

- 1.5 In the meantime a further application for some additional windows, was submitted and approved under APP/23/00403. This current Prior Approval application now seeks the change of use of part of the second floor for one additional flat, in an area left void by APP/22/01165.

2 Planning History

00/58078/003 - Application to determine whether prior approval is required for the erection of three dual polar antennas on the roof, WAD,04/04/2000

99/58078/001 - New shopfront, PERM,12/10/1999

99/58078/002 - Internally illuminated double sided projecting sign and internally illuminated fascia sign to front (west) elevation, PERM,12/10/1999

09/62748/013 - Variation of Condition No. 2 of Planning Permission 04/62748/010 to allow market vehicles to leave the pedestrian precincts no earlier than 1600 hours and the site should be cleared by 1730 hours., PERM,15/01/2010

APP/22/00741 - The creation of new windows, 2 dormers and external alterations to front elevation., PERM,17/11/2022

APP/22/01165 - Prior Approval for development consisting of a change of use of a building and any land within its curtilage from Class E (commercial, business and service) to Class C3 (dwellinghouses) to form 17 apartments at first and second floor levels., PANN,14/04/2023

APP/23/00403 - Installation of 9No windows including 2No on south elevation, 4No on west elevation and 3No on east elevation., PERM,05/07/2023

APP/23/00424 - Proposed Rooftop upgrade to the existing telecommunications installation. Existing 6No. Antennas to be removed. Proposed installation of 6.0m High Swann CS5S Tower with 2.0m Headframe c/w 6No. Antennas and associated ancillary works. Existing 1No. GPS Module to be relocated to new Swann Tower. , PERM,26/07/2023

3 Proposal

- 3.1 Prior Approval for development consisting of a change of use of a building and any land within its curtilage from Class E (commercial, business and service) to 1No. flat Class C3 (dwellinghouses).
- 3.2 This application would result in one additional, one bedroom flat within the second floor - see paragraphs 1.4 and 1.5 above for planning history/explanation.

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)
CS4	()
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)
AL3	(Town, District and Local Centres)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 **Statutory and Non Statutory Consultations**

Environmental Health

I have considered the above prior-application proposal to provide a 1 bed dwelling within an existing commercial structure. Giving the noise climate within the building footprint and the surrounding area, we consider that noise levels could significantly have impact on the future occupiers of the development. Accordingly, I recommend that should prior approval be granted, the following consideration be given with respect to noise.

Sound Insulation Condition

Prior to commencement of the development the applicant shall provide a scheme to the Local Planning Authority for its written approval detailing sound transmission reduction measures to be installed between the ground floor use and the first floor flat. The scheme shall be designed to provide at least DNTw+Ctr 50dB. Once agreed in writing by the Local Planning Authority the approved details shall be installed prior to the development being occupied and retained thereafter.

Reason: To ensure that the amenity of occupiers of the development site is not adversely affected by noise from transport & commercial noise sources.

Sound transmission reduction condition

Prior to commencement of the development the applicant shall provide a scheme to the Local Planning Authority for its written approval detailing sound transmission reduction measures to be installed within the separating walls between the proposed new dwellings and existing commercial premises at ground floor that share a party wall to limit airborne and structure borne sound transmission.

The scheme shall be designed to be 5dB better than that given in Approved Document E (2003 Edition incorporating 2004 and 2010 amendments) of the Building Regulations (Table 0.1a, page 12). Once agreed in writing by the Local Planning Authority the approved details shall be installed prior to the development being occupied and retained thereafter.

In addition Informatives regarding Hours of Work, Bonfires & Dust Control are recommended

Hampshire Highways

The prior approval application seeks permission for the conversion of Class E floor space into 1 apartment. The site is located in the centre of Waterloo and whilst it is noted that no formal parking provision will be provided, the development is located in a sustainable location, meaning alternative modes of transport will be available to residents.

The Highway Authority therefore recommends no objection to the proposed development

Natural England

DESIGNATED HABITATS SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

Formal response on appropriate assessment under Reg 77 - NE does not object to the granting of this permission subject to advice, summarised as:

provided all mitigation measures will be secured as planning conditions or obligations by your authority to ensure their strict and timely implementation for the full duration of the development. Your authority should be assured that proposed financial contribution rates are proportionate to the identified effects of the proposed development, suitably precautionary, and in line with the Retail Price Index, where relevant

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: 26

Number of site notices: 2

Statutory advertisement: 2 site notices posted

Number of representations received: 0

Comment	Officer Comment
None received	

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 both the increase in recreation and the decrease in water quality that would be a result of the proposed development.
- 7.4 The application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of 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 packages are 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 both SRMS and water quality mitigation, totalling £2,326.15 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. Two conditions would be required to ensure that the development meets and is fitted out with measures to meet the water efficiency of 110 litres per person per day in perpetuity, in order to comply with the nutrient budget and HRA AA.

- 7.6 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.
- 7.7 In this instance the one bed flat would have a floor space of 52sqm which exceeds the nationally described minimum of 50sqm and as such would comply with Article 3 (9A).

8 Planning Considerations

- 8.1 The General Permitted Development Order (GPDO) (as amended) grants the general permitted development rights for the principle of the proposed change of use from Class E to a C3 dwelling, 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) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

(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 has previously been in use as a shop (Class A1, now Class E (a)) but has been vacant for a period of at least 3 months prior to the date of the application. The proposal therefore complies with criteria MA.1.- 1(a) and (b)

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

The cumulative floor space of the existing building changing use does not exceed 1,500 square metres. The proposal therefore complies with criteria MA.1.- 1(c).

(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; (*site is flood zone 1*)

(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;

(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; and

(*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*)

(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, building is 13m high*)

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), (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.
- 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:

As part of the negotiations made under APP/22/01165, provision was made for an internal bike store for 23 cycles, accessed off the rear service yard; together with an external bin store in this service area. The same plans are now submitted showing the same cycle storage and refuse area to serve the overall development of APP/22/01165 for 17 flats and this one additional flat combined ie 18 flats. No formal car parking would be provided, though the remaining rear service area could be used on an ad hoc basis for delivery, emergency vehicles etc.

The sites sustainable location within Waterlooville Town Centre with nearby amenities and public transport links is noted. The provision of secure cycle storage would encourage alternative methods of transport. The County Highway Authority has not raised an objection in terms of highway safety or capacity.

Whilst there is no parking provision, as noted above, being in a sustainable location this is considered acceptable and therefore, it is considered that the proposal would not result in any highway safety or capacity issues.

(b) contamination risks in relation to the building.

The proposal involves the second floor of the property and there is no record of any contamination of this site.

(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 town centre where a certain level of noise would be expected. The adjacent buildings are only either single storey or two storey with no adjacent noisy users. The ground floor is a vacant shop (Class E) unit. The proposed flat the subject of this prior approval is on the second floor, and assuming implemented in conjunction with APP/22/01165, would be surrounded on both sides and beneath by further flats and residential hallways. As such adjacent uses would be compatible.

However it is noted that Environmental Health have requested sound insulation and transmission detail conditions for both floors and walls. Given that the conversion of the majority of the building to 17 flats under APP/22/01165 can occur without any such condition or details being submitted, then it would seem unreasonable and unnecessary to impose such conditions for the conversion of this 1 flat surrounded by other flats. It is further assumed that Building Regulations would require some degree of insulation in the conversion process.

Overall it is not considered that the future occupiers of this one flat on the second floor would be subjected to adverse noise arising from commercial premises sufficient to justify imposing pre-commencement noise conditions. It is considered that the noise levels would be reasonable and adequate amenity achievable in accordance with policies CS16 and DM10.

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

The proposed flat would have 4 windows - 2 serving the bedroom and 2 serving the living space and kitchen. Being on the second floor with no immediately adjacent high building obstructing light, then natural light to these windows 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 provision of a water calculator to ensure the development is fitted out to meet the water efficiency set out in the nutrient budget, and subsequently maintained as such.

9 Conclusion

- 9.1 The proposed change of use 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 informatives.
 - 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/23/00528 subject to the following conditions

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

Location and Block Plan - Drawing Number JW1110-100
Proposed Second Floor Plan - Drawing Number JW1110-123A
Existing and Proposed Elevations - Drawing Number JW1110-124
Previously Approved Ground, First and Second Floor Plans - Drawing Number JW1110-122
Havant Occupancy Calculator
Nutrient Budget

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.