
Site Address: 9 East Street, Havant
Proposal: Variation of condition 3 of Planning Permission APP/21/00827
(Construction of four storey building comprising 8 supported living units (Class C3b) with 4No. car parking spaces following demolition of existing retail unit) relating to materials as shown on Drawing Number 21/100/BR03D - the use of brickwork instead of render on the front elevation, revised window designs at first and second floor on the front elevation, and the omission of flintwork from the side elevation.
Application Type: Variation/Relief of Condition
Application No: APP/23/00526 Expiry Date: 06/09/2023
Applicant: Mr Heather
JNP Developments &
Investments Ltd
Agent: Mr Pike Case Officer: David Eaves
Pike Planning
Ward: St Faiths

Recommendation: **GRANT PERMISSION**

1 Site Description

The site is located in East Street, in Havant Town Centre and forms part of the St Faiths Conservation Area. It formerly comprised a single storey, flat roof retail unit. The unit had pedestrian access from East Street but the rear can also be accessed from The Pallant to the north of the site, via a service road. The development of a four storey building comprising 8 supported living units is currently taking place on the site and nearing completion.

The existing buildings on East Street are positioned hard up to the pavement and there is no off road parking. Historically, the character of East Street was predominantly commercial however over time and due to the concentration of retail units on North and West Street and Park Road South, the demand for units on East Street has fallen and as such, it is not designated as a main shopping frontage. Whilst business and some shops are still located on East Street, it has more of a residential character to it than the other main streets of the town centre.

2 Planning History

97/51427/005 - One no. internally illuminated fascia sign and one no. internally illuminated projecting sign, REF,24/03/1997

05/51427/008 - Conversion of store to 2no. 1 bedroom flats with associated car parking and cycle store., PERM,28/02/2006

07/51427/009 - Conversion of garage and store to 2No. self contained flats., PERM,15/08/2007

07/51427/011 - Construction of shop and 6No. studio/1 bedroom flats on two floors above; cycle store and associated car parking. , PERM,22/01/2008

07/51427/012 - Conservation Area consent for proposed demolition of a single storey flat roof shop fronting onto East Street in Havant., PERM,09/01/2008

APP/13/01257 - Demolition of existing single storey building (class A2) and associated outbuilding to the rear; construction of 4 storey building comprising 7No. 1 bed and 4No. 2 bed apartments with associated landscaping, cycle parking and refuse provision., WD,18/02/2014

APP/14/00576 - Demolition of existing single storey building (Class A2) and associated outbuilding to the rear; construction of four storey building comprising 8No. 1 bed and 3No. 2bed apartments with associated landscaping; cycle parking and refuse. (Revised Application)., PERM,10/04/2015

APP/17/00695 - Demolition of existing buildings and erection of 10 no. apartments., PERM,02/10/2017

APP/20/00933 - Demolition of existing retail unit (no. 9 East Street) and construction of 10 no. supported living units, use Class C2, PERM,26/02/2021

APP/21/00814 - Construction of four storey residential building comprising 8No. two bedroom apartments (revision to planning permission APP/20/00936). (Approved 14/10/2021). Request to discharge conditions 4, 5 and 16 (received 8/11/2021). Request to discharge condition No/s 3, 9, 10 and 11 (received 6/12/2021). Request to discharge conditions 6 and 7 (29.4.22). Request to discharge conditions 12 & 14 (recd 22.3.23)., PERM,14/10/2021

APP/21/00827 - Construction of four storey building comprising 8 supported living units (Class C3b) with 4No. car parking spaces following demolition of existing retail unit. Request to discharge conditions 4, 5 and 16 (08/11/2021). Request to discharge condition No/s 3, 9, 10 and 11 (received 6/12/2021). Request to discharge 6 and 7 (received 29/04/2022). Request to discharge conditions 12 & 14 (3/4/23)., PERM,14/10/2021

Officer Comment: This is the planning application which is sought to be varied.

3 Proposal

Variation of condition 3 of Planning Permission APP/21/00827 (Construction of four storey building comprising 8 supported living units (Class C3b) with 4No. car parking spaces following demolition of existing retail unit) relating to materials as shown on Drawing Number 21/100/BR03D - the use of brickwork instead of render on the front elevation, revised window designs at first and second floor on the front elevation, and the omission of flintwork from the side elevation.

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)

Havant Borough Local Plan (Allocations) July 2014

HB3 (Havant and Bedhampton Mixed Use Allocations)
AL1 (Presumption in Favour of Sustainable Development)

Emsworth Neighbourhood Plan Post Examination Version 2020

N/A

Listed Building Grade: Not applicable.
Conservation Area: St Faiths

5 **Statutory and Non Statutory Consultations**

Community Infrastructure, Planning Policy & Urban Design

This is a S73 application, which will not affect the non CIL liable position under APP/21/00827. As soon as reasonably practicable after decision the CIL Team will confirm this in writing.

Conservation Officer

Site

The application site comprises a newly constructed building permitted under APP/21/00827. The building is not fully completed and therefore not occupied. The site falls within the St Faiths Conservation Area.

Proposal

Variation of condition 3 of Planning Permission APP/21/00827 (Construction of four storey building comprising 8 supported living units (Class C3b) with 4No. car parking spaces following demolition of existing retail unit) relating to materials as shown on Drawing Number 21/100/BR03D - the use of brickwork instead of render on the front elevation, revised window designs at first and second floor on the front elevation, and the omission of flintwork from the side elevation.

Legislative and Policy Context

When assessing the proposal, the following legislation and policy context is taken in consideration.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning authorities, when considering whether to grant planning permission for development which affects a Conservation Area, to have special regard to the desirability of preserving or enhancing the character and appearance of that area.

NPPF

The revised NPPF (December 2023) sets out in Chapter 16, the core principles relating to development affecting Heritage Assets that local planning authorities should consider in making planning decisions in the following paragraphs: 195 – 214.

Local Plan

Local planning policy comprises the adopted Havant Borough Local Plan Core Strategy 2011, along with the Allocations Plan 2014. With regards to local planning policy, the following are relevant:

Policy CS11 of the Core Strategy states that planning permission will be granted for development that:

Protects and where appropriate enhances the borough's statutory and non-statutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or architectural interest.

Policy CP16 (1a) of the Core Strategy states 'Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site'.

Policy DM20 of the Allocations Plan states that planning permission will be granted for development proposals that conserves and enhances the historic assets of Havant. It also states that application which affect, or have the potential to affect, heritage assets are expected to provide a Heritage Statement.

Assessment

It is regrettable that the original design has been diluted, as the originally approved mixture of brickwork and render with a section of flintwork on the east elevation, provided some contextual interest to the external façades and the visual contribution to the conservation area. The front façade now comprises of the approved red brick only with two sections of stone cornicing. The east elevation is also just red brick.

Nonetheless, whilst the design differs from that of the original approved, the newly constructed building is still a vast improvement to what previously existing on the site and has resulted in an enhancement to the conservation area. In general, the build is of a high quality with the use of good stock brick and timber frame sash windows. Therefore on balance, there is no objection to the variations being applied for as part of this application.

Conclusion

NO OBJECTION

Councillor Gillian Harris

No comments received

Councillor Imogen Payter

No comments received

Councillor Phil Munday - St Faiths

No comments 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: 36

Number of site notices: 1

Statutory advertisement: 21/07/2023

Number of representations received: 1

1 Third Party Objection:

1. If the proposed alternation is accepted it will materially negatively affect the design and appearance of the building making it large, dark, dominating, out of keeping (many of the other large buildings nearby are rendered eg across the road, Havant Club), the site will look overdeveloped, it is in the heart of Historic Havant and will damage the look of Historic Havant. It will negatively effect the appearance of one of the main entrances to Historic Havant.

2. It is near a conservation area and should be in keeping with that.

3. The building is large and if it is not rendered it will make the area seem very dark, it is not a broad road there and the feeling of light and space need preserving. It will make the dwellings opposite which are north facing dark and be very negative for the occupants. They will need to use a lot more electricity to light their homes and offices for more months of the year.

4. Different and aesthetically acceptable bricks would have been required when initial planning permission was granted if the building was not to be rendered and such other more expensive bricks would have materially altered the look.

5. The requested change is likely an abuse of the planning process and an attempt to circumvent due process as permission was granted on the basis of materials to be used, they allowed for the costs in their original budgeting, this is an attempt to increase profits but to the permanent detriment of the lives of residents and the area.

Officer Comment: The use of both render and brickwork is common in East Street and the wider town centre and the St Faiths Conservation Area. Please see further comments in part 7 of this report.

It is also an abuse of process as the building has been substantially built and the developer has chosen, unilaterally, not to comply with the planning permission that was granted to reduce the external appearance which can only be to save money on the build. It seems clear that the developer never intended to comply with the permission granted. It is irrelevant whether the developer incurs loss due to having to rectify their conscious decision to proceed in breach of permission as they, despite having teams of professional advisors eg architects, site managers, chose to proceed in breach of the applicable permission. They understood the risks and therefore accepted them, detriment lies with them not ongoing aesthetic detriment for the residents of the properties and Havant.

There is not point having a planning process and granting permission if it can be knowingly and deliberately breached in several material regards, especially purely for financial gain.

Officer Comment: The planning process allows for the variation of permitted schemes under S73 of the Town and Country Planning Act. Whether such alterations are acceptable is dependant on the merits of the alterations which are considered below.

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/St Faiths Conservation Area
- (iii) Impact upon residential amenity
- (iv) Ecological requirements and HRA/AA

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. In relation to this proposal, planning permission has previously been granted by planning permission under application APP/21/00827. The proposal under consideration is to use brickwork rather than render to the front elevation and the omission of a small area of flintwork to the internal part of the site. These are considered below.

(ii) Impact upon the character and appearance of the area/St Faiths Conservation Area

The proposal is to vary materials in the St Faiths Conservation Area and it is therefore necessary to consider whether the changes proposed would preserve or enhance the St Faiths Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The building is located in a prominent location close to the crossroads of North, East, South and West Streets. The building fronts the pavement on the northern side of East Street.

It is noted that the following changes to the approved elevations are proposed:

- the use of brickwork instead of render on the front elevation,
- revised window designs at first and second floor on the front elevation, and;
- the omission of flintwork from the side elevation.

To the front elevation (East Street), the ground floor render is replaced by brickwork the windows to the first and second floor are also amended. The rear (north) elevation is unaltered. The east elevation is altered to remove a small section of flintwork to the first, second and third floors. This area is internal to the site and is not readily visible from public vantage points. Finally the west elevation remains unaltered.

The Principal Heritage Officer has concluded that:

Nonetheless, whilst the design differs from that of the original approved, the newly constructed building is still a vast improvement to what previously existing on the site and has resulted in an enhancement to the conservation area. In general, the build is of a high quality with the use of good stock brick and timber frame sash windows. Therefore on balance, there is no objection to the variations being applied for as part of this application.

The proposed relatively modest alterations are considered to be acceptable with regards to their impact on the character and appearance of the Conservation Area, it is considered that the development would continue to preserve and enhance the Conservation Area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal would also accord with policy CS11 of the Havant Borough Local Plan and the NPPF.

(iii) Impact upon residential amenity

It is noted that a concern has been raised in relation to the impact of increased brick rather than render to the building which is located adjacent to the road and its potential for impacting on light to north facing buildings and residential properties opposite. It is noted that East Street contains a mix of materials including brick and render. It is not considered that any impact from the change of materials would impact reflected light from the building such that it would result in an unneighbourly impact on properties on the southern side of East Street and this would not warrant a refusal of planning permission for the proposed change.

(iv) Ecological requirements and HRA/AA

There is no change in relation to the level of proposed accommodation and HRA/AA requirements from the original consent APP/21/00827 where a unilateral undertaking securing total SRMS and Nutrient contributions of £6,305 were secured.

8 Conclusion

In conclusion the proposed amendments to the original planning permission APP/21/00827 are considered to have a limited and acceptable impact on the character and appearance of the St Faiths Conservation Area and would not be harmful to residential amenity. Planning permission is therefore recommended.

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT PERMISSION** for application APP/23/00526 subject to the following conditions

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

GENERAL ARRANGEMENT ELEVATIONS AS BUILT 21/100/BR03 Rev D
BLOCK PLAN 21/101/B01
LOCATION PLAN 21/101/L01
LANDSCAPING & HARDSURFACING 21/101/LS01
SITE PLAN 21/101/P01
PROPOSED FLOOR & ROOF 21/101/P02
SECTIONS 21/101/P04
DRAINAGE DETAILS 414601.11P2

Reason: To ensure provision of a satisfactory development.

- 2 The materials and finishes shall be as approved under condition 3 of planning permission APP/21/00827 or with regard to the south and east elevations only shall be as shown on the approved elevation drawing under the planning application hereby permitted. All work shall be carried out in full accordance with such approvals.

Reason: To ensure the materials and finishes are appropriate to this key site within St Faiths conservation area in accordance with policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 3 In the event that public sewers are found at any time when carrying out the approved development which were not previously identified, development shall STOP until details of the measures which will be undertaken to protect the public sewer have been submitted to and approved in writing by the Local Planning Authority. Following approval, such measures shall be implemented on site in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the adequate protection of infrastructure having due regard to Havant Borough Local Plan (Core Strategy) 2011 policies CS19 and DM10 and the National Planning Policy Framework.

- 4 All windows and doors shall be as approved under condition 9 of planning permission APP/21/00827 or as detailed in the application hereby approved. All work shall be carried out in full accordance with such approvals and be retained thereafter.

Reason: To ensure the detailing is appropriate to this key site within the St Faiths Conservation Area and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The siting and design of any proposed external meter boxes/metal ducting/flues shall be as approved under condition 10 of planning permission APP/21/00827. All work shall be carried out in full accordance with such approval and be retained thereafter.

Reason: To protect the character and appearance of the conservation area in accordance with policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 6 The materials to be used for the surfacing of all open parts of the site (including the pedestrian right of way at the rear of the site) proposed to be hardsurfaced shall be as approved under condition 11 of planning permission APP/21/00827. The development hereby permitted shall not be occupied until the implementation of all such hardsurfacing has been completed in full accordance with that specification.

Reason: In the interests of the amenities of the locality and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 All external lighting shall be in accordance with the particulars approved under condition 12 of planning permission APP/21/00827. There shall be no external lighting on the site other than as thereby approved.

Reason: To safeguard the amenities of the locality and in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 8 The parking, cycle parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.

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

- 9 The development hereby permitted shall not be occupied other than in accordance with the details approved in relation to the Water Efficiency condition 14 of planning permission APP/21/00827 and all measures necessary to meet the approved water efficiency calculation have been installed.

These included the following requirement:

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.

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.

- 10 At all times following occupation of the development hereby approved, all measures necessary to meet the approved water efficiency calculation shall be maintained so as to ensure that no more than 110 litres per person per day shall be consumed 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.

- 11 The development hereby approved shall be carried out only in accordance with the construction method statement approved under condition 16 of planning permission APP/21/00827.

Reason: In order that the Local Planning Authority can properly consider the effect of the works on the amenity of the locality in accordance with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 12 The development hereby approved shall be used for supported living units only (Class C3b) and for no other purpose in the Schedule to The Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order.

Reason: In the interests of the amenities of occupiers of neighbouring dwellings and to control the form of development Supported living, class C3b use, in accordance with policies CS9 and CS16 of the Havant Borough Council Local Plan (Core Strategy) 2011.

- 13 The development shall incorporate a minimum of six built-in or externally-fitted nesting units for Common Swift. These units shall be installed in suitable locations as per manufacturer's instructions prior to the occupation of any of the units hereby approved, and retained in perpetuity in a location and condition suited to their intended purpose.

Reason: To protect and enhance biodiversity in accordance with the NERC Act (2006), Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 14 In the event that suspected contamination is encountered during groundwork (e.g. obviously contaminated soil / groundwater, or any buried waste materials not assuredly comprising non-harmful construction materials); works in affected areas of the site shall cease until the Local Planning Authority has been notified of the discovery, and a scheme to deal with the risks associated with the suspected contamination has been submitted to- and approved in writing by- the Local Planning Authority.

The scheme may take a proportionate approach to the degree of formality adopted and may comprise separate results / reports / statements as appropriate, but unless specifically excluded by agreement shall include;

- 1) Reasonable investigation in the vicinity of suspected contamination, sufficient to characterise it's nature, likely extent & mobility,
- 2) An appropriate assessment of the risks to all receptors that may be affected, based upon 1), and;
- 3) Where potentially unacceptable risks are identified by 2), a Remediation Strategy that includes appropriately considered remedial objectives and clearly defined proposals for achieving these, having due regard to sustainability

All investigation, assessments & other actions required by 1)-3) above (and B, below) shall be undertaken by competent persons, and the findings presented as written report. The scheme shall be implemented as approved.

Prior to the occupation of any relevant part of the permitted development, EITHER of the following shall be submitted to the Local Planning Authority;

A. A statement confirming that no suspected contamination was identified during development, OR;

B. Documentation in accordance with 1)-3) above; together with a Verification Report (where appropriate) demonstrating that remediation objectives have been met.

Reason: Contamination may be present at the site as a result of both previous & current land uses (&/or activities) at the development land and in the vicinity that could pose a risk to future occupants of the development. This is in line with DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) 2014, and paragraphs 189-191 of the National Planning Policy Framework.

- 15 The drainage system shall be constructed in accordance with the Drainage General Arrangement ref: 414601.10P2 submitted in relation to planning permission APP/21/00827. The Surface water discharge to the public sewer network shall be limited to 6.42 l/s, unless otherwise agreed in writing by the Local Planning Authority. Any revised details submitted for approval must include a technical summary highlighting any changes, updated detailed drainage drawings and detailed drainage calculations.

Reason: Without the provision of an appropriate surface water connection point the development cannot be appropriately mitigated and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 16 No dwellings shall be occupied until the following drainage details have been submitted to and approved in writing by the Local Planning Authority:
- A) Details of consent from the Sewerage Authority for a connection to the public sewer for the development.
 - B) Details for the long-term maintenance arrangements for the surface water drainage system. The details shall include;
 - i) Maintenance schedules for each drainage feature type and ownership.
 - ii) Details of protection measures
- The development shall be implemented in accordance with the approved details.

Reason: Without the provision of an appropriate surface water connection point the development cannot be appropriately mitigated and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 17 Notwithstanding the information shown on the submitted plans, the landscaping and street furniture including seating and railings shall be provided in accordance with the details approved under condition 23 of planning permission APP/21/00827. The implementation of all such approved landscaping shall be completed prior to the occupation of the building. Any tree or shrub planted or retained as part of such approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11, CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 18 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the building hereby permitted the windows in the first, second and third floors on the east elevation (labelled W16, W17, W19, W21 (first floor), W29, W30, W32, W34 (second floor) and W41, W42 and W44 (third floor), as shown on the proposed elevation plan 21/100/BR03 Rev D, shall be fitted with, textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) and retained as such thereafter.

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