
Site Address: 42 North Street, Havant, PO9 1PT
Proposal: Change of use of the vacant office building to two flats and erection of rear external staircase and secure cycle storage.
Application Type: Full Planning Permission
Application No: APP/22/00337 Expiry Date: 27/05/2022
Applicant: Mr Shipp
Agent: Mr Andrews Case Officer: Lesley Wells
 SDA Planning and Architecture
Ward: St Faiths

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 42 North Street, lies within Havant Town Centre boundary, but does not fall within the Primary or Secondary Shopping Frontages. The site also falls within the St Faith's Conservation Area.
- 1.2 The building fronts North Street, with a public car park to the rear. The immediate area is commensurate of a town centre location with a mix of commercial and residential development. The residential development largely being first floor flats with ground floor retail and commercial premises.
- 1.3 The application site is made up of a vacant office building, over two floors.
- 1.4 The site currently falls within Flood Zone 1. However, the site lies within an area which is at risk of flooding in the future, due to climate change.

2 Planning History

None.

3 Proposal

- 3.1 Change of use of the vacant office building to two flats and erection of rear external staircase and secure cycle storage. The proposal is for 2, 1 bedroom flats, with rear amenity spaces for both units.
- 3.2 Planning permission was granted on 26/10/87 under reference 22211/4 for the "Change of use of the site from consulting rooms to general office/business use ". Conditions 2 states:

"Notwithstanding the provision of any Town and Country Planning Use Classes Order, the use hereby permitted shall be restricted solely to that of graphic design/artwork offices and studios and/or any other use falling within the scope of Part (a) of Class B1 in the Schedule to the Town and Country Planning (Use Classes) Order 1987."

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

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS2	(Employment)
CS4	()
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM3	(Protection of Existing Employment and Tourism Sites)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
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)

Emsworth Neighbourhood Plan Post Examination Version 2020

N/A

Listed Building Grade: Not applicable.

Conservation Area: St Faiths

5 Statutory and Non Statutory Consultations

Building Control - No Comment

Building Regulations consent will be needed for this work

A Public sewer runs under this site

First floor lounge and bedroom are inner rooms Means of escape windows needed
Bedroom might be an issue

Possible unprotected area issue with Ground Floor dining room windows and location of site boundary AD B

Ground floor Kitchen door / windows should be 1.8m away from First Floor staircase in accordance with AD B B1 Para 2.17 & Diagram 2.7

Sound proofing required between floors this will be an issue if chimneys remain linked

Soil vent pipe should be located 900mm away or 3m from any opening window

Staircase design does not comply with Approved Document K requirements should not be climbable and have no gaps greater than 100mm

Officer Comments: *if permission is granted, these matters would be covered under Building Control legislation.*

Community Infrastructure - Comment

CIL Liable: <http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>.

The Additional Information Form states the building is still in use, yet the proposal states “vacant office building” and the Planning, Design and Access and Heritage Statement also refers to the “vacant office building”. In order for credit to be given for the existing floor area, it must be shown that it has been occupied for its lawful use for 6 continuous months of the 36 previous months.

Additionally, pending a response from Natural England on the ‘HRA’, instructions should be passed by the Case Officer to the CI Team to:

(a) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of additional dwellings and their respective number of bedrooms. See <http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy>.

(b) Issue the Nutrient Neutrality Unilateral Undertaking. See <https://www.havant.gov.uk/nitrogen-developers>

Officer Comment: *the agent has confirmed the offices are vacant but have been used within the last 36 months for 6 months.*

Councillor Imogen Payter - No Comment

Councillor J Branson - St Faiths - No Comment

Councillor T Pike - St Faith's

I wish to object to this application on the basis of the information available. The ground floor of properties in this area should be town centre uses - I have no objection to a flat on the first floor. Policy AL3 requires this in the town centre, this property is situated within the town centre boundary, and I can see no marketing information that demonstrates that a town centre use is not wanted in this location.

As we saw at 30 North Street, where we successfully opposed a conversion to residential, this now back in commercial use. It is therefore highly likely there is a potential town centre use for this site at number 42.

County Archaeologist - No Objection

The site lies close to the historic core of Havant, an area with known occupation dating to at least the Roman period. However, the proposed development is of a limited scale and will have a limited below ground impact. On that basis, I do not wish to raise any archaeological issues.

Developer Services, Southern Water

The attached plan shows that the existing development lies over a foul sewer. Approval should be sought from Southern Water where an extension to a building or underpinning work would be over a public sewer. An investigation of the sewer is required to confirm its size and depth, ascertain its condition, number of properties served and potential means of access before any decision can be made as to whether it would be acceptable for Southern Water to allow building-over/close-to the sewer.

The length of sewer to be built over under the terms of Part H of the Building Regulations dictates that the matter is determined by the sewerage undertaker, which

in this case is Southern Water.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

In order to protect drainage apparatus, Southern Water requests that if consent is granted, the following condition is attached to the planning permission; Prior to the commencement of development, the developer must advise the local authority, in consultation with Southern Water, of measures which will be undertaken to protect the public sewers.

Southern Water requires a formal application for any new connection to the public foul sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

southernwater.co.uk/developing-building/connection-charging-arrangements

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

Officer Comment: *The above condition would be imposed on the decision notice if permission is granted.*

Environment Agency - No Objection

Please accept this email as confirmation that we have no objections in relation to noise.

Heritage Team - No Objection

Background

The application site is located in North Street in Havant Town Centre and within the St Faiths Conservation Area. It forms a two-storey, mid terrace property which is was last used as office accommodation.

Proposal

Change of use to 2 x 1no. bedroom flats and erection of rear staircase.

Legislative and Policy Context

When assessing the proposal, the following legislation and policy context is taken in consideration.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning authorities, when considering whether to grant planning permission for development which affects a Conservation Area, to have special regard to the desirability of preserving or enhancing the character and appearance of that area.

With regards to local planning policy, the following are relevant:

Policy CS11 of the Core Strategy states that planning permission will be granted for development that:

Protects and where appropriate enhances the borough's statutory and non-statutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or architectural interest.

Policy CP16 (1a) of the Core Strategy states 'Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site'.

Policy DM20 of the Allocations Plan states that planning permission will be granted for development proposals that conserves and enhances the historic assets of Havant. It also states that application which affect, or have the potential to affect, heritage assets are expected to provide a Heritage Statement that:

1. Describe the significance of the asset and its setting, using appropriate expertise and where necessary original survey, at a level of detail proportionate to its significance and sufficient to understand the potential impact of the proposal.
2. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy heritage assets.

Officer Response:

The proposed change of use would result in minimal changes to the front exterior of the building. The rear elevation would feature the staircase however, this would not be highly visible in the context of the conservation area. Overall, it is considered that the proposal would not result in harm to the conservation area and would meet the tests of Section 72.

Conclusion - No objection

Environmental Health - No Objection - Noise

Confirmation that we have no objections in relation to noise.

Environmental Health - Comments

Support on Air Quality (sustainable travel) grounds. Change of use is material for the risk status of the land, so I'm afraid contamination conditions are needed. I am mindful that the quantum of the development may have limited yield, and that we need to make sure that our planning decisions are rational (that condition requirements should not make unviable an otherwise viable development). Might be worth having a conversation with the applicant about the available margin. I am happy for a fairly

rough & ready / low cost approach in the first instance, but there will always be the risk that results will be adverse, and that mitigation would be necessary.

If there is a risk that adverse results might make this development unviable, it might be that a recommendation for quantifying contamination-risk prior to awarding consent could be justified.

Officer Comment: *if permission was forthcoming appropriate contamination conditions would be recommended.*

Highway Authority - No Objection

Due to the scale of the proposal and that there is no change to the vehicular access, HCC's standing advice should be referred to in the first instance. As a result, the Highway Authority will not provide detailed comments on this planning application. For more information on standing advice please use the following link: www.hants.gov.uk/transport/developers/consultation

Natural England - No Objection

DESIGNATED HABITATS SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

With regard to National Site Network sites, Natural England does not object to the granting of this permission subject to the advice given below.

Your appropriate assessment dated 15 December 2022, concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions.

Your authority has measures in place to manage potential impacts through contributions to an agreed strategic solution 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.

This advice is provided on the basis that 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.

Further advice Nutrient budget

We note that the nutrient budget for this application has been calculated in line with the Solent Nutrients Guidance, V5, June 2020. Your authority, as Competent Authority, should consider how the updated Nutrient Neutrality Methodology relates to the nutrient budget provided with this application, and any

proposed mitigation.

Nutrient Team - No Objection

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

The applicant should be advised that the Council's strategic mitigation scheme is to be charged at £3,000 per kilogram of nitrogen (as at 18/11/22). In addition, 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-develop>

Officer comment: *the agent has been advised of the above, but has moved forward with using Warblington Farm site for mitigation.*

Policy - Objection

Policy Status:

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan, provide the development plan for the borough. Following the receipt of the Inspectors' Interim Findings, the Examination was concluded, and the Havant Borough Local Plan from Examination was formally withdrawn on the 16th March 2022.

The following Adopted Local Plan policies are of particular relevance:

- CS2 – Employment
- CS4 – Town, District and Local Centres
- CS11 – Protecting and Enhancing the Special Environment and Heritage of Havant Borough
- CS15 – Flood and Coastal Erosion Risk
- CS16 – High Quality Design
- CS19 – Effective Provision of Infrastructure
- CS21 – Developer Requirements
- DM3 – Protection of Existing Employment Tourism Sites
- DM10 – Pollution
- DM13 – Car and Cycle Parking on Residential Development

Principle of Development:

This application relates to a vacant office building and therefore Policies CS2 and DM3 are of relevance.

Policy DM3 indicates the change of use or development of land or premises currently or last used for B use class employment purposes to non-B class employment uses will only be permitted where it has been demonstrated that the land or premises are not fit for purpose and financially unviable for any employment use. The active and exhaustive marketing process should cover 12 months and as a minimum should include:

- i) Confirmation by the marketing agent on headed company paper that the premises were appropriately and extensively marketed for the required length of time as set out by the council.
- ii) Dated photographs of marketing board/s of an appropriate quality, size, scale,

location and number, during this time, on the premises.

iii) An enquiry log, how it was followed up and why it was unsuccessful.

iv) A copy of all advertisements in the local press and trade journals (should be at least four weeks' worth of advertisements spread across a six month period).

v) Evidence of marketing via the internet.

No such supporting evidence has been submitted to address the policy requirements set out above, as such a policy objection arises in the context of Policies CS2 and DM3.

In addition, the site falls within Havant Town Centre as defined by Policies CS4 and AL3, but outside of any primary or secondary shopping areas. In this case, it should be noted that the proposals would result in the loss of an active ground floor frontage and a main town centre use. As such, the proposed use would conflict with policy objectives to maintain and enhance the vitality and viability of the town centre.

Flood risk

The site lies within an area which is at risk of flooding in the future. However, as the proposals is for a change of use, the sequential test does not need to be applied. The change of use would, however, result in an increase in flood risk of the vulnerability classification of the development. The applicant will therefore need to show in their flood risk assessment that future users of the development will not be placed in danger from flood hazards throughout its lifetime. Depending on the risk, mitigation measures may be needed.

It is for the applicant to show that the change of use meets the objectives of the Framework's policy on flood risk.

In this case, no flood risk assessment appears to have been submitted. As such, an objection would arise in the context of Core Strategy Policy CS15 and paragraph 168 of the NPPF. It should also be noted that the NPPF protects areas at risk of flooding and provides a clear reason for refusing proposed development. In such cases, the tilted balance in paragraph 11d) ii of the NPPF does not apply.

Design and Heritage

Core Strategy Policy CS16 and Borough Design Guide require high quality design. In addition, it is noted that the site falls within the St Faiths Conservation Area. As such, the external alterations would be expected to protect and enhance the character and appearance of the conservation area in line with Policy CS11. In this respect, the Council's Heritage Team has noted that the proposal would not result in harm to the conservation area.

Parking:

The proposals would need to ensure that appropriate parking provision is provided in accordance with Policy DM13, and the Council's Parking SPD.

Summary:

In the absence of a realistic and active marketing exercise to demonstrate the office premises are no longer fit for purpose and financially unviable for B use class purposes, a policy objection arises in the context of Policies CS2 and DM3. In addition – in the absence of a flood risk assessment which demonstrates future users of the development will not be placed in danger from flood hazards throughout its lifetime, the

proposal would be contrary to Core Strategy Policy CS15 and paragraph 168 of the NPPF

Portsmouth Water Company - Final Comment

The Portsmouth Water Catchment Management Team have reviewed this planning application from a groundwater quality protection perspective and have provided the following comments.

Site Setting

The site is located within Source Protection Zone 1c (SPZ1C) of the groundwater catchment for an essential public water supply source. It is also within 450 meters of a Spring on company land used for potable water supply. SPZ1C relates to subsurface activity only, where the Chalk aquifer is confined and may be impacted by deep drilling activities.

Subterranean activities such as deep drainage solutions and/or piling may pose a risk to groundwater quality at the local public water supply source. The confined aquifer is of high sensitivity and consequently all measures to prevent pollution during and post construction are required in order to safeguard the local public water supply.

Surface Water Drainage

Within the Application Form it is set out that the proposed surface water drainage for this development is by a Soakaway to Groundwater. The Portsmouth Water Catchment Management Team request clarification on if this soakaway pre-exists this application, or is to be created as part of it.

Should the Soakaway be proposed for construction under this application the following applies:

Portsmouth Water has a presumption against the use of deep-bore soakaways at this location, due to the location within SPZ1C of the groundwater catchment and the proximity to our public water supply source. All applications for the construction and installation of deep bore soakaways should be accompanied by an adequate hydrogeological risk assessment demonstrating how the risk to groundwater would be mitigated in the proposed design. Portsmouth Water will only agree to the use of deep pit based systems (including boreholes) for surface water disposal if the developer can show that all of the following apply:

- there are no other feasible disposal options such as shallow infiltration systems (for surface water) that can be operated in accordance with current British Standards;
- the system is no deeper than is required to obtain sufficient soakage;
- pollution control measures are in place;
- risk assessment demonstrates that no unacceptable discharge to groundwater will take place, in particular that inputs of hazardous substances to groundwater will be prevented;
- and there are sufficient mitigating factors or measures to compensate for the increased risk arising from the use of deep structures.'

Officer Comment: *the agent has confirmed that the site will utilise the existing drainage system, with no new drainage proposed or required.*

Portsmouth Water Company - 1st Comment - Further Information Sought

The Portsmouth Water Catchment Management Team would like to please request

clarification in regard to the drainage for Planning Application APP/22/00337 42 North Street, Havant before we submit comment on this application.

Within the Application Form it is set out that the intended surface water drainage methodology is Soakaway to groundwater. Could you please clarify with us whether this Soakaway pre-exists this application, or if it is intended to be installed as part of it. It is important that we understand the existing site drainage before commenting due to the sensitive nature groundwater environment.

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: 12

Number of site notices: 1

Statutory advertisement: 13/05/2022

Number of representations received: 0

Comment	Officer Comment
Other than a Local Member comment, no other representations have been received.	See Section 7 below

7 Planning Considerations

Habitat Regulations Assessment & Appropriate Assessment

The Council, as competent authority under Regulation 63(1)(a) of the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations), has conducted a Habitats Regulations Assessment (HA) of the proposed development.

Recreational Pressure

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations) and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. As such, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

The applicant has proposed a mitigation package based on the methodology in the Developer Contributions Guide. The scale of the proposed mitigation package would remove the likelihood of a significant effect. The applicant has entered into a legal agreement to secure the mitigation package in line with the requirements of the Habitats Regulations and Policy DM24.

Water quality

There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. 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. Therefore, a significant effect on the Chichester and Langstone Harbours SPA, Solent Maritime SAC and Solent and Dorset Coast pSPA cannot be ruled out.

Natural England have produced 'Advice on achieving nutrient neutrality for new development in the Solent region'. This sets out a methodology to calculate the nutrient emissions from a development site. The applicant has used this methodology to calculate the nutrient emissions from the site. This calculation has confirmed that the site will emit a net nutrient load into European Sites. The Position Statement and Mitigation Plan for Nutrient Neutral Development sets out a mitigation package which will mitigate the impact that this development would have on the designated European Site. The applicant has entered into a legal agreement to secure the mitigation package.

Appropriate Assessment conclusion

The Habitats Regulations Assessment concluded that the avoidance and mitigation packages proposed in the Appropriate Assessment are sufficient to remove the significant effects on the Solent's 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 entered into a legal agreement to secure the mitigation packages.

Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Loss of Commercial Use
- (ii) Impact upon the character and appearance of the St Faith's Conservation Area
- (iii) Impact upon residential amenity (neighbouring properties and future occupants)
- (iv) Drainage and Flooding
- (v) Parking
- (vi) CIL

- (i) Principle of development

- 7.1 The application site is situated within an urban area where further development is considered acceptable in principle, subject to the usual development control criteria. The National Planning Policy Framework (NPPF) supports sustainable development with three aims: the economic; social; and environmental objectives. Havant Borough Council development plan comprises the Hampshire Minerals and Waste Plan; the Local Plan (Core Strategy) 2011 and the Local Plan (Allocations) 2014 and in accordance with paragraph 11 of the NPPF decisions should be made in accordance with the development plan.
- 7.2 It is noted that the Council's Five Year Housing Land Supply Update (March 2023) shows that the Borough has a 1.81 year housing land supply with a 20% buffer applied. This is below the five year supply threshold, and as such there is a presumption in favour of sustainable development (para 11d of the NPPF). Significantly, however, it does not follow there is a tilted balance in favour of permission being granted, as footnote No. 7 in the NPPF is of relevance to the

proposal as the site falls within an area at risk of flooding.

(ii) Loss of Commercial Use

- 7.3 The site falls within Havant Town Centre, where it is important to promote and protect their vitality and viability. It is also recognised that centres are changing. Policies AL3, along with CS4 of the Havant Borough Local Plan (Core Strategy) 2011 (HBLPCS), aim to reflect this, whilst seeking to enhance the evening economy of the town and district centres through the grant of planning permission and encourages high quality, mixed-use development that retain active ground floor frontages. The proposal would result in the loss of a commercial office use, within Havant Town Centre, albeit currently not in use.
- 7.4 Policy CS2 of the HBLPCS seeks, amongst other matters, to "Safeguard existing employment sites and allocations that are fit for purpose from development proposals for non-employment uses." No information has been provided to the LPA, that has demonstrated that the site is not fit for employment office use.
- 7.5 Policy DM3 seeks to protect, amongst other matters, existing employment sites and that non employment uses will only be permitted where it has been demonstrated that the land or premises are not fit for purpose and financially unviable for Class E (formerly B1a use). To demonstrate whether this is the case, Policy DM3 sets out that "...an active and exhaustive marketing process covering at least 18 months for a major site and 12 months for all other sites.", with evidence that the marketing price is realistic and that the marketing has been appropriate and genuine. It has been confirmed with the applicant's agent that no such marketing exercise has taken place, as it is considered the relevant policies are out of date and the need for office space has declined. In accordance with Section 38 of Planning & Compulsory Purchase Act 2004 the determination must be made in accordance with the development plan unless material considerations indicate otherwise.
- 7.6 The permanent loss of this commercial unit has the potential to adversely affect the vitality and viability of this section of the town centre, albeit the principle of residential development at first floor would be unlikely to be resisted, subject to any other material planning considerations. Whilst it is recognised generally that the need for commercial space has been reduced, without evidence from the applicant in the form of a marketing exercise, which demonstrates there is no longer a need for this office use, the harm to the town centre outweighs the change of use to residential at ground floor level, which would be contrary to the aims and objectives of Policy CS4 of the Havant Borough Local Plan (Core Strategy) 2011 and Government advice in the NPPF. The agent disagrees with this assessment, being of the view that the relevant policies in the development plan are out of date, as is the condition restricting the use, (as set out above), due to the Council's inability to demonstrate a 5 year land supply and having regard to the flooding issue, as set out below, due to the site currently being in Flood Zone 1. For the reasons set out above and below Officers do not concur with the agent's assessment of the policy position.

(ii) Impact upon the character and appearance of the St Faith's Conservation Area

- 7.7 The main change to the exterior of the building, would be the replacement of a window, with a door opening out onto an external first floor stair access to the rear with no external changes proposed to the front exterior. As to internal changes these are to facilitate the conversion from office use to residential, which would not impact on the locality.

- 7.8 In assessing the proposal under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 special regard must be had by the Local Planning Authority to the desirability of preserving or enhancing the character and appearance of that area.
- 7.9 The Council's Conservation Officer (CO) has been consulted over the proposal as the site lies within the St Faith's Conservation Area and advised:

"Overall, it is considered that the proposal would not result in harm to the conservation area and would meet the test of Section 72. "

- 7.10 Therefore, having full regard to the test in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal would not be harmful to the character and appearance of the Conservation Area and would accord with Policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy), in this regard.

(iii) Impact upon residential amenity (neighbouring properties and future occupants)

Impact on existing residential occupiers

- 7.11 The proposal is the conversion of offices to 2, No. 1 bedrooms flats. Therefore, there would already be a degree of overlooking of neighbouring rear gardens/courtyards from the existing lawful use.
- 7.12 To the north of the site (No. 44) is a commercial unit at ground floor with residential above. To the south of the site was a former commercial unit which has been converted to residential under reference APP/21/00866 (Prior Approval). The introduction of residential development at the site would be unlikely to give rise to an unacceptable level of noise and disturbance, to existing adjoining residents.
- 7.13 As to the rear staircase to the first floor flat, direct view to the east would be over the public car park to the rear, with views on surrounding properties to be expected within this town centre location.

Impact on further residential occupiers

- 7.14 The 2 flats would comply with the Government's Technical housing standards - nationally described space standards, with access to a rear amenity space is provided. The ground floor flat's access would be from North Street. The second floor's access would be from the new staircase, which is not unusual in such conversions, overlooking the public car park to the rear. The site is in a sustainable location, with easy access to bus services, the railway station, shops and other services.
- 7.15 The proposal is located within the Havant Town Centre, where a certain level of noise is expected. There are not judged to be any substantial nearby noise pollutants impacting living conditions of future occupiers of the proposed flats from nearby commercial premises, with the Council's Environmental Health Team raising no objection to the proposal.
- 7.16 The proposal is considered to accord with Policy CS16 of the HBLPCS.

(iv) Drainage and Flooding

Drainage

- 7.17 As to foul and surface water drainage, the agent has confirmed that the site will utilise the existing drainage system, with no new drainage proposed or required. Approval of drainage for the site would fall within the remit of Building Control, if permission is granted.

Flooding

- 7.18 The site currently falls within Flood Zone 1. However, taking into account climate change the site would fall within a future floodzone – within the lifetime of the proposed development. Therefore, there is a fundamental objection to the development of this site to provide new residential accommodation. New residential units need to be directed to areas at least risk of flooding. A Flood Risk Assessment has not been provided with this application, which has been requested.

- 7.19 In terms of development in areas at risk of flooding now and in the future Policy CS15 requires, amongst other matters, that:

"1. It meets the sequential and exception test (where required) in relation to PPS25

2. The site is located in a low hazard area as defined in the Strategic Flood Risk Assessment.

3. A site-specific flood risk assessment demonstrates that the development will be safe, including the access, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

4. The scheme incorporates flood protection, flood resilience and resistance measures appropriate to the character and biodiversity of the area and the specific requirements of the site.

5. Appropriate flood warning and evacuation plans are in place."

- 7.20 Paragraph 159 of the NPPF states:

"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future)." With Paragraph 162 of the NPPF going on to say "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."

- 7.21 Paragraph 163 of the NPPF requires that Local Planning Authorities steer new development to areas with the lowest probability of flooding (ie Flood Zone 1) and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. However, as the proposal is for a change of use; the sequential test does not need to be applied in this case. As a result, the applicant would need to show in a

flood risk assessment (FRA) that future users of the development will not be placed in danger from flood hazards throughout its lifetime. Depending on the risk, mitigation measures may be needed. It is for the applicant to show that the change of use meets the objectives of the Framework's policy on flood risk. The applicant's agent has been advised of the need for a FRA, but due to the current status of the land in FZ1, has declined to provide such a document.

- 7.22 As no flood risk assessment has been submitted an objection would arise in the context of Core Strategy Policy CS15 and paragraph 168 of the NPPF. It should also be noted that the NPPF protects areas at risk of flooding and provides a clear reason for refusing proposed development. In such cases, the tilted balance in paragraph 11d) ii of the NPPF does not apply.
- 7.23 Overall it is considered that the applicant has failed to demonstrate that the site would be safe from flooding across its lifetime and would therefore be contrary to the aims and objectives of the NPPF and adopted Policy CS15 of the HBLPCS.

(iv) Parking .

- 7.24 Policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 in respect of car and cycle parking on Residential Development states:

"Residential development will only be permitted where it provides car parking and cycle storage in accordance with the standards set out in the Residential Car Parking and Cycle Provision Supplementary Planning Document."

- 7.25 The proposal does not include any on site car parking provision but would provide 3 cycle storage lockers for the flats to the rear. The use of the site for an office currently does not have any on site car parking provision; only 2 cycle spaces. The minimum parking standard in Havant's Car Parking SPD for B1 office use (now Class E), is 1 space per 30 sqm, subject to a condition or legal agreement restricting consent to the specified use. Such a condition was imposed on the use of the property as an office to a specific B1 use, when permission was granted in 1987. The existing gross internal floor space is 113.36, with a requirement for 4 on-site car parking spaces for the existing office use, as set out in Havant's Car Parking SDP. For a 1 bedroom flat, in Havant Town Centre, the maximum number of unallocated spaces should be 0.5 spaces; making a total of 1 on site car parking required for the development. (Or 2 parking spaces for allocated parking.) This is a maximum of 2 spaces less than the lawful use of the site as an office, with the proposal generating less car parking provision, than the lawful use of the land.
- 7.26 Material to the consideration of the application, is that the site falls within the Havant Town Centre, which is recognised as the most accessible part of the Borough with the widest choice of shops, services and public transport options. The Havant Borough Car Parking Supplementary Planning Document recognises that "The Town Centre provides a wide range of shops and services, including supermarkets, which lessen the need for individual travel." The local bus and train services within the Town Centre also provide alternatives to the use of the motor vehicle, to access shops and services elsewhere.
- 7.27 The Havant Borough Car Parking SPD also states at paragraph 3.05 '*Proposals within Havant and Waterlooville Town Centres, as defined in the Havant Borough Local Plan 2036, may be suitable for a lower level of car parking provision compared to the rest of the Borough. Given its comparatively higher level of accessibility, zero*

parking development schemes could be considered suitable in Havant Town Centre if supported by appropriate evidence', which "... must not result in displacement of parking pressure into nearby residential areas." Utilising near-site parking in designated car parks is recognised as a way of providing car parking for developments within town centres with (para 3.07) "...accessibility to shops and services, accessibility to public transport and the site's relation to the relative accessibility of different areas". Access to alternative means of transport is recognised as a way to discourage the use of private motor vehicles, which is promoted by adopted policy and Government advice.

- 7.28 In the overall planning balance, having regard to the fact that the site is in a very sustainable location in transport and other terms, which should encourage alternative transport modes and that the proposal generates less car parking requirement than the lawful use, which would not result in the displacement of parking pressure into nearby residential areas, (coupled with a public car park to the rear), the lack of on-site car parking for the proposal is considered to be justified, having regard to the individual circumstances of the application and in accordance with the objectives of the Havant Car Parking SPD and national advice.

(v) CIL

- 7.29 The CIL rates to be applied to development are set out in the Havant Borough Community Infrastructure Levy Charging Schedule, which was adopted by the Council on the 20 February 2013. This followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiners Report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provided an appropriate basis for the collection of the levy in the borough. The chargeable levy would be £80 per square metre (plus indexing) on new floorspace (measured as gross internal area) in Havant. The agent had advised that the building, whilst currently vacant, has been in office use for 6 months over the last 3 years, which on the information available would not be CIL liable.

8 Overall Conclusions and Final Planning Balance

- 8.1 The proposal conflicts with the development plan as a whole. However, whilst the importance of the plan-led system is recognised, it is necessary to consider whether there are material considerations of sufficient weight or importance to indicate that the decision should be made other than in accordance with the development plan.
- 8.2 The site is located within a future flood risk zone and is considered to be contrary to the NPPF and adopted policy CS15 of the Havant Borough Core Strategy (2011). The proposal is therefore recommended for refusal.
- 8.3 It is acknowledged that the Council's Five Year Housing Supply is below the threshold and that the proposal would provide 2 flats making a very small contribution to the Council's housing need. However, areas at risk to flooding are of particular importance, which is a clear reason for refusing the application as stated within paragraph 11d, Footnote 7 of the National Planning Policy Framework.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/22/00337 For the following reasons:

- 1 The development would lead to the loss of a business use which, in the absence of any marketing information, has not been demonstrated to be unfit for purpose or financially unviable. As such the proposal would result in the unjustified loss of a Town Centre Use and a reduction in the vitality and vibrancy of the town centre. The proposal is therefore contrary to policies DM3 and CS4 Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2021.
- 2 The site lies within a future flood zone. The applicant has failed to provide a Flood Risk Assessment to demonstrate that the development would be safe from flood risk across its lifetime or that the development would not increase the risk of flooding elsewhere. In the absence of adequate information, the proposal would represent unsustainable, inappropriate form of development in an area at future risk of flooding. The proposal is, therefore, contrary to Policy CS15 of the Havant Borough (Core Strategy) 2011 and the aims and objectives of the National Planning Policy Framework 2021.