

Recommendation: **GRANT PERMISSION**

The proposal is for the conversion of premises into 2 No. dwellings, comprising 1 two bed unit and 1 three bed unit following the conversion of the existing retail store into residential. This scheme has been amended through the course of the application, which resulted in the number of units being reduced to 2 units, through the removal of a proposed single storey extension on the northern elevation of the property. This reduction in units has allowed the removal of elements of the parking with a proposal for further soft landscaping to break up the hardstanding on the site.

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)
CS21 (Developer Requirements)
CS9 (Housing)
DM2 (Protection of Existing Community Facilities and Shops)

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)
AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

Pre-submission Havant Borough Local Plan 2036

The Pre-submission Havant Borough Local Plan 2036 was approved by the Council on 30 January 2019 and was subsequently published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 4 February 2019 to 18 March 2019. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination and thereafter adoption.

Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. Based on the current stage of preparation, along with the fact that the policies are compliant with the NPPF, the policies within the Pre-Submission Local Plan referenced below are currently afforded some weight, dependent on the level of objection received to each individual policy during the consultation process.

The relevant planning policies of the emerging Local Plan are:

DR1 - Delivery of Sustainable Development
E1 - High Quality Design
E2 - Health and wellbeing
E3 - Landscape and settlement boundaries
E14 - The Local Ecological Network
E15 - Protected Species
E16 - Solent Special Protection Areas
E22 - Amenity and pollution
H1- High Quality Homes
H2 - Affordable Housing
C7 - Protection of existing community facilities and shops

5 Statutory and Non Statutory Consultations

Building Control, Havant Borough Council

Bin storage to be provided for each dwelling.

Means of escape windows will be required for every bedroom in each flat.

Community Infrastructure, Planning Policy & Urban Design

CIL liable and chargeable for any additional floorspace:

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

We note that a CIL form 7(1) claiming a self-build exemption has been submitted, we would need to identify to which flat the exemption will apply and be provided with details of the relevant floorspace (GIA) to establish if an exemption will indeed apply. Once an exemption has been granted, to retain the exemption CIL form 7(2) and the documents required therein will be required to be supplied within six months of completion to retain the exemption.

Additionally, instructions should be passed by the Case Officer to the CI Team to issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of net additional dwellings and their respective number of bedrooms as we note some of the existing building is already partially in residential use. See <http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>

See also information on Nutrient Neutrality: www.havant.gov.uk/nitrogen

Comments on amended plans

The proposal now only involves conversion of 77.64sqm from a shop to residential with the same floor area. The shop having last been in use in August 2018.

We can therefore confirm that no CIL Liability attaches to this proposed development. Once decision has been made, confirmation in this respect can be issued by the CI Team.

Councillor Leah Turner - Hayling East

No response

Councillor M Wilson - Hayling West Ward

No response

Councillor R Raines - Hayling East

No response

Crime Prevention -Minor Apps

No response

Engineering/Drainage

No response

Environment Agency

No response

Natural England Government Team**Nutrient Neutrality**

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Natural England is aware that your authority has adopted an interim strategy using Grampian conditions to address nutrient impacts from developments currently in the planning system and we have been working with the Council to develop this approach. It is noted that the mitigation would be secured through a Grampian condition, requiring the mitigation package to be agreed, provided to the Council and implemented prior to the occupation of the development.

Your appropriate assessment 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. With regard to deterioration of the water environment, it is noted that the approach to address the positive nitrogen budget for this development is to offset against the interim strategy, with measures to ensure this approach can be adequately secured and accounted for.

For completeness, Natural England advise your authority to detail the nitrogen budget requiring mitigation within the HRA. It is Natural England's view that in this case, provided the Council as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Please consult Natural England on the discharge of the Grampian condition. Solent Recreation Mitigation Strategy. This application is within 5.6km of Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council has adopted a planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP). The Appropriate Assessment has taken this into consideration, therefore, providing the appropriate mitigation is secured by any approval, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site, and has no objection to this aspect of the application.

HRA

It is advised further detail is provided within Appropriate Assessments for applications proposing mitigation in line with your Council's Position Statement through a Grampian condition, regarding the nitrogen budget of the proposal (i.e. the budget in Kg/TN/year as can be calculated using the Natural England methodology, June 2019) to provide further clarity and confidence in the mitigation being proposed.

Public Spaces

No response

Waste Services Manager

No response

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: 7

Number of site notices: 1.

Statutory advertisement: Not applicable.

Number of representations received: 3

Comments made on the original plans

Comment	Officer Comment
Adverse impact on the character and appearance of the area	Considered in paragraph 7.1 (ii)
Lack of parking and adverse impact on highway safety	Considered in paragraph 7.1 (iv)
Raises concern about the use of Nutbourne Road, which is an un-adopted road	This is not a material planning consideration.
Adverse impact on the amenities of neighbouring properties	Considered in paragraph 7.1 (iii)
The site is currently very untidy and a blight on the area	Noted

No comments have been received following the re-notification of the amended plans.

7 **Planning Considerations**

Appropriate Assessment

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. 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 European Sites due to both the increase in recreation and the decrease in water quality that would be results of the proposed development.

The planning 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 on Nutrient Neutral Development. The applicant has

indicated a willingness to enter into a legal agreement/Grampian condition to secure the mitigation packages.

The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs 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.

7.1 In other respects, 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) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Impact on highways
- (v) Developer contributions

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria.

Loss of Local Shop

Policy DM2 of the HBLP(CS) considers the protection of existing community facilities and local shops and is relevant to the consideration of this planning application. This policy requires the application to demonstrate that an active marketing exercise has been carried out to ascertain whether the premises are no longer viable for their authorised use or any other use which would provide a beneficial facility to the local community.

Policy DM2 requires marketing for a period of 6 months for local shops. The application is submitted with no marketing, however due consideration needs to be given to both emerging policy in the Local Plan 2036, and the fall-back position by utilising permitted development rights, by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015, Part 3, Class M – retail or betting office or pay day loan shop to dwellinghouses.

Firstly with regard to the emerging policy position in the Havant Borough Local Plan 2036, whilst it is acknowledged to have limited weight, it does however provide the direction of travel for policy on this issue. Emerging Policy C7 allows for changes of use of convenience stores outside a defined local centre where specified criteria are met.

The specific element for this application relates to Criteria a) *Alternative provision is made available of equivalent or, where possible, greater community benefit which is easily accessible to the community it is intended to serve.* In this respect the site is located within 280 metres of Sandy Point Convenience Store and a further supermarket, which are both located on Creek Road. As such the area is well served by other local shops, as such the loss of this local shop is not considered to have an adverse impact on the sustainability of the local area.

Turning now to the fall-back position provided by the Town and Country Planning (General Permitted Development) (England) Order 2015, Part 3, Class M –which

allows the change of use from retail to dwellinghouses, subject to the prior approval of the Local Planning Authority. The matters that are required to be considered in a prior approval application are:

- (a) transport and highways impacts of the development,
- (b) contamination risks in relation to the building,
- (c) flooding risks in relation to the building,
- (d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use—
- (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
- (ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and
- (e) the design or external appearance of the building,

Having assessed this scheme against the above requirements it is considered that this proposal would comply with these criteria, if a prior approval application were submitted. As such drawing all these matters together, whilst it is acknowledged that the proposal has not complied with adopted policy DM2, in terms of providing marketing, it is considered that other material considerations are relevant in this case, which include the direction of travel of the emerging Local Plan 2036, and the permitted development fall-back position. As such it is considered that given these circumstances in this case it would be unreasonable to refuse this application on this matter.

(ii) Impact upon the character and appearance of the area

The proposed development as amended proposes limited changes to the fenestration of the building, which largely relates to the changing of doors and windows on the southern elevation, facing Sandy Point Road. These changes are considered to have a limited impact on the character and appearance of the property and area.

The proposed layout includes breaking up the existing car park hardsurfacing. A landscaping condition, to include details of boundary fencing, is proposed to enable the development to soften the existing extensive hardsurfacing. As such overall the development is not considered to have a significant adverse impact on the character and appearance of the property or area.

(iii) Impact upon residential amenity

As outlined above the proposed development now utilises the existing building, which will be sub-divided. Given this there are limited changes to the fenestration of the building. As such the proposed development is not considered to have a significant adverse impact on the amenities of neighbouring properties with regard to loss of sunlight/daylight or overbearing impact.

The proposal does include a further rooflight in the eastern roof slope, which appears to serve a hallway area. The neighbouring property of 37 Sandy Point Road has its private amenity area and car parking adjacent to the boundary of the existing property. As such it is considered reasonable and necessary to condition that this rooflight is obscure glazed, and to remove permitted development rights for alterations and extensions to the roof, to ensure that future development is controlled by the Local

Planning Authority.

It is considered that the proposal would result in fewer highway movements on the site, compared to the previous A1 (retail) use, as such in this element is considered to be an improvement in terms of noise and disturbance to neighbours from highway movements.

Amenities of future occupants

Following discussions with the agent the proposal now provides amenity space for both properties that exceed the 10 metre depth of garden required by the Design Guide. Overall it is considered that the impact on the development is acceptable in terms of the amenities of future residents of dwellings this size.

(iv) Impact on highways

The development proposes to utilise the existing forecourt which will provide the 2 parking spaces required with the Parking SPD which can be provided for within the site.

Concerns have been raised that the development would have an adverse impact on the highway network. In terms of the overall impact, the Highways Authority has advised that the local highway network is not at capacity and the highway can therefore accommodate the potential increase in traffic from the development. Having regard to the NPPF, which refers to the cumulative impacts of development, it is not considered that the development would result in 'severe impacts' on the safety and free flow of the highway network, to justify a reason for refusal on this matter.

(v) Developer contributions

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 20th 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 levy is charged at £100 per square metre on new floorspace plus indexing. Given the amendments in this application it now only involves conversion of 77.64sqm from a shop to residential with the same floor area. The shop having last been in use in August 2018. As such there is no CIL Liability attached to this proposed development.

8 Conclusion

It is considered that this amended scheme would not have a significant adverse impact on the character and appearance of the area. Furthermore the development is not considered to have a significant adverse impact on the amenities of neighbouring properties. In addition this proposal provides the appropriate level of car parking and is not considered to have a severe impact on the safety and free flow of the highway network. The matter regarding nutrients is appropriately controlled through the proposed grampian condition. Furthermore the development makes adequate provision in the form of a financial contribution towards addressing recreational impacts on the SPA.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00671 subject to the following conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Amended proposed elevations and section - Drawing 9013-09 received 19th November 2019

Amended proposed floor plans - reference Y911/VA/LIR published 9 December 2019

Amended location plan published 9 December 2019

Reason: - To ensure provision of a satisfactory development.

- 3 The external materials used shall match, in type, colour and texture, those of the existing building so far as practicable.

Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 Notwithstanding any description of landscaping in the application no above ground construction works shall take place until a Scheme of Soft and Hard Landscape Works has been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- i) Written specifications (including cultivation and other operations associated with plant and grass establishment),
- ii) schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate,
- iii) Details of all hard-surfaces, including fencing
- iv) A timetable for implementation of the soft and hard landscaping works.

The scheme of Soft and Hard Landscaping Works shall be implemented in accordance with the approved timetable. Any plant which dies, becomes diseased or is removed within the first five years of planting, shall be replaced with another of similar type and size, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To achieve an appropriate landscaping scheme to integrate the development into the landscape and mitigate any impact upon the amenities of neighbouring properties, and to ensure that the development is constructed to an appropriate standard to serve the development in accordance with policies DM10, CS11, CS12 and CS16 of the Havant Borough Local Plan (Core Strategy 2011) and the National Planning Policy Framework.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and

re-enacting that Order with or without modification) no development permitted by Classes A, B, C and E, of Schedule 2, Part 1 of the Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 The new 2-bedroom dwelling 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; all measures necessary to meet the agreed waste efficiency calculation must be installed before first occupation and retained thereafter;
 - b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
 - c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

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. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy E14 of the Pre-Submission Havant Borough Local Plan 2036.

- 7 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to its installation the new rooflight on the east (side) elevation at first floor shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent), and shall be non-opening, and shall be retained as such thereafter.

Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

