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Site Address: 28 & 28A Stakes Hill Road, Waterloo, PO7 7HY  
Proposal: Prior Approval for development consisting of a change of use of a building and any land within its curtilage from Class E (commercial, business and service) to Class C3 (dwellinghouses).  
Application Type: Prior Approval CoU E to C3  
Application No: APP/23/00990                      Expiry Date: 19/04/2024  
Applicant: Mrs Lana Adele Bayton  
Agent: Mr M Choudhury                      Case Officer: Robert Riley  
                    MC Architectural Design  
Ward: Waterloo

Recommendation: **GRANT PRIOR APPROVAL**

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## **1 Site Description**

- 1.1 The property in question is part of a block of four terraced units which are set close to the frontage of Stakes Hill Road. The property has a brown concrete tile finish, exposed red brick elevation, UPVC windows and showroom business signage above the main front door. The surrounding area is of medium density, and the character of the street scene varies, leading towards the main centre with a mixture of predominately two storey commercial units comprising dentists, offices, retail and workshops together with residential properties.
- 1.2 The property adjacent to the north, No.26 is a residential house, while the property adjacent to the south, No.30, comprises a commercial Street elevation, looking from Stakes Hill Road. The site benefits from rear parking accessed via land adjacent to No.30. The front elevation of the property faces North-East and captures the morning sun, while the rear faces South-West.
- 1.3 The property also features a paved courtyard to the front, which is enclosed by a low brick wall. The application site is flat, with the main Stakes Hill road rising gently towards the main town centre. The opposite side of Stakes Hill Road to the front elevation is the rear elevation of the former Waitrose building, and a public car park is located to the rear beyond the block of three garages. No.28, a two bed maisonette (Use Class C3 dwelling) is situated to the rear part of the main dwelling with access to the first floor, and the front ground floor No.28A Retail showroom (Use Class E) is allocated to the front.

## **2 Planning History**

APP/19/00331:  
Change of use of ground floor from residential to retail showroom; replacement window and door to front elevation. Permitted 12/06/2019

### **3 Proposal**

Prior Approval for development consisting of a change of use of a building and any land within its curtilage from Class E (commercial, business and service) to Class C3 (dwellinghouses).

### **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

CS20 (Transport and Access Strategy)  
DM13 (Car and Cycle Parking on Residential Development)

#### Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)  
AL3 (Town, District and Local Centres)

#### Emsworth Neighbourhood Plan Post Examination Version 2020 N/A

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

### **5 Statutory and Non Statutory Consultations**

#### **Councillor Gwen Robinson**

No comments received

#### **Councillor Mike Sceal**

No comments received

#### **Councillor Peter Wade**

No comments received

#### **Environment Agency**

No comments received

#### **Environmental Health Manager, Community Group**

Original comment by Environmental Health

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

#### Sound Insulation Condition

A scheme of noise insulation/reduction shall be submitted to ensure that the noise level of 35 dBLAeq,16 hour in living rooms and bedrooms during the daytime (0700 to 2300 hours) and 30 dBLAeq,8 hour and 45 dBLAmax during the nighttime (measured with F time-weighting and between 2300 and 0700 hours) in bedrooms in accordance with BS8233:2014 shall not be exceeded. Where these levels cannot be met with windows open appropriate acoustic ventilation should be provided so that the room can be sufficiently ventilated. The acoustic performance of any passive vent, variable speed mechanical air supply unit or whole house ventilation must be sufficient to ensure that the noise level standards given above are not compromised.

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.

#### Noise in Amenity Spaces.

Prior to the commencement of the development hereby approved, a scheme will be provided to demonstrate that the external noise levels within the curtilage of residential units and amenity areas for the site will conform to the "Design criteria for external noise" upper guideline value of 55 dB LAeq,T and preferably with the desired LAeq,T level of 50 dB as specified in section 7.7.3.2 of BS 8233:2014.

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 Management

No development shall commence, 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.

***Following further correspondence with Environmental Health***

I can advise that I have now reviewed this application and think perhaps it had been incorrectly considered that this application consisting of a dwelling/flat plus a shop, was to be converted into two flats. After discussions and reconsidering this application, I can note this building is now to be reconverted back to a single dwelling.

Should the LPA be minded to approve this application, I would ask that the following Condition and informatives be attached to the decision notice:

**Condition 1:**

The applicant to ensure that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, for this dwelling, will meet BS8233:2014 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.

Reason: To ensure the residential amenity of the properties is not impacted upon by any external noise levels, especially traffic noise.

**Officer Comment:** The proposal relates to additional residential floorspace to an existing dwelling and it is not considered reasonable to apply additional noise conditions to the existing residential floorspace.

**Informatives:**

**Regarding Hours of Work:**

You are hereby requested to ensure that no works or ancillary operations associated with any demolition, clearance and building works at this site, 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 in order to protect the occupants of nearby residential properties from noise and vibration nuisance

Regarding Dust Control:

You are hereby requested to ensure that if necessary, dust control mitigation measures are in place for the control of any dust that might emanate from the works site.

This is in order to protect the occupants of nearby residential properties from dust nuisance.

Regarding Bonfires:

You are hereby requested to ensure that no bonfires take place on this site, during any conversion 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 in order to protect the occupants of nearby residential properties from smoke nuisance.

### **Hampshire Highways**

I refer to the consultation on the above planning application and would make the following comments.

The Highway Authority are satisfied that as a change of use from Class E to a single Class C3 dwelling with no change to existing access to the public highway that there would be no significant impact on the operation or safety of the local highway network. Subject to the Planning Authority as, Local Parking Authority, being satisfied regarding parking, the Highway Authority would recommend -  
No objection (no conditions)

## **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: 12

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

## **7 Planning Considerations**

### **(i) Principle of development**

- 7.1 The change of use of the premises proposed is the subject of changes to the General Permitted Development Order (GPDO) which have given a general permitted development right for such changes to take place subject to a 'prior approval' process to go through. Consequently the principle of the change of use is considered acceptable.

7.2 Class MA of the GPDO sets a number of criteria for such appositions (MA.1.) and development is not permitted under certain circumstances - these are listed and commented on in relation to this application in 7.3 below:

7.3 Development is not permitted by Class MA -

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

*for prior approval;* - The building was a kitchen showroom a retail use formerly A1 now E(a) and this criteria is satisfied.

*(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;*

The land is not within any of these areas and the criteria is satisfied.

*(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;*

The site is not within any of these areas and the criteria is satisfied.

*(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 1 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 does not apply.

7.3 Having regard to the relevant conditions of the GPDO it is considered important to assess the following issues which are covered by the Conditions (MA.2):

(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;

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

Sections (e) (g), (h) and (i) do not apply to this proposal.

#### *Transport Impacts*

- 7.54 This proposal is for the commercial floorspace to be converted to residential as part of an existing residential unit. this would change the existing 2 bed dwelling to a 3 bedroom property and therefore 2 parking spaces on site are required and this has been shown on the plans. There is no change proposed to the existing parking set up and no new access requirements. The parking allocation requirements as specified in the Havant Parking SPD have therefore been met.

#### *Contamination risks*

- 7.6 Environmental Health was consulted and provided no objection in this regard. It is also noted that the ground floor area the subject of this application was previously in residential use.

#### *Flood risks*

- 7.7 The site is located within Flood Zone 1 and therefore no further action is required.

#### *Noise amenity issues from nearby commercial premises*

- 7.8 The site is positioned within the urban area where a certain level of noise is expected. There are not judged to be any substantial nearby noise pollutants impacting living conditions of future occupiers of the proposed dwelling from nearby commercial premises. Environmental Health have been consulted and have no objections to this proposal in this regard subject to a condition.

#### *Natural light to rooms*

- 7.9 All habitable rooms would be supplied by natural light. There is no new dwelling being created as a result of the development.

#### (ii) Other matters

- 7.10 As no additional dwelling is being created as a result of this proposal a Habitats Regulations Assessment would not be required in relation to the proposed development.
- 7.11 With regard to CIL, the proposal would result in no additional floorspace but a change in use of a currently vacant shop showroom, the Council's CIL team will consider CIL requirements further.

## 8 Conclusion

- 8.1 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 flooding, transport, contamination, noise and light amenity arising from the proposal. Prior Approval is therefore **required and granted** subject to relevant conditions and informatives.
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## 9 **RECOMMENDATION:**

That the Head of Place be authorised to **GRANT PRIOR APPROVAL** for application APP/23/00990 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:

Drawing Number: 01.01 Rev B Location Plan , Block Plan, Floor Plans and Elevations  
Flood Risk Map  
Planning, Design and Access Statement MCA Design Architectural

**Reason:** To ensure provision of a satisfactory development.

- 3 The external materials used shall match, in type, colour and texture, those of the existing building so far as practicable.

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

- 4 Acoustic mitigation measures shall be employed with regard to the building envelope, including fenestration and ventilation in relation to the additional residential floorspace, and will meet BS8233:2014 standards as recommended for indoor ambient noise levels for dwellings in the newly converted residential floorspace, especially in relation to the living room i.e during the day (07:00 to 23:00) 35 dB L Aeq, 16 hour.

**Reason:** To ensure the residential amenity of the properties is not impacted upon by any external noise levels, especially traffic noise and having due regard to policy DM10 of Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The prior approval hereby granted shall not result in the creation of an additional unit of residential accommodation.

**Reason:** To accord with the terms of the application and to ensure that a Habitats Regulations Assessment / Appropriate Assessment is not required having due regard to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework.