
Site Address: 53A Station Road, Hayling Island, PO11 0EB
Proposal: Prior Approval for development consisting of works for the construction of 1No. new dwellinghouse immediately above the topmost storey on a terrace building consisting of an additional storey together with any associated works.
Application Type: Prior Approval - dwellings/terrace/mixed
Application No: APP/22/00921 Expiry Date: 17/11/2022
Applicant: Zionstone Ltd
Agent: Mrs Z Wilkinson Case Officer: Graham Speller
Atlas Planning Group Ltd
Ward: Hayling West

Recommendation: **REFUSE PRIOR APPROVAL**

1 Site Description

- 1.1 The site is located on the western side of Station Road within West Town Centre and is occupied by a two storey building comprising a mixed use of a commercial unit at the ground floor with one residential flat above at first floor.
- 1.2 The surrounding area is a mixed character of commercial uses and residential properties.

2 Planning History

- 2.1 There is no relevant planning history.

3 Proposal

- 3.1 Prior Approval for development consisting of works for the construction of 1No. new dwellinghouse immediately above the topmost storey on a terrace building consisting of an additional storey together with any associated works.

4 Policy Considerations

National Planning Policy Framework 2021
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)
CS17 (Concentration and Distribution of Development within the Urban Areas)
CS20 (Transport and Access Strategy)
CS4 ()
CS9 (Housing)

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)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control, Havant Borough Council

No comments to make.

Councillor Brenda Linger - Hayling West

No comments received.

Councillor Clare Satchwell - Hayling West

No comments received.

Councillor Julie Richardson

No comments received.

Environmental Health Manager, Community Group

No comments received.

Hampshire Highways

Thank you for your consultation on the above planning application. The Highway Authority wish to make the following comments.

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 Government Team

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have a likely significant effect on:

- Solent and Dorset Coast SPA
- Portsmouth Harbour SPA and Ramsar Site
- Chichester and Langstone Harbours SPA
- Solent Maritime SAC
- Solent and Southampton Water SPA

Your Authority will need to undertake a Habitats Regulations Assessment (HRA) to determine whether the proposal is likely to have a significant effect on the sites named above, proceeding to the appropriate assessment stage where significant effects cannot be ruled out. The following information is required to inform a HRA:

- Consideration of this project's effects on total nitrogen and/or total phosphorus nutrient loading within the Solent catchment, including a nutrient budget calculation.
- Details of proposed mitigation measures to address any nutrient impacts, including

appropriately funded management and monitoring, and details of how the measures will be secured for the lifetime of the development.

- Any other likely significant effects that could arise from the development should also be assessed.

Once the above information is obtained, please consult Natural England on any appropriate assessment your authority may decide to make.

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: 33

Number of site notices: At least one site notice exists

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Preliminary matters

- 7.1 Paragraph 3 (1) 'Permitted development' of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states:

"Subject to the provisions of this Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017, planning permission is hereby granted for the classes of development described as permitted development in Schedule 2."

- 7.2 The Conservation of Habitats and Species Regulations 2017 were amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

- 7.3 Whilst no mitigation has been submitted as part of this application for prior approval, it is not a criterion to be considered at this stage. However, in order to comply with Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 the proposal would require a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA) as the proposal is likely to have 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 as a result of the additional residential flat. As such, if prior approval were granted any works could not begin until such time as the applicant receives written notification (approval of the local planning authority) having carried out such assessments as the competent authority.

- 7.4 Furthermore, paragraph 3 (2) 'Permitted development' states:

"Any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2."

7.5 **Schedule 2, Part 20, Class AB of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permits development of new dwellinghouses on terrace buildings in commercial or mixed use. Class AB (1) allows development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building subject to a number of criteria.**

7.6 **AB.1. Development is not permitted by Class AB if –**

(za) the permission to use the building as a dwellinghouse has been granted only by virtue of Class MA of Part 3 of this Schedule;

The existing residential aspect of the building (1st floor) was not granted by virtue of Class MA.

(a) the building was constructed before 1st July 1948 or after 5th March 2018;

The building was constructed within the acceptable date range.

(b) on 5th March 2018 the building was in a use other than –

(i) a use or mixed use within paragraph AB(2)(a) or (b); or

(ii) a use falling within Class C3 of the Schedule to the Use Classes Order;

The building was in the same use (commercial ground floor and first floor residential) on the 5th March 2018.

(c) the additional storeys are constructed other than on the principal part of the building;

The upwards extension is on the whole area of existing roof of the building.

(d) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of –

(i) 3 metres; or

(ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;

The applicant states that the lower of the two criteria in this case would be (ii) as the first-floor floor to ceiling height is 2.5m. The proposed floor to ceiling height does not exceed 2.5m.

It is noted that the ‘Proposed Rear (SW elevation)’ drawing appears as a ‘sectional drawing’, but this is not the case, and no sectional drawing has been submitted.

(e) the new dwellinghouses are not flats;

The new dwellinghouse is a flat.

(f) the height of the highest part of the roof of the extended building (not including plant) would be greater than 18 metres.

The building will be 8.5m high.

(g) the height of the highest part of the roof of the extended building would exceed by more than 3.5metres the height of the highest part of the roof of every other building in the row of terrace buildings of which it forms part (not including plant, in each case);

The applicant states that the height of the extended building would not exceed by more than 3.5m the height of the highest part of the roof of every other building in the terrace.

However, this is not the case. The attached building at No.55, currently Heidi's Patisserie, is single storey. By scaling from the drawings, the height of the highest part of the roof of the extended building would exceed more than 3.5m of the height of the highest part of No.55 (approximately 4.98m).

Therefore, the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.

(h) the height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building (not including plant, in each case) by more than –

- (i) 3.5 metres, where the existing building consists of one storey; or
- (ii) 7 metres, where the existing building consists of more than one storey;

The existing building is two storey and the height of the highest part of the extended building would not exceed the height of the existing building by more than 7m.

(i) the existing building has been enlarged by the addition of one or more storeys above the original building, whether in reliance on permission granted under this Part or otherwise;

No reliance is upon permission granted under PD rights.

(j) development under Class AB(3)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;

The stairs will be attached to the exterior of the building (rear) but are not a support structure.

(k) development under Class AB (3) (a) would consist of engineering operations other than works within the existing curtilage of the building to –

- (i) strengthen existing walls;
- (ii) strengthen existing foundations; or
- (iii) install or replace water, drainage, electricity, gas or other services;

Aside from the external staircase (in place of the existing), no engineering operations are proposed.

(l) in the case of Class AB(3)(b) development there is no existing plant on the building.

There is no existing plant on the building and the applicant confirms no plant is

required as part of the proposal.

(m) in the case of Class AB(3)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building.

No plant is required as part of the proposal.

(n) development under Class AB(3) (c) would extend beyond the curtilage of the existing building;

The external stairs do not extend beyond the curtilage of the existing building.

(o) development under Class AB (3) (d) would –

- (i) extend beyond the curtilage of the existing building;
- (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or
- (iii) be situated on land forward fronting a highway and forming a side elevation of the existing building; or

(p) the land or site on which the building is located, is or forms part of –

- (i) article 2(3) land;
- (ii) a site of special scientific interest;
- (iii) a listed building or land within its curtilage;
- (iv) a scheduled monument or land within its curtilage
- (v) a safety hazard area;
- (vi) a military explosives storage area; or
- (vii) land within 3km of the perimeters of an aerodrome.

No works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses are proposed outside of the curtilage of the building. The new bin and cycle store is to the rear of the building within the site boundary.

The site is not within any of the areas mentioned in paragraph (p).

Conditions

7.7 AB.2 (1) Where any development under Class AB is proposed, development is permitted subject to a condition that before the beginning of the development, the developer must apply to the local planning authority for prior approval of the authority.

7.8 The developer must apply to the Local Planning Authority for prior approval as to –

- (a) transport and highways impacts of the development;
- (b) air traffic and defence asset impacts of the development;
- (c) contamination risks in relation to the building;
- (d) flooding risks in relation to the building;
- (e) the external appearance of the building, including—
 - (i) the design and architectural features of –

- (aa) the principal elevation; and
- (bb) any side elevation that fronts a highway; and
- (ii) the impact of any works under sub-paragraph AB(3)(c) or (d);
- (f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- (g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- (h) impact of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
- (i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
- (j) whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012¹⁹⁰ issued by the Secretary of State.

And the provisions of paragraph B (prior approval) of this Part apply in relation to the application.

In this case, having reviewed the application, the local planning authority has determined that prior approval is required in this instance for AB.2 - (1) - (a), (b), (c), (d), (e), (f), (g), (h) & (i).

- 7.9 The Local Planning Authority may refuse the application where, in the opinion of the authority –
- (a) the proposed development does not comply with, or
 - (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,
- Any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.
- 7.10 Furthermore, an assessment against Nationally Described Space Standards must be carried out.

Permitted development

3 - (9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

- (a) where the gross internal floor area is less than 37 square metres in size; or
- (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.

- 7.11 The space standard, states, inter alia, that individual dwelling types are expressed with reference to the number of bedrooms (denoted as 'b') and the number of bedspaces (or people) that can be accommodated within these bedrooms (denoted as 'p').

An example is given that a three bedroom (3b) home with one double room (providing two bed spaces) and two single bedrooms (each providing one bed space) is therefore

described as 3b4p.

- 7.12 The document goes on to say that relating internal space to the number of bedspaces is a means of classification for assessment purposes only when designing new homes and seeking planning approval. It does not imply actual occupancy, or define the minimum for any room in a dwelling to be used for a specific purpose other than in complying with this standard.
- 7.13 The proposed floorspace of the additional residential unit is 47 sqm and is intended to be a 1b1p flat. This complies with the minimum space standard of 39 sqm.
- 7.14 The provisions of the GPDO require the Local Planning Authority to assess the development proposals solely on the basis of the limited number of considerations set out above.
- 7.15 Development Plan Policies and the National Planning Policy Framework 2021 can be considered relevant to prior approval cases insofar as they relate to the development and prior approval matters.

8 Planning Considerations

(a) transport and highways impacts of the development

- 8.1 As noted above, the Highway Authority have reviewed the information submitted and raise no highway objections.
- 8.2 No parking provision has been provided for the additional one bedroom flat that would require 1 car parking space as set out in the Council's parking SPD.
- 8.3 The applicant has provided a 'Transport Note' prepared by Paul Basham Associates in support of the application. This states, among other things, that the nearest bus stops are within a 1-minute walk. It also states that the site is located within an established residential area which can support sustainable travel. Furthermore, that the site is located within West Town Centre which is host to numerous local facilities.
- 8.4 Whilst there is no parking provision available, it is considered that the site is within a sustainable location being near to facilities and local transport routes. As such, it is considered that the benefit of an additional residential unit within such a location outweighs the lack of parking provision in this instance.

(b) air traffic and defence asset impacts of the development

- 8.5 Not applicable in this instance as whilst the height of the building would increase, it would not be so significant to interfere with any air traffic or defence asset.

(c) contamination risks in relation to the building

- 8.6 The proposals relate to building upwards the existing building and, as such, no ground works are involved, albeit there would inevitably be building works. However, due to the age of the building, there may be asbestos present but that would be a matter for the applicant to investigate and deal with in an acceptable safe manner.

(d) flooding risks in relation to the building

- 8.7 The building is situated within Flood Zone 1 and it is not considered that there would be any increase in flood risk as a result of the development. Surface water generated

would be a matter to be considered, however, it is not proposed to extend the building outwards and the surface water generated would not be materially different than the existing.

(e) the external appearance of the building, including—

- (i) the design and architectural features of –
 - (aa) the principal elevation; and
 - (bb) any side elevation that fronts a highway;

- 8.8 There has been a High Court judgement (Cab Housing Ltd v SSLUHC [2022]) about the scope of the prior approval matters in relation to impact on the amenity of any adjoining premises and also the external appearance which is not limited to the impact of that appearance of the subject property itself but also it can include the impact of that appearance on neighbouring premises and the locality. Whilst this judgement was in relation to Part 1 Class AA, it is considered that such a judgement and interpretation of the regulations also supports such an interpretation for the purposes of Part 20 Class AB, among others.
- 8.9 The additional storey to the building has been designed to match the existing building in that it would incorporate a flat roof, which would be in keeping with other properties in the terrace. However, whilst it is acknowledged that there is a variety in heights of buildings in the immediate locality, the terrace, to which the application site is part of, are all a maximum of two storey in height with the exception of the adjacent property, No.55, which is only single storey.
- 8.10 Nonetheless, the GPDO expressly intends to enable the enlargement of existing buildings by construction of additional storeys, which, by definition, would inevitably have some impact on the appearance of the host property and surrounding area.
- 8.11 It is also acknowledged that there is already a difference in height of buildings within the terrace, as noted above, in that No.55 adjacent is only single storey. There is, therefore, already a difference in the height of this terrace when viewed in the street scene, albeit by one storey.
- 8.12 However, the proposed development would result in a two storey difference in height compared with the adjacent building No.55 and the proposal would result in a significant change to the existing characteristics of this part of Station Road.
- 8.13 It is considered that the proposal would be of excessive size, scale, height and massing, which would result in an incongruous and over dominant appearance to No 55 by the resultant three storey building. Whilst to a lesser degree, it is also considered the height variation of one storey compared to the other buildings in the terrace would result in a discordant appearance and detrimental to the visual amenities of the street scene, notwithstanding that No.55 is lower in height in the street scene.
- 8.14 As such, the proposal would unacceptably harm the character and appearance of the area and would therefore conflict with Policy CS16 of the Local Plan (Core Strategy), the Design Guidance SPD and the National Planning Policy Framework 2021.

(ii) the impact of any works under sub-paragraph AB(3)(c) or (d);

8.15 Sub-paragraph AB(3) (c) states:

Works for the construction of appropriate safe access and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases.

8.16 There is an existing rear external staircase, and the proposed additional staircase is considered acceptable in terms of its impact on the character of the area.

8.17 Sub-paragraph AB(3) (d) states:

Works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

8.18 In this regard, the applicant has stated that the new bin and cycle store is to the rear of the building within the site boundary and these are shown on the proposed plans and it is considered that such works could be carried out without resulting in any adverse impacts to the character of the locality.

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

8.19 The proposed flat would be served by windows to the front and rear and also rooflights. Therefore, it would be provided with adequate natural light in all habitable rooms of the new dwellinghouse.

(g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light

8.20 The proposed development would be directly above the existing flat within the building and would not result in any adverse impact on the amenity of the existing building. Given the relationship and degree of separation from neighbouring properties it is not considered that the development would have a significant adverse impact on the amenities of neighbouring premises by reason of overlooking, loss of privacy or loss of light.

(h) impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses

8.21 The site is within a town centre location which comprises a mix of commercial and residential properties above shops and businesses. Whilst it is acknowledged that there will inevitably be some noise generated from adjacent businesses due to the nature of being within a commercial/retail town centre this would be expected and not of sufficient magnitude to adversely impact on future residents.

(i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area

8.22 The introduction of one additional residential unit is not considered to adversely impact upon the carrying out of trade, business or other use of land in the area.

9 Conclusion

9.1 The height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of No.55 adjoining.

As such, the proposal does not comply with the limitations or restrictions that are applicable to such development in that it fails criterion AB.1(g).

- 9.2 It is considered that the proposal would be of excessive size, scale, height and massing, which would result in an incongruous and over dominant appearance to No 55 by the resultant three storey building. Whilst to a lesser degree, it is also considered the height variation of one storey compared to the other buildings in the terrace would result in a discordant appearance and detrimental to the visual amenities of the street scene.

As such, the proposal would unacceptably harm the character and appearance of the area and would therefore conflict with Policy CS16 of the Local Plan (Core Strategy), the Design Guidance SPD and the National Planning Policy Framework 2021.

10 **RECOMMENDATION:**

That the Head of Planning be authorised to **REFUSE PRIOR APPROVAL** for application APP/22/00921 for the following reasons:

- 1 The height of the highest part of the roof of the extended building would exceed by more than 3.5 metres the height of the highest part of the roof of No.55 adjoining.

As such, the proposal does not comply with the limitations or restrictions that are applicable to such development in that it fails criterion AB.1(g).

- 2 The proposal would be of excessive size, scale, height and massing, which would result in an incongruous and over dominant appearance to No 55 by the resultant three storey building. It is also considered the height variation of one storey compared to the other buildings in the terrace would result in a discordant appearance and detrimental to the visual amenities of the street scene.

As such, the proposal would unacceptably harm the character and appearance of the area and would therefore conflict with Policy CS16 of the Local Plan (Core Strategy), the Design Guidance SPD and the National Planning Policy Framework 2021.