings at this building while under the ownership of the Salvation Army my visits were for talks related to church and bible understanding. I would therefore suggest that it should have been classed as D1 c and h.

For most uses around Ottery town centre the properties are rented out by landlords and not owned by the occupants. As the property has only just been sold to the present owner they have not offered the property for rent as class D1 or D2 (whichever is correct) for 12 months. I therefore recommend this application be refused.

This is my view based in the information presently available to me. I reserve my right to change my view in the event that further information becomes available to me.

Technical Consultations

Environment Agency

Thank you for consulting us on this application.

We object to this proposal on the grounds that insufficient information has been submitted within the Flood Risk Assessment (FRA) to demonstrate that the development is safe from flooding over its lifetime.

Reason

We have reviewed the flood risk assessment accompanying the application, dated 11th December 2018. Whilst the indications of the report suggest that flood risk can be safely managed, there is a need for more specific data and levels to support this view. A design flood level needs to be established and used to inform the acceptability of finished floor levels, defined in relation to the design flood level to mAOD. A starting

point for baseline information relating to flooding would be an Environment Agency product '4' request.

Overcoming our objection

The applicant can overcome our objection by submitting an FRA which demonstrates that the proposed development will be safe from flooding over its lifetime without increasing flood risk elsewhere. We recommend that the application is not determined until a satisfactory FRA has been submitted.

Further comments:

Following review of the revised Flood Risk Assessment (FRA), we consider that, we are able to remove our objection to the proposed development subject to a condition being included on any permission granted to ensure the implementation of the flood mitigation measure outline within the FRA. The suggested wording for this condition and the reason for this revised position is provided below.

Condition - Implementation of Flood Risk Assessment

The development shall be carried out in accordance with the submitted flood risk assessment (submitted 27th September 2019) and the following mitigation measures it details:

- o Raise main hall finished floor of the building by 500mm
- o All internal sockets, switches etc. site a minimum 450mm above finished floor levels.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason - To reduce the risk of flooding to the proposed development and future occupants.

Reason for position - Whilst we consider that the submitted FRA does not constitute a fully comprehensive assessment (in line with the National Planning Policy Framework guidance) of the flood risks posed to the development, the revision does reference appropriate levels in terms of flood depth and finished floor levels, demonstrating that internal floor levels will be elevated to an acceptable height above potential flood depths.

Please contact us again if you require any further advice.

Environmental Health

I have considered the application and note that this site is close to nearby residents who may be impacted during the construction process. We would request the applicant to consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website: <http://eastdevon.gov.uk/noise/noise-guidance-and-advice/guidance-and-advice-for-developers-builders-and-contractors/>

Conservation

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

This building sits within the extended Conservation Area of Ottery St. Mary. It is a single storey structure that appears to be an infill unit between other industrial units.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

It is in a prominent position within the heart of the town centre of Ottery St. Mary. On plan it appears to be a post war structure on vacant land behind the principle buildings facing into Mill Street.

Directly opposite the site is the now, main access into a large supermarket, however, the boundary walls are important heritage assets.

The existing construction material reflects the local brick vernacular, however the style of fenestration is of no great value. The addition of a side window to the building is considered to be of minimal negative impact on the character of the Conservation Area. In general we not support the use of Upvc in Conservation Areas.

In conclusion, it is the central position and materials i.e. brick, that contribute most to the character of the Conservation Area. Externally, there is little alteration, however, it is recommended that sympathetic materials are used.

PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

SUGGESTED CONDITIONS

Materials for windows.

Other Representations

None

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
D1 (Design and Local Distinctiveness)

E9 (Town Centre Vitality and Shopping Areas)

EN10 (Conservation Areas)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

EN21 (River and Coastal Flooding)

Ottery St Mary and West Hill Neighbourhood Plan

NP17 Community Facilities of Value
NP22 Ottery St Mary Conservation Area

Site Location and Description

The Salvation Army Hall is a single storey building in the centre of Ottery St Mary. Until recently it was used as a meeting hall (D1 use class) and has a small kitchen and office. It is accessed directly from Hind Street, however no car parking is available.

Proposal

It is proposed to convert the building into two flats, a two bedroom and a one bedroom flat. In order to carry out the development it is proposed to remove some internal partitions and to install one new window on the west elevation.

ANALYSIS

The main issues for consideration are the principle of development, impact upon adjoining neighbours, flood risk and amenity and parking.

Principle of Development

The site lies within the built up area boundary for Ottery St. Mary where development is acceptable in principle. It is also located within the town centre shopping area.

Strategy 32 of the Local Plan seeks to retain employment, retail and community uses, unless options for retention of the site or premises for its current or similar use have been fully explored without success for at least 12 months and there is a surplus of supply in the locality.

Policy E9 of the Local Plan relates to Town Centre Shopping Areas, seeking to ensure that they stay competitive, add variety and increase activity with the loss of both retail and non-retail uses only accepted if it can be clearly demonstrated after a 12 month marketing period that there is no longer a need for the use/building.

Policy NP17 (Community Facilities and Value) of the Neighbourhood Plan also relates to the protection of community facilities stating:

‘Proposals that will result in either the loss of Community Facilities of Value or significant harm to Community Facilities of Value will be strongly resisted.’

With regard to this policy however, the supporting text states that ‘Appendix 4 provides a full list of the community facilities covered by this policy’. As the Appendix/list does not include the application site, it is not considered that Policy NP17 applies to the proposal or be used to resist the loss of the current use.

In light of the above policy position, the acceptability of the proposal falls on whether the proposal has been adequately marketed for at least 12 months without success and that there is no need for the facility supported by evidence.

Guidance on the Council's website provide details of what is considered to comprise adequate marketing evidence comprising the following and area addressed in turn below:

- A copy of the letter of instruction to the agent
- The methodology used by the surveyor in arriving at a valuation
- Estate agents verifiable record of all enquiries
- Copy of the sales particulars and adverts
- Evidence that the property has not been marketed on the basis of a too narrow range of potential end uses
- Where appropriate evidence that steps that been undertaken to diversify income and prevent the decline of the business.

As a result, the applicant has been asked to evidence this.

In response, it is clear that the property was marketed for sale by Redferns from January 2018 until March 2019. The marketing ended following the purchase of the site by the applicant and shortly after the submission of the current planning application. The property was marketed by Redferns in their shops, on-line and by way of a for sale board.

The instruction letter to the agent confirm the marketing of the property at a price of £99,950, although it is clear that a reasonable offer below this would be accepted. It would appear from correspondence that the unit was valued at around the £87,000 mark. Whilst it could be argued that the property was marketed above its value, it is not uncommon for property to be marketing like this but on the basis that offers would be accepted. As such, it was marketed with a guide price of £99,500 and it is not considered that this price was significantly above the market valuation to have deterred interest.

The marketing agent has confirmed that enquiries were received for a variety of uses. These included a chiropractor, a financial services agent and a takeaway. An offer was received by the chiropractor, but withdrawn due to lack of sufficient space for consulting rooms, changing, staff room, etc. It should be noted that this offer exceeded the £87,000 valuation. The takeaway did not proceed due to the costs of converting and providing the necessary equipment and extraction systems. Other interest included an accountant and appliance engineer but it is stated that they did not proceed having spoken to the District Council and been advised that they would not support a dwelling to the rear of a shop in this location. Whilst this may be the case, the planning department have no record of an approaches or response.

As a result no firm offers were made for commercial uses. As a result of this and following the 13 months marketing, the agent accepted an offer for residential conversion at a similar freehold price to that advertised for commercial use.

A copy of the sales particulars has been provided. This described the building as 'A former Salvation Army hall that lends itself to be converted or adapted for a variety of purposes subject to the necessary planning permissions/consents, whilst enjoying a town centre location opposite a major supermarket'. A copy of the on-line details have been provided, although it is noted that it is titled 'Apartment' which could have been misleading.

The marketing details make it clear that it may be suitable for a range of uses, and given that the Salvation Army vacated the building, there was little that could have been done to diversify income from the lawful use.

Whilst the guide price could be argued to be a little high, and the on-line marketing titled 'Apartment' could have been misleading to some, it is considered that the marketing is acceptable and demonstrates a 13 month period during which non-residential uses were alerted, and interested, in the site.

Given the marketing, and the lack of any other evidence available to officers to demonstrate a shortage of D1 facilities in Ottery St. Mary (or more particularly a range of D1 users seeking such properties), it is considered that the requirements within Strategy 32 and Policy E9 of the Local Plan are met.

With regard to the proposed residential use, the site is well located such that there would be no reliance upon the use of the car and good accessibility to a range of services and facilities.

In light of the above, the application is considered to be acceptable in principle.

Impact on neighbours

The building is adjacent to a courtyard which serves shops and flats on Mill Street.

The impact of the changes would be limited to the one additional window facing this area, and re-positioning of an existing window. This area is already overlooked by windows in this elevation and this is not considered to be a private sitting out area, therefore no harm is identified by the installation of this window.

Amenity and parking

It is not proposed to provide any parking for these flats. This is a town centre location, and directly opposite the large Sainsbury's car park and close to the Land of Canaan long stay car park. Under policy TC9 car parking spaces may not be deemed necessary under such circumstances.

A small garden area will be created at the rear of the property, and the front of the property will have a covered bin store. Given the prominence that this bin store could have, it is considered appropriate to require details of this.

Whilst the proposal is located within the Conservation Area, due to its nature, the proposal will not harm the character or appearance of the conservation area.

Flood Risk

The site lies within Flood Zone 2, meaning a 0.1% risk of flooding. The front of the site, on Hind Street, is within Flood Zone 3, with a 1% chance of flooding. Indications from the Environment Agency indicate that the area last flooded in 2012, although it is unclear that this affected the site. The depth of the flow in a flood event in this area is 0.3 metres.

As a result of the initial objection from the Environment Agency, it is proposed to raise the current floor level within the front of the building by 500mm and site all internal sockets 450mm above the new floor levels. A number of measures are outlined within the Flood Risk Assessment, including signing up to flood warnings, erection of a flood shield barrier and provision of a safe refuge point.

Providing that these measures are implemented, which could be the subject of a planning condition, it is considered that there are no risks to property from flooding. The Environment Agency supports this approach.

The proposal does not need to be subject to a Sequential Test as the proposed development is simply converting the existing floorspace of the building and not providing any additional floorspace.

Habitat Regulation Assessment

The nature of this application and its location close to the East Devon Pebblebed Heaths requires a Habitat Regulations Appropriate Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat

Regulations and details any Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of the designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designation. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects and is acceptable without any further mitigation.

CONCLUSION

Planning permission is sought to convert the building from a D1 use to 2 flats.

Strategy 32 and Policy E9 of the Local Plan only support the loss of community, employment and commercial uses where the property has been adequately marketed

for at least 12 months without success and where there is no evidence of a lack of supply of such premises.

It is considered that the building has been sufficiently marketed for 13 months. Whilst this marketing could arguably have been improved through a reduced guide price and clearer details on the website of the marketing agent, the proposal attracted non-residential interest, and one offer, that did not proceed for various reasons. In light of this and given that officers cannot demonstrate that there is a shortage in supply of such facilities in the locality, the principle of the development is considered to be acceptable. The site being very well located for residential use and there being some benefits from the provision of two small units that should be reasonably affordable as a result.

There are no impacts on the amenity of adjoining residents, the proposal will conserve the Conservation Area and any risks to flooding can be sufficiently mitigated through the raising of floor levels and sockets. As such, the application is therefore supported.

RECOMMENDATION

- 1. Adopt the Habitats Regulation Appropriate Assessment that forms part of the report;**
- 2. APPROVE subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved. (Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice. (Reason - For the avoidance of doubt.)
3. Details of the proposed window shall be submitted to and be approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in accordance with the approved details before the building is occupied. (Reason: In order that the external appearance of the building is satisfactory in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
4. The development shall be carried out in accordance with the submitted flood risk assessment (submitted 27th September 2019) and the following mitigation measures it details:
 - Raise main hall finished floor of the building by 500mm
 - All internal sockets, switches etc. site a minimum 450mm above finished floor levels.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

(Reason - To reduce the risk of flooding to the proposed development and future occupants and in accordance with Policy EN21 (River and Coastal Flooding) of the Adopted East Devon Local Plan 2013-2031).

5. Prior to occupation, drawings showing full details of refuse storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be maintained.

(Reason: In the interests of residential amenity and the appearance of the Conservation Area in accordance with Policy D1 (Design and Local Distinctiveness) and Policy EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

The applicant should consult and follow the council's Construction Sites Code of Practice prepared by Environmental Health and adopted by the council in order to ensure that any impacts are kept to a minimum. This is available on the council's website: <http://eastdevon.gov.uk/noise/noise-guidance-and-advice/guidance-and-advice-for-developers-builders-and-contractors/>

Plans relating to this application:

| | | |
|--------|-------------------------|----------|
| 3281.3 | Proposed Combined Plans | 12.12.18 |
| | Flood Risk Assessment | 21.06.19 |

List of Background Papers

Application file, consultations and policy documents referred to in the report.