
Site Address: Fernwood House, 45-47 London Road, Cowplain,
Waterlooville
Proposal: Retrospective application for conversion of first floor to form 8 x 1
bedroom flats with associated refuse and cycle stores and parking.
Application No: APP/19/01230 Expiry Date: 10/02/2020
Applicant: Mr Blackburn
Agent: Mr C Flint Case Officer: Tina Pickup
Chris Flint Associates Ltd
Ward: Hart Plain

Recommendation: **GRANT PLANNING PERMISSION IN RETROSPECT**

1 Site Description

- 1.1 The application site relates to a mixed use flat roofed two storey building located on the corner of London Road with Kings Road, known as Fernwood House. The red lined application site relates to the whole of the site ie all units 1- 6 including first floor areas above, rear service and parking area and frontage fore court. The applicant owns most of this area, with the exception of first floor flats 1A, 2A and 3A, and Notice has been served on these accordingly. Vehicular access is taken off Kings Road. A right of access exists to the adjacent funeral directors across the rear service/parking area to the rear of number 43.
- 1.2 The ground floor of the site is in commercial use, with a mix of users including A3 restaurant, Koop+Kraft, A1 double glazing showroom, A2 financial advisers. The first floor originally comprised the 3 flats and above units 4 to 6 were offices. Prior Approval was granted on 3rd July 2019 under APP/19/00533 for the change of use of these former first floor B1(a) offices to C3 residential flats in the form of 8No.1 bed flats. That Prior Approval included a condition requiring the noise mitigation scheme to be submitted and approved prior to commencement on site; and also included an Informative advising of responsibilities under Sections 75 and 77 of the Conservation of Habitats and Species Regulations (2017, as amended) to secure mitigation packages for adverse impacts from both the added recreational pressure and on water quality on the Solent SPA before commencement of development.
- 1.3 However works commenced in late summer 2019 without first discharging the relevant condition or undertaking the Regulation 77 approval in respect of water quality. Therefore the development was unlawful and in December 2019 the applicant was asked to stop work to make a regularising application - hence this current planning application. The works to date included forming the internal partition walls to form the basic flats with some plaster boarded and some wiring done but further works have ceased whilst this application is determined.
- 1.4 The site is located within the Cowplain District Centre and within the Secondary Frontage.

2 Planning History

90/54685/000 - Erection of an internally illuminated projecting sign, ZHIS,09/04/1990
02/54268/002 - Installation of bollards to forecourt area adjacent to London Road.,

REF,12/11/2002

09/73832/000 - Change of use of ground floor premises from Class A2 (financial and professional services) to Class A3 (restaurant)., PERM,31/07/2009

10/73832/001 - Discharge of Condition No/s 2, 3 and 7 of Planning Permission

09/73832/000., PERM,03/08/2011

APP/11/01118 - Change of use from Class A1 (Retail) to mixed use of A1 (Retail) and A5 (Hot Food Takeaways). (Retrospective application.) , PERM,16/12/2011

APP/12/00140 - Discharge of Condition No. 1 of Planning Permission APP/11/01118. , PERM,06/06/2012

APP/14/00336 - Prior notification for change of use from class B1(a) office use to C3 residential use subject to prior approval covering flooding, highways and transport issues and contamination., PAYA,22/05/2014 - not implemented

APP/19/00533 - Prior notification for change of use of first floor from class B1(a) office use to C3 residential use (8No 1 bed flats) subject to prior approval covering flooding, highways and transport issues and contamination. Approval Granted 03/07/2019

APP/19/00975 - Replacement windows, doors and associated cladding, fascia and soffits. Permitted 22 November 2019

APP/19/01073 - Second floor extension to form 8No. flats with associated refuse, cycle stores and parking., Withdrawn 06/12/2019

3 Proposal

Retrospective application for conversion of first floor to form 8 x 1 bedroom flats with associated refuse and cycle stores and parking.

During the course of determining this application amended plans have been submitted with amended parking and refuse layout, and noise and over-heating mitigation measures.

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)

CS4 ()

CS9 (Housing)

DM13 (Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

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)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control

None received

Community Infrastructure

Potentially CIL liable:

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

The case officer will need to check if the former use of the building described as an office with a GIA of 480sqm was occupied for its lawful use for 6 of the 36 previous months (preceding decision) as detailed on the CIL Additional Information form.

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. See <http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>

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

Crime Prevention

None received

Southern Water

225mm public surface water sewer within site; exact position of sewer must be determined on site before the layout is finalised

No development or tree planting should be carried out within 3m of the external edge of public sewer without consent from SW

No soakaway, swales, ponds, watercourses or any surface water retaining or conveying features should be located within 5m of a public sewer;

All existing infrastructure should be protected during construction works;

Note that properties already built over public surface water sewer; if existing foundation line or depth or structural load will alter then necessary to seek SW approval;

If any sewer found an investigation will be required

Formal application for any new connection required; Informative requested

Disposal of surface water should be in accordance with hierarchy of part H3 of Building Regulations

Economic Development

None received

Environmental Health Manager

In respect of this application we recommend that planning permission is refused on noise grounds in order to prevent unacceptable adverse effects of noise on future occupiers of the proposed development. However, in the event there are overwhelming reasons to override this recommendation then we recommend that the glazing mitigation referred to in the acoustic report dated 19.2.20 is installed in addition the MVHR system with summertime bypass.

The applicant should note, that should any future planning applications be made for residential property at this site then the Environmental Protection team will consider the application in accordance with the NPPF and planning noise guidance, including ProPG/overheating guidance. Therefore, there is the possibility that we would recommend refusal based on the impacts of the noise being unreasonable (avoid) or

unacceptable (prevent). In light of this, the applicant is strongly advised to pay for pre-application guidance before submitting a full planning application.

Hampshire Highways

As no additional floorspace is proposed and no alterations to the access are proposed, I confirm the Highway Authority have no objection to this proposed development

Landscape Team

None received

Natural England Government Team - original response:

Further information required to determine impacts on Designated Sites
Could have potential significant effects on SPA/Ramsar/SAC and SSSIs. Require ecological assessment of impacts to designated sites during the operation phase - without this may object;

Following clarification on the Appropriate Assessment:

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, and a competent authority should have regard to Natural England's advice.

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. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, it is the advice of Natural England that we concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission.

Solent Recreation Mitigation Strategy – no objection subject to mitigation

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). It is Natural England's view that the Solent Mitigation Recreation Strategy Contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

Nutrient Neutrality – no objection subject to mitigation

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.

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.

Traffic Management

The Traffic Team have no adverse comment to make

Waste Services Manager

None received

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: 28

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: **7 letters** in total have been received: **2 letters of objection and 2 of support** to the original submission; with a further **3 letters of objection** on the revised plans, raising the following issues:

Comment	Officer Comment
On original plans: Objections:	
not enough parking for everyone who uses building; car parking out of control and owner plans to make spaces for his business limiting already restricted parking; will cause parking problems in Kings Road, already have Dominos vans and scooters parking on double yellow lines; 8 additional flats will aggravate parking problems	Noted - see section 7
increase in refuse bins will be a problem as nowhere to put them;	
not enough space for extra bins and cycle sheds as proposed in area	amended plans received, see section 7

already used for bins	
drainage in block a problem, cannot cope with effluent and additional 8 flats will be a problem; existing reduced water pressure problems and slow drainage	not a planning matter
will be able to look directly into bedroom of new flat 8 Support: building was an eyesore and has dramatically improved in appearance; Waterloo/Cowplain area needs more housing that is affordable for younger generation; conversion of buildings good use of space to save spoiling any more green spaces; renovation of the building to affordable housing for the community will modernise area attracting people to the community supporting small local businesses; meeting Building Regs will make safer and more environmentally friendly place to live	see section 7 Noted
On amended plans: Objections:	
re-sited cycle and bin storage - land adjacent generator is on a slope and inadequate for 16 bins (ie rubbish & recycling); not clear if cycle store is 1 per dwelling or 8 separate; site not large enough no matter how drawn on plan parallel parking on perimeter can accommodate 3 maybe 4 cars, but not 5 - lines should be painted on ground to outline spaces to ensure efficient parking and accuracy currently part of parking area cordoned off so 3/4 spaces not usable; internal drainage of building struggles to cope await ecological assessment required by Natural England	see section 7 - shared commercial bins proposed, not individual shared cycle store with capacity for 22 bikes lines are to be painted area temporarily cordoned off during construction stage only not a planning matter Appropriate Assessment done
flats started before permission granted and being advertised as 2 bedroom flats; drainage an issue;	see paras 1.2 and 1.3 above not a planning matter

not enough parking spaces	see section 7
not enough room for 16 bins	shared commercial bins proposed, not individual
someone needs to come to site between 6pm and 10pm when car park is full with restaurant users, domino's, customers etc	unauthorised use of parking area a private matter for owner to enforce

7 **Planning Considerations**

7.1 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, including noise and over-heating
- (iv) Parking, Cycle storage, Refuse and Drainage
- (v) Compliance with Habitats Regulations
- (vi) CIL

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The application site is located within the defined Cowplain District Centre and it is noted that the NPPF recognises that residential development plays an important role in supporting the vitality of centres. Adopted policy CS4 encourages high quality mixed use development in designated centres that retain active ground floor frontages. The supporting text to this policy notes residential development on upper floors can make efficient use of town centre land while adding to the mix of dwelling types and tenures available. Furthermore emerging policy C3 within the Pre-Submission Havant Borough Local Plan 2036, notes that proposals should maximise opportunities for residential C3 and office (B1a) development above ground floor units. Accordingly the principle of using the upper floor for residential flats is supported in principle, subject to detail matters as follows:

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

7.3 Externally the upper floor has been re-clad and UPVC windows installed in a pallet of grey and whites, under permission APP/19/00975. This has resulted in a visual improvement to the visual appearance of the street scene and a resultant uplift to the character of the area. There would be no further alterations to the external appearance of the building associated with this development.

7.4 It is noted that the frontage area is in a relatively poor state of repair and although in private ownership is perceived and used by the public as part of the public highway. Discussions did commence under APP/19/01073 (addition of 8 further flats on a new second floor) for associated landscape improvements to this frontage area but this application was subsequently withdrawn. As a conversion of existing floorspace it is not considered that the current development proposal could justify the investment required for such improvements, but should a second floor be proposed in the future then at that stage negotiations can re-commence.

(iii) Impact upon residential amenity, including noise and over-heating

- 7.5 In terms of impact on existing neighbouring residents, it is noted that the letters of objection primarily relate to parking, refuse and drainage issues - to be considered below. The change of use from office to residential is an equally compatible use for adjoining units and therefore the principle of new residential flats abutting existing ones is acceptable. One third party comment notes the ability for cross overlooking between windows of existing flats and proposed flats from the right-angled relationship. However this layout and these windows already exist and previously related to a window serving an office. It is considered that the proposed change from office space to a bedroom would not make a material difference to the perception of being overlooked sufficient to refuse the application.
- 7.6 In terms of amenity for future occupiers of the proposed flats it is noted that Environmental Health continue to object to the principle of the residential use in this location, due to both noise from traffic and overheating issues from the large expanses of glazing. When considering the previous prior approval application, (APP/19/00533) the GDPO limits the consideration to just the impacts of noise from commercial premises, and excludes noise from other sources such as road traffic noise. The consideration of this full planning application introduces these other environmental health potential impacts.
- 7.7 However it is considered that a balanced approach to these issues is required with particular regard to the fact that the Prior Approval was granted and if it had been implemented correctly, then this application would not be necessary. Considering the residential use of upper floors of commercial centres is strongly supported in principle, then it is considered that mitigation measures should be used to maximise the amenity levels for future occupiers, rather than refusing based on noise and over-heating. On this basis a Mitigation Measures scheme was submitted which proposed 4 key measures: a) Mechanical Ventilation Heat Recovery units with a summer bypass mode to help with cooling in the summer months to be fitted in all flats; b) internal blinds fitted to necessary windows; c) installation of 6.8mm laminate glass, 16mm cavity, 4mm annealed glass which offers a sound reduction of 37dB; d) details of method to encase external ducting of restaurant below.
- 7.8 Environmental Health acknowledges that these measures would go some way to reducing impacts, though not entirely, and recommends that in the event of permission being granted, then these measures should be installed in accordance with the submitted document. This can be conditioned.

(iv) Parking, Cycle storage, Refuse and Drainage

- 7.9 This is the key area of concern for local residents and during the course of determining this application revised details have been submitted. In terms of parking the proposal relates to 8 No 1 bed flats and as such to comply with the Parking SPD 8 spaces are required to serve the development, as well as cycle storage for 8 bikes. This provision would be in addition to one space for each of the existing 3 flats and 1 space that the owner is required to provide for one of the retail units. The revised plans show the additional 8 spaces, 5 along the south-western perimeter and 3 on the north-western boundary, following the demolition of an existing pre-fabricated garage/store in this location. Each car parking space meets the minimum size requirement of 2.4m x 4.8m and the applicant has confirmed that they will be marked out with paint on site to ensure appropriate use - this can be conditioned.
- 7.10 Therefore the proposed layout meets the Parking SPD and provides sufficient parking

for the proposed development. The third party comments refer to the fact that the area is already parked up, particularly at night by customers of the restaurant, domino's drivers etc. It must be noted that as a private rear parking area any unauthorised parking of this area is a private matter for the owner to enforce.

7.11 The proposed cycle store would measure 4.9m x 5.6m and would have the capacity to store 22 bikes. It would be located in the north western corner of the site. This over-provision is a positive and would encourage alternative methods of transport, and allow for any future development (subject to planning).

7.12 The proposed refuse store would measure 3.55m x 1.9m and hold two commercial sized bins - one for refuse and one for recycling. To meet Building Regulations standards the combined capacity of recycling & refuse per flat should be 0.25 cubic metres. The proposed bins would each have a capacity of 1100 litres which meets these requirements. The refuse store would be located next to the electricity sub station on the site in a convenient location for residents - any slight levelling of the land necessary to install this store would be expected and acceptable.

7.13 Third party comments raise concern over the building's water pressure and drainage - but these are not planning matters. Southern Water note that an existing public sewer runs under the building and any change to load that affects foundations should be discussed with them for their approval - this can be added as an Informative.

(v) Compliance with Habitats Regulations

7.14 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 (Amendment) (EU Exit) Regulations 2019. 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 due to both the increase in recreation and the decrease in water quality that would result from the proposed development of eight new residential units.

7.15 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/accept a Grampian style condition to secure the appropriate mitigation packages - which would prevent occupation of the flats until this had been secured.

7.16 With respect to the Solent Recreation Mitigation Strategy the applicant had previously paid the appropriate sum of £2926.40 under reference APP/19/00533. These monies can be transferred to this application and the applicant has paid the additional administrative fee and signed and returned an updated Deed with the correct reference numbers. Therefore it is considered that this recreational element of the impacts of development have been adequately mitigated against. With respect to the water quality issue, the applicant has indicated a willingness to accept a Grampian style condition to

mitigate the harm, pending the Council's solution to the nitrates issue.

7.17 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. The applicant has indicated a willingness to enter into a legal agreement/accept a Grampian style condition to secure the mitigation packages.

(vi) CIL

7.18 With respect to CIL, the information provided indicates that the floorspace has been in use for 6 months in the last 36 months, and as such the change of use of existing floorspace does not result in a CIL Liability. At a previous site visit in 2019 one of the offices was witnessed as still being in use by the case officer. The CIL team will confirm this on decision.

8 Conclusion

8.1 The proposed conversion of the former first floor offices to 8No 1 bedroom flats in this District Centre is supported by national and local policies. The technical matters relating to parking, refuse etc are all adequately provided to meet current standards. Amenity for future occupiers is suitably addressed through noise and over-heating mitigation measures. In terms of meeting the Habitats Regulations (which is where the Prior Approval failed by commencing development before resolving these issues), the recreational pressure is adequately mitigated against and the impact on water quality is covered by a Grampian style condition that requires the mitigation to be completed prior to occupation. This would enable works to resume on the flats but they cannot be occupied until this condition is discharged - this has been made clear to the agent. Overall the proposal is therefore considered acceptable and recommended for conditional permission. Technically the development has already commenced so there is no need to apply the 3 year commencement condition.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PLANNING PERMISSION IN RETROSPECT** for application APP/19/01230

(A) subject to the following conditions

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

Existing Floor Plans & Elevations Drawing Number 02 Rev 04

Proposed Floor Plans 01 Rev 04

Noise and Overheating Mitigation Measures Document by Airtight Noisecheck, dated 19th February 2020

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; 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.

- 3 The noise and over-heating mitigation measures set out in the document by Airtight Noisecheck dated 19th February 2020 shall be implemented in full prior to the first occupation of any flat. Thereafter the measures shall be retained in perpetuity.

Reason: To safeguard the amenities of future occupiers and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and policy DM18 of the Havant Borough Local Plan (Allocations) 2014, and the National Planning Policy Framework.

- 4 The car parking spaces shown on the hereby approved plans shall be provided and marked out with contrasting paint or other suitable marking, prior to the first occupation of any flat and shall be retained thereafter for their intended purpose.

Reason: In the interests of highway amenity and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The cycle store and refuse store shown on the approved plans to serve the development hereby permitted shall be provided and be made fully available for use prior to the first occupation of any flat and shall be retained thereafter for their intended purpose.

Reason: To provide a satisfactory standard of development, in the interests of the amenity of future residents and having due regard to policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.