
Site Address: Fernwood House, 45-47 London Road, Cowplain,
Waterlooville
Proposal: 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.
Application No: APP/19/00533 Expiry Date: 03/07/2019
Applicant: Mr A Blackburn
Agent: Mr C Flint Case Officer: Tina Pickup
Chris Flint Associates Ltd
Ward: Hart Plain

Recommendation:

1 Site Description

The application site relates to a 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 first floor units 4 - 6, which are currently mainly vacant former offices. Internally it is mainly one large space, with a separate office in the rear projection (unit 4b - which is still occupied and in use). Pedestrian access is taken via a side entrance off Kings Road. On the ground floor beneath the site are two retail units - one is an existing A3 restaurant, Koop+Kraft; and the other unit was the former A3 Sorrentos - however this unit is currently being refurbished as a double glazing showroom an A1 use, under permitted development.

The site is located within the Cowplain District Centre and within the Secondary Frontage. Vehicular access is taken off Kings Road and to the rear there is a large surface car park that is shared by users of the entire Fernwood House ie both ground floor and first floor users of units 1 to 6.

2 Planning History

90/54268/000 - Retention of 2 free standing 4 sheet double sided advertisement display units, PERM,19/03/1990
02/54268/002 - Installation of bollards to forecourt area adjacent to London Road., REF,12/11/2002
99/54268/001 - Provision of permanent roof handrail system, PERM,23/03/2000
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

3 Proposal

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.

During the course of determining this application a Noise Impact Assessment and parking plan have been submitted.

4 Policy Considerations

This prior notification application is submitted under Class O of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (GPDO), and as such there are no specific policy constraints on the development other than the National Planning Policy Framework 2019.

5 Statutory and Non Statutory Consultations

Community Infrastructure

At this stage we are unable to confirm that there is no CIL Liability as the applicant has not completed Section 7 of the CIL 'Additional Information' form fully and this should be returned for completion.

Additionally, instructions should be passed by the Case Officer to the CI Team to issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, now based on the number of dwellings and their respective number of bedrooms. As this is a prior approval we would strongly encourage the applicant to submit a completed unilateral undertaking accompanied by the appropriate fee. See <http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>

Following submission of revised forms:

Following revised forms and emails, we can confirm that there appears to be no CIL Liability as the existing floorspace is in use as required by the CIL Regulations. This should be confirmed in the Officers Report and in writing to the applicant, post decision by the CI Team.

Our consultee response regarding SRMS is as before.

Environmental Health Manager - original comments

I have visited the site and have noted that the proposed residential accommodation is to be located above commercial premises which are licensed venues - Koop & Kraft and a (currently closed) licensed restaurant. Both premises are fitted with kitchen extract equipment at the rear of the premises, in the service yard. Other commercial premises in the row have externally mounted plant and equipment in the rear service yard area.

I am concerned that the proposed residential occupants will be affected by noise arising from the use of the existing commercial premises. There is potential for noise disturbance from live music from Koop and Kraft affecting proposed flats 2, 3, 4 & 5 and from patron noise associated with the premises. In addition flats 1, 6, 7 & 8 overlook the rear service yard of the commercial premises and residents may be affected by plant noise and noise associated with the normal use of the service yard (eg. early/late refuse collections, deliveries etc.).

Environmental Protection has had issues with both types of noise affecting residential occupants above or in close proximity to commercial premises. If complaints relating to

noise are received they must be addressed by use of the Environmental Protection Act, 1990, which can result in a detrimental outcome for the businesses which can impact upon their viability. I would request, should you be minded to grant permission, that the following condition is included in any such permission:

Noise:

No development shall take place until an assessment of the potential for noise from the existing commercial premises in the area has been submitted to and been approved in writing by the Local Planning Authority. The assessment shall include noise from:

1) Existing externally mounted plant and equipment associated with the commercial premises

2) Assessment of noise from any licensed premises below the proposed residential units. This should include all noise sources associated with licensed premises including noise transmitted through the structure (from live/recorded music) and patron noise (both internal and external) associated with use of the premises.

If the assessment indicates that noise from the existing commercial premises is likely to affect the future occupants of the development then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

The noise mitigation measures shall be designed so that nuisance will not be caused to the future occupiers of neighbouring noise sensitive premises. The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233: 2014 Guidance on sound insulation and noise reduction for buildings.

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: In order that noise levels may be agreed prior to the commencement of works on site which may require changes to the design and to safeguard the amenities of future occupiers.

Environmental Health Manager - on revised details inc Noise Impact Assessment

Thank you for your further consultation in respect of the above mentioned planning application. I can confirm that the noise report submitted satisfies the first part of the requested condition:

As there are different means in which mitigation can be achieved to deal with detrimental affects of the identified noise sources I would be grateful if a new condition, reflecting the new information provided, could be included in any permission you are minded to grant:

Noise:

Details of the chosen scheme to comply with the recommended noise mitigation measures, as detailed in the noise report submitted by the applicant (Test/Job No: 17352 - Airtight & Noisecheck Ltd Acoustic Testing - Date: 14th - 15th June, 2019), to be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. The agreed measures shall be included in the redevelopment of the site, be fully implemented prior to first occupation of the residential units and shall be permanently maintained thereafter.

Reason: In order to fully implement agreed mitigations proposals prior to first use of the proposed residential units to safeguard the amenities of future occupiers.

Hampshire Highways

The main issue relates to any change in parking requirements, which is a Borough matter. Whilst the access is of single track width the proposed change is unlikely to significantly increase its use and therefore the Highways Authority have no objection to this proposal.

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: 16

Number of site notices: 2

Statutory advertisement: Not applicable.

Number of representations received: 3

Comment	Officer Comment
Worried about refuse bins and the site becoming a rubbish tip with 16 extra bins and given the nature of the apartments worried about them attracting a transient tenant who does not have any regard for the locale and the building. also parking arrangements as people already park on double yellow lines at the side of the building	see section 7 nature of future tenant not a valid planning consideration see section 7
Concern at amount of residences - will car park be adequate; understand "Sure Fix" has acquired former Sorrentos and their vans will be parked using considerable amount of the car park; will there be sufficient parking for new residences? double yellow lines both sides of Kings Road which are ignored; accident waiting to happen.	see section 7
Further layer on Fernwood House will be an eyesore and monstrosity, and unsafe; foundations would not take extra weight; parking warden needs to attend area between 6pm and 10pm to see dangerous parking that will lead to an accident	proposal NOT for additional floor but change of use of existing first floor only

7 **Planning Considerations**

- 7.1 The change of use of offices to dwellinghouses can be permitted development under Class O of the GPDO, subject to certain criteria and then subject to a 'prior approval' process to go through. Consequently the principle of the change of use is considered acceptable. Having regard to the relevant conditions of the GPDO the only issues that

can be considered as part of this prior approval relate to:

- (i) Transport and highways impacts of development
- (ii) Contamination risks on the site
- (iii) Flooding risks on the site
- (iv) Impacts of noise from commercial premises on the intended occupiers of the development.

(i) Transport and highways impacts

The site lies within a District Centre, very close to two public car parks. The application site also includes a rear car park which can accommodate up to 17 cars, utilising an existing side access road. As a change of use application there is no new floorspace proposed and the previous office staff would have utilised the rear car park. The existing car park and access would not be altered as part of this proposal but the submitted plans have shown 8 spaces to serve the 8 flats. This would comply with the Parking SPD. As such there are no concerns over the transport and highways issues appertaining with this proposal.

(ii) Contamination risk on the site

Being a first floor use, above an A1 and A3 use, with no ground works involved, then no contamination risks are anticipated.

(iii) Flooding risks on the site

The site is not within either Flood Zones 2 or 3 and as such there are no flood risks concerns associated with the proposal.

(iv) Impacts of noise from commercial premises on the intended occupiers of the development

It is noted that the former Sorrentos is currently under conversion to an A1 unit, reducing potential conflict from late hour noise. Consequently the former extractor flue serving this former A3 unit is also being removed from site, further reducing any noise from vibrations etc.

Environmental Health originally objected to the proposal on the basis that flats would not be compatible with the ground floor A3 uses and future noise complaints would be likely to occur. A noise assessment was subsequently submitted which considered noise at sensitive facades from both traffic and plant; as well as from ground floor uses and the adequacy of the internal separating floor. (It must be noted that the GPDO requirement is only to consider noise from commercial premises and not traffic, so this report went over and above that required). This document acknowledges the internal noise levels to be greater than the recommended minimums but proposes various mitigation measures to reduce the levels eg glazing and ventilation; and matting to the internal floor. With the suggested mitigation the report concludes that future residents will not be adversely affected by noise emissions. However the final glazing and ventilation schemes to be used have not yet been decided on, so it is considered necessary to impose a condition to ensure the mitigation is appropriate.

Environmental Health concur with the noise report and have withdrawn their

objection, requesting a condition specifying the mitigation. On this basis it is considered that there would be no adverse impacts on future occupiers from commercial premises.

(v) Other matters including Appropriate Assessment and Contributions

Third parties have raised concerns over the refuse bins. This is not strictly a relevant matter but it is noted that there is ample room within the rear parking area to provide sufficient refuse collection area. An Informative can be added bringing this to the attention of the applicant.

With respect to development undertaken by the GPDO, the Conservation of Habitats and Species Regulations (2017, as amended) (hereafter referred to as the Habitats Regulations) sets out at Regulation 75 that it is a condition that development that is likely to have a significant affect on a European site must not be begun until the developer has received written notification of the approval of the LPA under Regulation 77 of the same regulations. For the avoidance of doubt, this report is not the approval under Regulation 77 of the Habitats Regulations. In this instance the site lies within 5.6km of the Solent SPA where additional recreational pressure is likely to have a significant effect. Appropriate mitigation is possible through a financial contribution towards to the Solent Recreation Mitigation Strategy before development commences. In this instance this contribution would relate to 8No 1 bed flats (currently attracting a contribution of total £2,926.40). However this contribution has NOT yet been secured and the applicant advised of his responsibilities under the Habitats Regulations to complete this before development commences.

Recent case law has also introduced the impact on the water quality of European sites from new development. Natural England advises that developments need to be nutrient neutral to ensure that there is not a determinate impact on water quality. HBC has a recent Position Statement on how to achieve nitrogen neutrality and an Implementation Plan will be produced detailing the mitigation and costs for new development. Since this would be a requirement under the Habitats Regulations for the applicant to resolve and mitigate before development commences, and is not a requirement of the Prior Approval, then in this instance the nitrogen neutrality issue does not need to delay the issuing of this decision. It is however recommended that an Informative be added reminding the applicant of his responsibilities under the Habitats Regulations to resolve both these issues, through the securing of avoidance and mitigation packages, before commencement.

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. The CIL team will confirm this on decision.

8 Conclusion

The proposed change of use is supported by the current GPDO and the NPPF, and, subject to the imposition of a noise mitigation condition, there are considered to be no adverse impacts relating to transport, contamination, flooding or noise from commercial premises arising from the proposal. Prior Approval is therefore required and granted subject to relevant conditions and informative's.

9 RECOMMENDATION:

That the Head of Planning be authorised to for application APP/19/00533 subject to the following conditions

- 1 The development shall be completed within a period of 3 years starting with the date of this prior approval.
Reason: To comply with the requirements of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 as amended.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
Location and Block Plan; Proposed First Floor Conversion to form 8 Apartments Drawing No: BS Rev 01
Noise Impact Assessment by Airtight Noisecheck document Test/Job No: 17352 dated 14th - 15th June, 2019
Reason: - To ensure provision of a satisfactory development.
- 3 No development shall commence on site until the specific scheme to comply with the recommended noise mitigation measures, as detailed in the Noise Impact Assessment by Airtight Noisecheck document Test/Job No: 17352 dated 14th - 15th June, 2019, has been submitted to and approved in writing by the Local Planning Authority. The agreed noise mitigation measures shall thereafter be included in the redevelopment of the site, and fully implemented prior to first occupation of the hereby approved residential units, and shall be permanently maintained thereafter.
Reason: To provide an adequate standard of noise insulation to protect the amenity of future occupiers, having regard to the requirements of the National Planning Policy Framework.