

DELEGATED OFFICER REPORT

Site Address: 5 The Kestrels, Eagle Avenue, Waterloooville, PO8 9GX
Proposal: Application to determine if prior approval is required for a proposed change of use from Commercial, Business and Service - Area Housing Office (Use Class E) to Dwellinghouses (Use Class C3) providing 2No one bed flats and 2No two bed flats (4 units) and associated alterations to doors and windows.
Application Type: Prior Approval CoU E to C3
Application No: APP/24/00978 Expiry Date: 10/02/2025
Applicant: Mr James Hill
Portsmouth City Council
Agent: Mr Henry Salmon Case Officer: Tina Pickup
Portsmouth City Council
Ward: Hart Plain

Recommendation: **GRANT PRIOR APPROVAL**

1 Site Description

- 1.1 The application site relates to the former Wecock Farm Area Housing Office located next to The Acorn Community Centre, Wecock Church and Chinese takeaway, off Eagle Avenue. The building is detached, two storey and constructed of red brick at ground floor level, with buff brick at first floor, beneath a pitched slate effect roof with contrast ridge tiles. Windows and doors are white UPVC. There is a courtyard wrapping round the north and east sides of the building, enclosed by standard close boarded fencing.
- 1.2 To the front of the building there is shared unrestricted parking, serving the area generally. Beyond the adjacent community buildings the area is characterised by residential development, generally higher density terraces.
- 1.3 Notably the land slopes down to the south-east such that the application building is set higher than the residential properties in Grebe Close which back onto the site. These properties have rear garden lengths of between about 8m and 10m.
- 1.4 The site lies outside any current or future flood zone.
- 1.5 It is understood the Wecock Farm Area Housing Office closed at the end of January 2025, with the service and staff being relocated to the Leigh Park Area Housing Office, with weekly drop in's available at the Wecock Community centre adjacent.

2 Planning History

APP/11/01459 - Erection of timber store following removal of existing metal portacabin., PERM,26/01/2012
APP/14/00265 - Application for written approval that the development has been carried out in accordance with approved details of Planning Application 00/60387/000., UNK,
APP/14/01054 - Request for written confirmation that all conditions of the Section 106 Agreement of 00/60387/000 (dated 28.03.2002) have been complied with., PERM,15/12/2014

APP/16/01085 - Single storey extension to southern elevation following removal of existing storage container. PERM,01/12/2016

3 Proposal

- 3.1 Application to determine if prior approval is required for a proposed change of use from Commercial, Business and Service - Area Housing Office (Use Class E) to Dwellinghouses (Use Class C3) providing 2No one bed flats and 2No two bed flats (4 units) and associated alterations to doors and windows.
- 3.2 During the course of determining this application the internal layout has been flipped so that the main habitable windows have an outlook to the west over the front, with non-habitable windows to the rear, east. The proposal would involve the blocking up of 5 existing windows (3 on the front, west elevation; and 2 on the rear, east elevation); the modification of one on the first floor side north elevation; and changing the existing front/main entrance doors on the west elevation to 2 narrow windows. Access to the flats would be via the existing 'rear' door in the east elevation.
- 3.3 The existing courtyard would be unaffected and available as shared amenity space and drying area for future occupiers. No on site parking is provided to serve the development.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

DM17	(Contaminated Land)
AL1	(Presumption in Favour of Sustainable Development)
DM18	(Protecting New Development from Pollution)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Ann Briggs

Query and concern over neighbour notification process and letters; advised of process, procedures and relevant considerations for this type of Prior Approval applications

Councillor E Shimbart - Hart Plain

None received

Councillor James Blades

None received

Environmental Health

As you are aware, the noise consideration set out in Class MA is restricted to “*the impacts of noise from commercial premises on the intended occupiers of the development*”. For the purposes of the Order, “commercial premises” means premises used for any commercial or industrial undertaking, includes any premises licensed under the Licensing Act 2003(a) or any other place of public entertainment.

Having reviewed aerial and street view photography for the site and background information provided, it is noted that the site sits within a predominantly residential area. It follows that, from a noise impact point of view in the context of GPDO, the setting of Wecock Farm Area Housing Office is unlikely to pose any particular incompatibility with a proposed change of use to residential (C3) use.

There are no GDPO requirements to consider general environmental noise (e.g. road traffic noise) to inform the general suitability of the site for proposed residential conversion. We therefore recommended a condition is imposed on any consent granted to secure appropriate internal noise conditions. It is often helpful for such an assessment to be undertaken; even if information is not submitted to further support the prior approval process, as it can be used to inform the fundamental design and budgetary appraisal of the scheme.

In the event that new fixed building services plant and equipment are introduced as part of the development, e.g. Air Source Heat Pumps, we have also recommended a plant noise condition to protect the amenity of residents in the local area from undue noise disturbance.

2 conditions recommended - and an Informative - see case file for full details; but these are considered to go beyond the scope of the considerations for a Prior Approval and can't be imposed.

Hampshire Highways

The Wecock Farm Area Housing Office provided accommodation for ten staff with members of the public also attending, staff and the public all making use of the immediately adjacent car parking.

The Highway Authority are satisfied that the proposed change of use would be unlikely to generate any significant increase in traffic generation and would therefore not result in any detrimental impact on the operation and safety of the local highway network.

The Local Planning Authority, as Local Parking Authority will need to be satisfied that the shared parking arrangements are satisfactory having regard to the Adopted Parking Policy and Standards SPD, The Highway Authority would be concerned if a shortfall in parking was identified which may lead to on-highway parking.

Subject to the Planning Authority being satisfied with regards to parking arrangements the Highway Authority would recommend –

No objection (no conditions)

Natural England

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

Natural England considers that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites.

Your authority has measures in place to manage potential impacts through contributions to an agreed strategic solution(s) which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the Habitats Site(s) for the duration of the proposed development. Mitigation measure(s) to offset any positive nutrient budget should be provided within the relevant catchment area(s).

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

A lack of objection does not mean that there are no significant environmental impacts. Natural England advises that all environmental impacts and opportunities are fully considered, and relevant local bodies are consulted.

Nutrient Team

I can confirm there is sufficient capacity in the Council's strategic mitigation scheme to accommodate the application proposals.

It should be noted that there is limited capacity remaining in the Council's mitigation scheme at Warblington Farm. There is alternative mitigation available from third party providers in order to avoid and mitigate the water quality impact arising out of the proposed development. The details of other schemes have been published on the Partnership for South Hampshire's website

at: <https://www.push.gov.uk/work/mitigation-schemes-available-to-developers/>.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 224

Number of site notices: 3

Statutory advertisement: Not applicable.

Number of representations received: 8 letters of objection from 6 addresses:

Comment	Officer Comment
<u>Notification process</u> Some neighbours didn't receive a letter; insufficient time to comment/letters arrived over Christmas	Only neighbours that share a boundary with the application site are notified; but 2 site notices were also displayed. Christmas Bank Holidays were accounted for Updated letters sent giving standard 21 days to comment
<u>Difference in levels</u> Building a lot higher and windows will look directly down into properties and upstairs	Noted - amended plans seek to minimise any overlooking - see para 8.6
<u>Overlooking/Loss of privacy</u> building backs onto gardens - will leave us no privacy; will prevent children running around; harmful to mental health	Noted - beyond remit of application but amended plans seek to minimise any overlooking - see para 8.6
<u>Noise</u> Building was only being used Monday to Friday so additional noise from 24/7 use	Noted
<u>Devalue our properties</u>	Not a material consideration
<u>Timing</u> this has been done quickly and underhand so no-one can object	Consideration of application in accordance with legislation timing; applicants did not do any pre-application public consultation
<u>Parking</u> where will they park? Grebe Close closest which doesn't have enough parking;	see section 8
<u>antisocial behaviour concerns</u>	Not a material consideration
Previously reassured would remain an office	Noted, but current application must be determined in accordance with legislation

7 **Preliminary Matters**

- 7.1 Article 3 (1), 'Permitted development of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states:

"Subject to the provisions of this Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017, planning permission is hereby granted for the classes of development described as permitted development in Schedule 2."

- 7.2 In turn Regulation 75 of the Conservation of Habitats and Species Regulations 2017 (as amended) sets out that to be permitted development, any development that is likely to have a significant effect on a European site must not be begun until written notification of an appropriate assessment has been undertaken in accordance with Regulation 77.

- 7.3 In this instance, as part of the Prior Approval process, the Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several Solent European Sites (as defined in the applications HRA) due to the decrease in water quality that would be a result of the proposed development. (In this instance the site lies beyond the 5.6km boundary to have any significant effect from recreational disturbance).
- 7.4 The application was then subject to Appropriate Assessment under Regulation 63. This included a package of avoidance and mitigation measures based on the Position Statement and Mitigation Plan for Nutrient Neutral Development. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation packages.
- 7.5 The Appropriate Assessment concluded that the avoidance and mitigation package is sufficient to remove the significant effects on European Sites which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has paid the appropriate mitigation for water quality mitigation, totalling £9,383.34 and the associated Deed has been completed. Natural England have raised no objection to the HRA AA. Accordingly the requirements of Article 3 are considered to have been met, in that regulations 75 to 78 of the Habitats Regs have been complied with prior to commencement.
- 7.6 The nitrogen budget is based on the assumption that the fixtures and fittings in the development meet a water efficiency of 110 litres per person per day. Therefore two conditions would be required to ensure that the development is fitted out with measures to meet the water efficiency of 110 litres per person per day in perpetuity, to ensure compliance with the nutrient budget and HRA AA.
- 7.7 In addition, Article 3 (9A) 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.
- 7.8 In this instance all four flats meet the minimum size requirement set out in the nationally described standards for their relevant 1 bed, 2 person unit, or 2 bed 4 person unit, and as such would comply with Article 3 (9A).

8 Planning Considerations

- 8.1 The General Permitted Development Order (GPDO) (as amended) grants at Schedule 2, Part 3, the general permitted development rights for changes of use. Class MA sets out the principle of the proposed change of use from Class E commercial uses to C3 dwellings, such that it is only the matters set out in the relevant 'prior approval' process that can be considered.

8.2 Class MA of the GPDO sets a number of conditions and limitations (MA.1.) as follows:

8.3 **MA.1.-(1) Development is not permitted by Class MA –**

(a) criteria deleted

(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 building was last used as the Wecock Farm Area Housing office, i.e. a Class E(g)(i) office. The proposal therefore complies with criteria MA.1. (b)

(c) criteria deleted

(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;

None of the above apply.

(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;

None of the above apply.

(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

The site is not occupied under an agricultural tenancy.

(g) before 1st 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 is not applicable to the application proposal.

8.4 **Conditions**

MA.2.-(1) Development under Class MA is permitted subject to the following conditions:

(2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) transport impacts of the development, particularly to ensure safe site access;
- (b) contamination risks in relation to the building;
- (c) flooding risks in relation to the building;
- (d) impacts of noise from commercial premises on the intended occupiers of the development;
- (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; *(n/a)*
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; *(n/a)*
- (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, *(n/a)*
 - the impact on the local provision of the type of services lost; and
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building *(ie 18m high or 7 storeys or more - it is not, development is 2 stories only - therefore n/a)*

In this case, having reviewed the application, the local planning authority has determined that prior approval is required in this instance for MA.2 - (2) - (a), (b), (c), (d), & (f).

- 8.5 The Local Planning Authority may refuse the application where it considers that the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.
- 8.6 The provisions of the GPDO require the Local Planning Authority to assess the development proposals solely on the basis of the limited number of considerations set out above. It should be noted that privacy and amenity impacts arising from overlooking are not included in the list of considerations for this type of application and cannot therefore be taken into account. However, due to the level difference and close proximity of the dwellings in Grebe Close, negotiations did take place over the internal layout, and revised plans submitted, flipping the internal layout to remove main habitable kitchen and living room windows from the east elevation facing the properties in Grebe Close. The windows in this direction now all serve bedrooms or the communal hall area, which will help to minimise overlooking issues. The south elevation remains blank with no windows.
- 8.7 Development Plan Policies and the National Planning Policy Framework can be considered relevant to prior approval cases insofar as they relate to the development and prior approval matters.
- 8.8 Development must be completed within a period of 3 years starting with the prior approval date.

8.9 Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.

8.10 The Procedure for determining applications for Prior Approval under Part 3 must follow the provisions given in paragraph W.

Assessment

8.11 (a) transport impacts of the development, particularly to ensure safe site access:

The site does not have any direct vehicular access and the proposed conversion would only have pedestrian access, taken from the existing door at the rear of the building, on the east elevation. There is however an unrestricted public car park directly outside the building, which serves the area generally, including the adjacent community centre, church and takeaway, and access to this would remain unchanged.

This parking area also previously served the housing office with 10 staff and visitors. Hampshire County Council Highways note that the proposed change of use to 4 flats would be unlikely to generate significant increased traffic generation, and would be unlikely to have any detrimental impact on the safety of the local highway network.

In terms of parking, no on site parking is provided and reliance would be on the communal car park at the front. As above, the demand for parking would be similar to the previous use, albeit potentially at different times of day ie the housing office would have generated parking demand in the day for its 10 members of staff and visitors, but a residential use would generate demand including overnight. The adjacent community uses are likely to generate varying parking demands based on activity/opening times.

Since the parking is unrestricted at both the front of the site, and in the surrounding roads, Kite Close etc, then future residents could legally park anywhere in the vicinity. The rear courtyard is secure with fencing so could provide secure cycle storage.

Overall, the access and parking arrangements at the site would be unchanged and the proposed change of use is not considered to result in any significant increase in parking demand or adverse highway impacts sufficient to justify a refusal based on highway grounds.

(b) contamination risks in relation to the building.

The proposal would not involve any ground works and Environmental Health have not raised any objection on contamination grounds.

(c) flooding risks in relation to the building.

The application site is within flood zone 1 and is not identified in an area at risk of either current day or future flooding.

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

The site is located in a mixed area with adjacent residential and community uses, and a Chinese takeaway.

Environmental Health have been consulted and note the context of the site is largely residential and it is unlikely that noise from any commercial premises would pose any particular incompatibility with a C3 residential use.

They have however recommended two conditions - one re the noise emitted from any plant on the application site building; and one to secure an internal sound insulation, ventilation and cooling strategy. However it is considered that these go beyond the remit of what can be considered, and do not sufficiently relate to noise from commercial premises on the intended occupiers, to be able to impose them as conditions. Instead Informative's can be added.

Overall it is considered that the impacts of noise from commercial premises on the intended occupiers would be limited and therefore acceptable living conditions would be provided, in accordance with policies DM10, DM18 and CS16.

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

Each living room and kitchen has at least one window. As such it is considered that the internal layout would provide natural light to all habitable rooms. Natural light to these windows is not obstructed and would be expected to be reasonable.

Environmental Health did not raise any comment or objection to this issue. Overall this issue is considered acceptable.

8.12 Paragraph W (13) states:

The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

It is not considered that any conditions are necessary relating to the relevant issues above, but it is considered necessary to impose two conditions relating to the need for a water efficiency calculator and its implementation, to ensure compliance with the nitrogen budget and HRA AA.

9 Conclusion

- 9.1 The proposed change of use to 4 flats (2no 1 bed 2 person units, and 2no 2 bed 4 person units) is supported by the current GPDO and the NPPF, and there are considered to be no adverse impacts relating to transport, contamination, flooding, noise and natural light provision arising from the proposal. Prior Approval is therefore required and granted subject to relevant conditions and informative's.
 - 9.2 Revised plans have been forthcoming, reducing the overlooking issues arising from the change of use to residential, securing a better overall development.
 - 9.2 The development would comply with the requirements of Class MA and the provisions of paragraph W of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (as amended).
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9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT PRIOR APPROVAL** for application APP/24/00978 subject to the following conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location & Site Plan - Drawing Number WHO01
Proposed Plans and Elevations - Drawing Number WHO03 Rev 1
Flood Map
Havant Occupancy Calculator dated 8th January 2025
Nutrient Budget Calculator

Reason: To ensure provision of a satisfactory development.

2

The development hereby permitted shall not be occupied until:

- (a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken 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; and
- (b) All measures necessary to meet the approved water efficiency calculation have been installed.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. In compliance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017, the local planning authority has a duty to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council has also had regard to Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

- 3 At all times following occupation of the development hereby approved, all measures for water usage within the submitted nutrient budget shall be maintained in the development in perpetuity.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment.

The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. In compliance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017, the local planning authority has a duty to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council has also had regard to Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.