

4 Policy Considerations

National Planning Policy Framework

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

DM17	(Contaminated Land)
AL1	(Presumption in Favour of Sustainable Development)
DM18	(Protecting New Development from Pollution)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)

Listed Building Grade: Not applicable.

Conservation Area: St Faiths

5 Statutory and Non Statutory Consultations

Conservation Officer

No heritage objection to the above proposed change of use.

Councillor Gillian Harris

No Comment.

Councillor Imogen Payter

No Comment.

Councillor Phil Munday - St Faiths

No Comment.

Environmental Health Manager, Community Group

I have considered the information for the proposed development and recommend that the issues highlighted in the following conditions and informative should be addressed.

Pre-Occupation Noise condition

Prior to occupation of the development hereby permitted a report shall be submitted to the Local Planning Authority in writing to confirm that the measurements employed with regard to the building envelope, including fenestration and ventilation, for this supported residential unit, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e. during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms. Similarly, for traditional external areas that are used for personal amenity space, such as gardens and patios the external noise level does not exceed 50 dB LAeq with an upper guideline value of 55 dB LAeq in noisier environments.

Reason: To ensure the residential amenity of the properties is not impacted upon by any external noise levels, especially traffic noise having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Construction/ Demolition Management

No development shall commence, including demolition and site clearance works, until a Construction Management Plan (CMP), to include details of: (a) provision of boundary hoarding; (b) hours of operation; (c) means to control dust and emissions to air; (d) means to control noise and vibration has been submitted to, and approved in writing by, the Local Planning Authority. The CMP should be in accordance with the GLA's Supplementary Planning Guidance 'Control of Dust and Emissions during Demolition and Construction'. The development shall be constructed in accordance with the approved statement.

Reason: To ensure the residential amenity of the properties is not impacted upon by any external noise levels, especially traffic noise having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Informative**Hours of Work:**

You are hereby advised to ensure that no works or ancillary operations associated with any demolition, excavation, clearance, and construction works at the development, which are audible at the site boundary, shall take place on any Sunday or Bank / Public Holiday, nor on any other day except between the following times: Monday to Friday: 8.00 – 18.00 and Saturday: 8.00 – 13.00. This is to protect the occupants of nearby residential properties from noise and vibration nuisance.

Bonfires:

You are hereby requested to ensure that no bonfires take place on this site, during any phase of the operation i.e., demolition, excavation, clearance, and construction works. If you feel you have a legitimate reason for a bonfire, it is recommended you enquire with the Environmental Health Pollution team, at Havant Borough Council, prior to taking this action. This is to protect the occupants of nearby residential properties from smoke pollution.

Dust Control:

You are hereby requested to ensure that the Environmental Health Pollution team, at Havant Borough Council are advised in writing as to what measures are to be put in place for the control of any dust that might emanate from the development site. This is to protect the occupants of nearby residential properties from dust pollution. Please do not hesitate to contact me if you wish to discuss any of the above matters raised or would like further explanation. Jonathan Driver of this office will likely provide separate comment on other issues.

Nutrient Team

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

The applicant should be advised that the Council's strategic mitigation scheme is currently charged at £3,300 per kilogram of nitrogen (as at 1/4/23) but this due to be increased annually at the start of the financial year in line with the Cost Price Index on the 1st April 2024. In addition, it should be noted that there is limited capacity remaining in the Council's mitigation scheme at Warblington Farm. There is alternative mitigation available from third party providers in order to avoid and mitigate the water quality impact arising out of the proposed development. The details of other schemes have been published on the Partnership for South Hampshire's website at: <https://www.push.gov.uk/work/mitigation-schemes-available-to-developers/>

Natural England

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

DESIGNATED HABITATS SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation. With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.

Your appropriate assessment, dated 13th March 2024, concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions.

Your authority has measures in place to manage potential impacts through contributions to an agreed strategic solution which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the Habitats Site(s) for the duration of the proposed development.

This advice is provided on the basis that all mitigation measures will be secured as planning conditions or obligations by your authority to ensure their strict and timely implementation for the full duration of the development. Your authority should be assured that proposed financial contribution rates are proportionate to the identified effects of the proposed development, suitably precautionary, and in line with the Retail Price Index, where relevant. As Competent Authority it is your responsibility to ensure that you are confident that there is sufficient information to support the values used in the calculation, and that the nutrient budget calculation is correct.

Please note in future cases where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is in line with an agreed strategic approach for the mitigation of impacts on Habitats Sites then, provided no other adverse impacts are identified by your authority's appropriate assessment, your authority may be assured that Natural England agrees that the Appropriate Assessment can conclude that there will be no adverse effect on the integrity of the Habitats Sites. In such cases Natural England will not require a Regulation 63 appropriate assessment consultation. However please note it is strongly advised you as competent authority seek your own legal opinion on whether to consult under these circumstances.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk

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: 18

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Preliminary Matters

- 7.1 Article 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 In turn Regulation 75 of the Conservation of Habitats and Species Regulations 2017 (as amended) sets out that to be permitted development, any development that is likely to have a significant effect on a European site must not be begun until written notification of an appropriate assessment has been undertaken in accordance with Regulation 77.
- 7.3 In this instance, as part of the Prior Approval process, 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 (as amended). 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 (as defined in the applications HRA) due to both the increase in recreation and the decrease in water quality that would be a result of the proposed development.
- 7.4 The 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 and Mitigation Plan for Nutrient Neutral Development. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation packages.
- 7.5 The Appropriate Assessment concluded that the avoidance and mitigation packages are sufficient to remove the significant effects on European Sites which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has paid the appropriate mitigation for both SRMS and water quality mitigation, totalling £5,640.70 and the associated Deed has been completed. Natural England have raised no objection to the HRA AA. Accordingly the requirements of Article 3 are considered to have been met, in that regulations 75 to 78 of the Habitats Regs have been complied with prior to commencement. Two conditions would be required to ensure that the development meets and is fitted out with measures to meet the water efficiency of 110 litres per person per day in perpetuity, in order to comply with the nutrient budget and HRA AA.
- 7.6 In addition, Article 3 (9A) 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.
- 7.7 In this instance the 3 bed bungalow would have a floor space of 118 which exceeds the national nationally described minimum of 95sqm and as such would comply with Article 3 (9A).

8 Planning Considerations

- 8.1 The General Permitted Development Order (GPDO) (as amended) grants the general permitted development rights for the principle of the proposed change of use from Class E to a C3 dwelling, such that it is only the matters set out in the relevant 'prior approval' process that can be considered.

8.2 Class MA of the GPDO sets a number of conditions and limitations (MA.1.) as follows:

8.3 **MA.1.-(1) Development is not permitted by Class MA –**

(b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

The building has previously been in use as a veterinary practice (Class E). The proposal therefore complies with criteria MA.1.- 1(b)

(d) if land covered by, or within the curtilage of, the building—

- (i) is or forms part of a site of special scientific interest;
- (ii) is or forms part of a listed building or land within its curtilage;
- (iii) is or forms part of a scheduled monument or land within its curtilage;
- (iv) is or forms part of a safety hazard area; or
- (v) is or forms part of a military explosives storage area;

None of the above apply.

(e) if the building is within—

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981
- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

None of the above apply.

(f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

The site is not occupied under an agricultural tenancy.

(g) before 1st August 2022, if –

- (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
- (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

This is not applicable to the application proposal.

8.4 **Conditions**

MA.2.-(1) Development under Class MA is permitted subject to the following conditions:

(2) Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) transport impacts of the development, particularly to ensure safe site access;
- (b) contamination risks in relation to the building;
- (c) flooding risks in relation to the building;
- (d) impacts of noise from commercial premises on the intended occupiers of the development;
- (e) where—
 - (i) the building is located in a conservation area, and
 - (ii) the development involves a change of use of the whole or part of the ground floor,
 - the impact of that change of use on the character or sustainability of the conservation area;
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and
- (n/a)
- (h) where the development involves the loss of services provided by—
 - (i) a registered nursery, or
 - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006. (n/a)
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building (*ie 18m high or 7 storeys or more*)

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

- 8.5 The Local Planning Authority may refuse the application where it considers that the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.
- 8.6 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.
- 8.7 Development Plan Policies and the National Planning Policy Framework can be considered relevant to prior approval cases insofar as they relate to the development and prior approval matters.
- 8.8 Development must be completed within a period of 3 years starting with the prior approval date.
- 8.9 Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.
- 8.10 The Procedure for determining applications for Prior Approval under Part 3 must follow the provisions given in paragraph W.**

Assessment

- 8.11 (a) *transport impacts of the development, particularly to ensure safe site access;***

The proposal is for a 3 bedroom property therefore 2 car parking spaces are required to be provided on site according to the Havant Parking Standards SPD and Policy DM13 of the Havant Borough Core Strategy (2011). There is sufficient car parking on site to accommodate 2 car parking spaces therefore deemed acceptable.

There would be no access alterations therefore deemed acceptable.

(c) flooding risks in relation to the building.

The application site is within flood zone 1 and is not identified in an area at risk of either current day or future flooding.

(d) impacts of noise from commercial premises on the intended occupiers of the development;

The Environmental Health Officer commented on the application suggesting a pre-occupation noise condition and a construction/demolition management condition to be added to the decision. As the building used to be of residential use and is located within a mostly a residential area with some commercial use which are acceptable within a residential context, the condition for a pre-occupation noise condition is not considered to meet the tests for conditions and as such not been recommended. The application is for a change of use with no significant construction or demolition works proposed therefore a construction/demolition management condition is not considered to meet the tests for conditions and as such has not been recommended. With regards to the suggested informatives these would be added to the decision notice.

(e) Impact on the Conservation Area

This application site is located within the St Faiths Conservation Area and Havant's Conservation Officer has been consulted in this regard. The Conservation Officer has noted there would be no external changes and upholds no objection to this proposal.

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

All habitable rooms would be supplied by natural light and the property would meet the Nationally Described Space Standards.

8.12 Paragraph W (13) states:

The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

It is not considered that any conditions are necessary relating to the relevant issues above, but it is considered necessary to impose two conditions relating to the provision of a water calculator to ensure the development is fitted out to meet the water efficiency set out in the nutrient budget, and subsequently maintained as such.

9 **Conclusion**

- 9.1 The proposed change of use is supported by the current GPDO and the NPPF, and there are considered to be no adverse impacts relating to transport, flooding, noise, conservation area and natural light provision arising from the proposal. Prior Approval is therefore required and granted subject to relevant conditions and informatives.
- 9.2 The development would comply with the requirements of Class MA and the provisions of paragraph W of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (as amended).
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9 **RECOMMENDATION:**

That the Head of Place be authorised to **GRANT PRIOR APPROVAL** for application APP/24/00133 subject to the following conditions

- 1 The development must be completed within a period of three years starting with the prior approval date.

Reason: To comply with the conditions contained within The Town and Country Planning (General Permitted Development) (England) Order 2015 Part 3 MA.2.

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

Site Location Plan and Block Plan - 101
Survey Plan - 201
Survey Elevations - 301
Proposed Floor Plans - 402
CIL Form 1
CIL Form 2
CIL Form 7
Havant Occupancy Calculator
Nutrient Budget Calculator

Reason: To ensure provision of a satisfactory development.

- 3 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; and

- (b) All measures necessary to meet the approved water efficiency calculation have been installed.

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. In compliance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017, the local planning authority has a duty to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council has also had regard to Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

- 4 At all times following occupation of the development hereby approved, all measures for water usage within the submitted nutrient budget shall be maintained in the development in perpetuity.

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. In compliance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017, the local planning authority has a duty to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council has also had regard to Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.