

DELEGATED OFFICER REPORT

Site Address: Littlefold Family Resource Centre, Linnet Close,
Waterlooville, PO8 9UY

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) (Class C3 dwellinghouses).

Application Type: Prior Approval CoU E to C3

Application No: APP/24/00652 Expiry Date: 16/10/2024

Applicant: Ms Daughtrey
Nightingale Apartments Ltd

Agent: Mark Phelps Case Officer: Lesley Wells
PDP Architecture llp

Ward: Hart Plain

Recommendation: **GRANT PRIOR APPROVAL**

1 Site Description

- 1.1 The application site is accessed from the western side of Linnet Close, which is located in a residential area. The site is bound by residential properties, with a Public Right of Way to the east, and Linnet Close to the west.
- 1.2 The eastern boundary comprises of trees.
- 1.3 The site falls within Flood Zone 1 and would remain so, on current information, with climate change up until 2115.

2 Planning History

None relevant.

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 10No. flats (Class C3 dwellinghouses).

As to the accommodation this would comprise of:

4 x 1 bedroom, 1 person apartments
6 x 2 bedroom, 4 person apartments

The proposal includes provision for 12 unallocated parking spaces and 2 visitor parking spaces, with 16 No. secure cycles spaces and 4 No. short stay cycle spaces.

Minor changes to the fenestration are proposed which include the replacement of the oriel windows on the south elevation, with bay windows (2) with other windows replaced and/or removed. A chimney and the porch on the south elevation would be removed, with the existing opening infilled.

As to materials, facing brickwork to match existing in tone and mortar colour. The composite cladding at first floor would be Millboard Envellor or similar. Existing concrete interlocking roof tiles. UPVC panel below windows, proposed bay windows to match existing.

Bin storage would be provided for the development

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

CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)
DM9	(Development in the Coastal Zone)

Havant Borough Local Plan (Allocations) July 2014 <SQLPolDes2014v

Emsworth Neighbourhood Plan

N/A

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

5 Statutory and Non Statutory Consultations

Community Infrastructure - Comment

The Additional Information Form states the current building is still in use. If that is the case, and no additional floorspace is being created, this will not be CIL liable. If the applicant chooses to address SRMS and Nutrient Neutrality mitigation prior to decision, pending a response from Natural England on the HRA, instructions should be passed by the Case Officer to the CI Team to:

(a) Issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the additional dwelling and its respective number of bedrooms. See Unilateral Undertaking - Solent Recreation Mitigation Strategy | Havant Borough Council

b) Issue the Nutrient Neutrality Unilateral Undertaking. See <https://www.havant.gov.uk/nitrogendevelopers>

As this is a prior approval application, payment in respect of SRMS and Nutrient Neutrality is required up front before commencement. However, we strongly recommend the applicant settles this amount prior to the decision being made. If a prior approval is implemented without having met the obligations under the Habitat Regulations, there will be a breach of planning control.

Officer Comment: *the site falls outside of the 5.6km boundary for the SRMS. Therefore, a contribution for mitigation is not required for the SRMS. As to the mitigation for nitrates this has been secured via a Section 106 Agreement.*

As to CIL the agent has confirmed that the building was vacated on 29th April 2024, so in use within the last 3 years for commercial purposes and therefore CIL is not liable.

Councillor Ann Briggs - No Comment

Councillor E Shimbart - Hart Plain - No Comment

Councillor James Blades - No Comment

Environmental Health Manager, Contamination - No Objection

Comments follow review of the following documents;

- Soils Ltd. Preliminary Investigation Report Ref: 2151/PIR rev1.0 (July 2024)
- Soils Ltd. Contamination Investigation Report Ref: 21511/CIR rev1.0 (Aug 2024)

Based upon the information presented within the preliminary report, which reflects the state of knowledge of the Council in respect of this site at the time it was written, I would likely not have supported the recommendation for the undertaking of the (Phase 2-) Contamination Investigation Report. This is principally due to the general lack of contaminating land uses represented within the site history.

The Phase 2 report does however identify one sample from made soils in which elevated concentrations of Zn, As & Pb are identified, with the latter determinants being found at concentrations in excess of 200% of the generic assessment criteria (GAC) for a sensitive residential exposure scenario.

Whilst the exposure scenario selected is arguably conservative for the proposed development, it is noted that the arrangement of dwellings does not preclude occupancy by small or single parent families.

I have sought to understand some inconsistencies in the information included in the preliminary report and the available historic mapping, principally due to the single sample in which GAC exceedances were noted. Additional information was principally drawn from the planning archive.

This search has identified some potential sources of contamination within the site curtilage – arising from informal use of the on-site car parking area for higher risk automotive storage and servicing/repair, alongside the presence of an estimated 7500L gasoil/kerosine tank and associated boiler rooms – present at two locations within the ground floor of the building.

In respect of the latter, the authors were not aware of the historic presence of the (now removed) fuel storage tank from the available desk-based sources, and did not note any evidence of former oil-fired appliances during the walkover (probably as complete removal as a modernisation when the building was still in use).

Unfortunately, this has meant that the physical inspection did not seek to target this feature – however, by chance one trial hole (WS04) was advanced in the near vicinity of the former tank. It's position was offset approximately 5-10m from the feature, perpendicular to the topographic slope (& assumed-hydraulic-gradient). This position was not finished as a well, so has not been included in the gas & vapour monitoring. It is the position from which the elevated metals were noted, although there is not an obvious link between the identified contaminants and a fuel storage/handling feature. It is possible that the depth of made ground could be related to the feature – e.g. resulting from the installation of a buried service (electrical or fuel).

There are no 'red flags' in the available results in respect of fuel contamination, but it is not clear that we would have expected to encounter any related contamination at the location WS04 (or any other trial hole) – some residual uncertainty is unavoidable in the absence of further intrusive exploration/inspection. I'm not certain that this is justified, on the basis of the contextual records from WS04 (e.g. it's position, and the engineer's log), but it is noted that the building is down-topographic-slope. To avoid a decision that is contrary to NPPF'24 para 196, the residual risk will need to be accounted for.

In respect of the other risks identified;

- **UXO:** I would accept the assessment that risks are not materially elevated above 'background' (typical/average), and accordingly, I do not expect any specific actions to be taken to mitigate the remote possibility of UXO/UXB being present that was not disturbed or discovered during the original construction.
- **Asbestos:** The identified risk from asbestos within the building fabric is not considered to be a 'contamination' risk as the material is not associated with soils. All asbestos screening of soils has returned negative results, and engineers logs do not include any notes that could be interpreted as indicative of potential asbestos containing materials (ACM's)
- **Radon:** 1-3% risk area. The report correctly states that new dwellings in this area would not normally be required to implement radon protective measures – however this would normally apply to a new build where it is not possible to determine the site-specific risk. In the case of conversions, the building is extant, which means that a direct radon measurement could be taken to quantify &/or dismiss the risk. I would highlight that the risk is up to 3% of properties within the area *exceeding the health-based exposure threshold*. I.e. material harm to health would be expected to occur in 3% of properties within this area (1x1km grid square assessment area). I would suggest that this could be disregarded as a material planning (contamination) matter on the basis of NPPF'24 para's 201, and Building Control Document C (Resistance to Contaminants & Moisture). I would however recommend that the applicant consider radon measurements within the building to determine need, in the interests of managing the related liability referred to within NPPF '24 para 197.

- **Elevated CLEA Metals in Made Ground:** There is no consistency between descriptions of made soils, and it is not clear that the sample from the upper deposit of made soils within WS04 is likely to be representative of the (distinct) deeper deposit. Made soils are absent from areas of soft landscaping, and therefore likely represent engineered ground improvement rather than any general/generic fill (or land raising etc.). Given this, it is not reasonable to assume that the typical character of site soils (at CLEA-relevant depths, within a relevant averaging area-) is likely to exceed the respective GAC. Given the nature level of construction activity required to deliver the proposed development, I am reasonably comfortable to dismiss this risk without requirement for specific remedial or risk-mitigation works.

The residual uncertainty in respect of (potential, undiscovered-) fuel contamination is in respect of the risks of vapour intrusion-, and/or permeation of polymer-based water supply pipelines by kerosine-range hydrocarbons. The reports provide no indication of gross contamination – only trace hydrocarbons have been identified, and only in locations some distance from the fuel storage tank feature. However, given the broadly assumed migration directions, the potential for preferential migration via service trenches (possibly to specific locations within the building, namely the former boiler room locations-), and the positions of gas & vapour monitoring wells remote from the principal contamination risk area; there is potential for contamination to be present that has not been intercepted or otherwise identified by the intrusive investigation (or subsequent monitoring).

The development proposals will include construction of the bin & cycle stores within the vicinity of the principal contamination-risk area, and a reasonable conceptual SPT model would anticipate vertical migration from surface spillage/leakage, and therefore evidence at relatively shallow depth.

On this basis, I would consider there to be a reasonable prospect of identifying any material/significant soil contamination by visual & olfactory means, and on balance it is probably sufficient to address this residual risk by means of a compliance condition which formalises the notes at 7.3 & 4.14 (preliminary & phase 2 reports, respectively), as an actionable and enforceable provision.

Accordingly, no objections arise subject to the following condition being included on any positive determination made;

Condition [X]: Contamination Watching Brief (Bespoke)

Reasonable vigilance for the presence of contamination and soil hazards shall be maintained during all groundwork, service installation, and any work involving access to wall cavities or voids/soils below ground floor level. In the event that any suspected contamination (stained soils or fuel/solvent odour); 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) Investigation in the vicinity of the suspect material, 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 / Risk Management 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 & recorded by competent persons, and the findings presented in a written format. 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 written statement confirming that no suspected contamination was identified during development, OR;*
- B) Documentation in accordance with 1) & 2) above; together with a Verification Report (where appropriate) which demonstrates that the agreed remediation objectives (3)) have been met.*

Reason: *Site investigation has not ruled out the possibility of discrete deposits of fuel contamination associated with the building's former heating systems. Such a deposit could pose a risk to future occupiers of ground-floor units, &/or to the local water environment. 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 196 & 197 of the National Planning Policy Framework 2024.*

Officer Comment: *The above condition is recommended.*

Environmental Health Manager, Community Group - No Objection

In regard to this application, I can advise this office would have no objection in principle to a development of this nature on this site.

The noise assessment report provided by Auricle Acoustic Consulting advises as follows:

Based on the measurements, it was predicted that the internal noise level are less than the 'desirable' internal noise level limit for dwellings specified in BS 8233: 2014.

In addition, noise levels are predicted to be within the negligible noise risk category during daytime and night-time periods and do not exceed the Approved Document O limits. Therefore, according to the guidance, "use of opening windows as a primary means of mitigating overheating is not likely to result in adverse effect".

Based on the foregoing, I am satisfied that existing noise levels on this site, should be suitable for conversion of this building to residential accommodation.

Should the Local Planning Authority be minded to approve this application, I would ask that the following conditions be added to any favourable Decision notice:

Condition 1: Lighting

No floodlighting, street lighting or other form of external lighting scheme, including at or on dwelling units, shall be installed unless it has been approved by the Local Planning Authority. Such details shall include, Location, height, type and direction of light sources and intensity of illumination. Any lighting scheme agreed in writing by the Local Planning Authority shall not thereafter be altered without prior consent other than for routine maintenance, which does not change its details.

Reason: To protect the occupants outside of and within the development from light disturbance / nuisance.

Condition 2: Construction Environmental Management Plan

The plan should include, but not be limited to:

- a. Procedures for maintaining good public relations including complaint management, public consultation and liaison and site management contact details
- b. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00

Hours on Saturdays and at no time on Sundays and Bank Holidays.

- c. Deliveries to and removal of materials, plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- d. Mitigation measures as defined in BS 5528: Parts 1 and Part 2, 2009 and A1:2014 - Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from clearance and construction works.
- e. Procedures for emergency deviation of the agreed working hours
- f. Measures for controlling the use of site lighting during all phases, whether required for safe working or for security purposes, to ensure no impact on any nearby residential receptors;
- g. Control measures for dust and other air-borne pollutants. It should advise as to what measures are to be put in place for the control of any dust that might emanate from the development site. The methods of dust control should be in accordance with the guidance as laid out in the BRE Report 456 - Control of Dust from Construction and Demolition activities, and also the IAQM Guidance on the assessment of dust from demolition and construction 2014.
- h. No bonfires to take place on the site at any time;
- i. A scheme for recycling/disposing of waste resulting from demolition, clearance and construction works is to be implemented.

Officer Comment: *the above two conditions are recommended.*

Hampshire Highways - Final Comment - No Objection

In response to previous comments raised by the Highway Authority dated 19 September 2024, the applicant has submitted a revised site and location plan (drawing 18177-PD011 Rev B) which the Highway Authority have reviewed and have the following comments to make.

The proposed drawing outlines the access routes into the development from the car parking area itself. The Highway Authority are content that this suitably addresses previous concerns. Walking routes are available on desire lines within the red line boundary of the site therefore reducing the likelihood of errant parking elsewhere on the highway network. This is considered acceptable.

The drawing also confirms the parking space dimensions which measure 2.4m X 4.8m in accordance with HBC's parking standards. This is noted. A 6.0m aisle width is also present providing appropriate space for vehicle users to manoeuvre and access and egress parking spaces in an appropriate manner.

Having regard to the above, the Highway Authority are content that the revised proposals appropriately address previous concerns raised and recommend no objections to this prior approval application

Hampshire Highways - Initial Comment - Objection

Thank you for your consultation on the above prior approval planning application. To support this planning application, the applicant has submitted a Transport Statement dated July 2024 which the Highway Authority have reviewed and have the following comments to make.

Site Location

The application site can be accessed via Linnet Close which runs to the west of the site and provides vehicular access to a number of residential properties. The site is bound by residential dwellings to the north and south with a PRow running to the east.

Sustainable Access

Walking and Cycling:

The TS provides a summary of the walking and cycling infrastructure within the vicinity of the site. Footways flank both sides of Linnet Close and measure between 1.5m-2.0m. It is noted that deviations from a 2.0m footway width are substandard in accordance with HCC TG10. Pedestrian footways are also present further afield along both sides of Eagle Avenue providing connections to local facilities and bus stops available to site. No dedicated cycle infrastructure is present with cyclists expected to cycle in carriageway. In terms of the PRow network, footpath 107/7/2 abuts the eastern boundary of the site.

To the north of the site, footpath 107/7/2 connects into bridleway 108/1a/3 providing access to Woodcroft Primary School.

Access into the building is proposed to the opposite side of the car park location. The access into the site should be relocated to the north or alternative footway arrangements within the red-line boundary that accord with desire lines should be provided. The current alignment may encourage errant parking along Linnet Close and within the turning heads outside of the designated parking area due to residents parking in locations which are more convenient and closer to the access into the building.

Errant parking within the turning heads and along Linnet Close itself is already evidenced on Google Maps and the current internal design of the site may further contribute to this issue. This is a requirement to be resolved at the planning stage in the interest of highways safety and to ensure that the refuse and emergency vehicles are able to access the site appropriately.

A summary of the local facilities available to the development is also provided within Table 2 of the TS. In accordance with the facilities identified by Active Travel England (ATE) that should be within an 800m walking distance from a development site, a park or green space, indoor meeting place and primary School fall within this recommended distance. Of those facilities that do not fall within the recommended 800m walking distances, a food shop which sell s fresh fruit, and vegetables and GP surgery fall within the preferred maximum 1.2km walking distance within the 'elsewhere' category of the CIHT (2000) 'Providing for Journeys on Foot' guidance. Facilities that fall outside of the ATE and CIHT guidance is a post office or bank and GP surgery.

Given the quantum of development proposed, the distance of the site to local facilities and services does provide some opportunities for sustainable travel and is therefore unlikely to create significant harm on the highway network. Therefore, the Highway Authority would not provide any objections on sustainability grounds in this instance.

Buses:

The closest bus stops to the site are located along Eagle Avenue c. 110m and 300m to the south for eastbound and westbound services respectively. The Highway Authority do not agree with the distance to the southbound stop and consider this to be c. 380m. It is however acknowledged that the distance of the bus stop from the site falls within the recommended 400m distance as outlined by Active Travel England. Both stops are equipped with shelters, seating and timetable information. The bus stop infrastructure itself would benefit from improvements along with the provision of RTI information. Bus services 7 and 39 run from these stops with c. 4 services an hour Monday-Friday from both services providing connections to Portsmouth, Waterlooville and Havant. A weekend service is also present for bus route 7 providing 3 services an hour. School service 652 also runs from these stops providing services during typical school pick up and drop off periods.

Rail:

The TS outlines that Bedhampton railway station is the closest to the site. Given the identified distance, it is unlikely that occupants of the site will choose to utilise this mode of transport unless they also travel via private car.

Personal Injury Accidents (PIA)

The applicant has provided PIA data for a 5-year period from 01 January 2019-31 December 2023 utilising data from Hampshire Constabulary records. The study area is laid out within Appendix B of the TS and is deemed appropriate to the scale of development. It is noted that the review of accident data is nearly a year out of date and therefore an internal review of accident data has been undertaken to establish if more recent accidents have been recorded within the study area.

For a revised time-period of 01 May 2019 to 30 April 2024, the conclusions drawn by the applicant remain unchanged. In total 1 accident has occurred within the study area (1 'serious'). No accidents have occurred along Linnet Close itself or at the Linnet Close/Eagle Avenue junction. The Highway Authority are content that this is an isolated accident that is unlikely to be exacerbated by the quantum of development.

Site Access

The TS outlines that the access proposals into the parking area, which comprises of a 7.0m wide access road and gate for the development to the site are to remain unchanged. Access into the site is from a privately owned parking court from Linnet Close and therefore does not fall under the jurisdiction of the Highway Authority.

Visibility:

As the access arrangement is to remain unchanged, the applicant has not provided any visibility splays. Given that the existing arrangement is a continuation of an existing car parking area this is considered acceptable.

Refuse and Servicing Arrangements

It is understood that the refuse and servicing arrangements for the site are to remain as per the existing. This involves kerbside collection along Linnet Close which is consistent with the refuse collection for existing residential dwellings. The TS confirms that the drag and carry distances for refuse are compliant with Manual for Streets. The applicant has also confirmed that the fire appliance is able to access the building inline with Manual for Streets requirements.

Parking Provision

Vehicular:

In total the applicant is proposing 14 unallocated parking spaces (including 2 visitor parking spaces) for the development. It is understood that the 12 unallocated parking spaces for residents accords with Havant Borough Council's Parking SPD, however the provision of 2 visitor spaces falls 0.4 short of the provision. Havant Borough Council in their capacity as the local parking authority should confirm whether the reduction in visitor parking is considered acceptable for this proposed development given the already errant parking situation along Linnet Close.

Parking space dimensions have not been confirmed and these should be provided to confirm compliance with the minimum standards as set out within the parking SPD. No commentary has been provided on EV charging provision, however this will be for Havant Borough Council in their capacity as the local parking authority to comment on this. Additional space for the parking spaces may be considered necessary for any associated EV charging infrastructure.

Cycle:

16 secure long-stay spaces, and 4 short-stay cycle parking spaces are proposed for this development. It is understood that this complies with the standards as set out within Havant Borough Council's Parking SPD.

Trip Generation

Extant Trip Generation:

As the site is no longer operational, surveys have not been undertaken to survey the existing use (which would be the preferred approach of the Highway Authority). A TRICS assessment has therefore been undertaken to establish the quantum of trips typically generated by a children's centre.

The associated vehicular trip generation is as follows:

AM Peak

(08:00-09:00)

PM Peak

(17:00-18:00)

Daily

Arr. Dept. Arr. Dept.

Trip Rate 0.354 0.221 0.133 0.133 3.236

Trip Generation (20 pupils) 7 3 3 3 65

Proposed Trip Generation:

The applicant suggests the use of a net impact assessment for the proposed development trips compared to those existing. This approach is considered acceptable.

Again, the TRICS database has been utilised to established the associated vehicular trip generation for a flatted development.

The associated vehicular trip generation is as follows:

AM Peak

(08:00-09:00)

PM Peak

(17:00-18:00)

Daily

Arr. Dept. Arr. Dept.

Trip Rate 0.017 0.103 0.190 0.08 2.497

Trip Generation (10 units) 0 1 2 1 25

The above trip generation assessment suggests a net reduction in trips on the network both within the network AM and PM peak periods (11 and 3 respectively) and 40 over a daily period.

It is noted that both TRICS outputs contain dates which were surveyed during the Covid-19 pandemic and periods of lockdown restrictions. The Highway Authority have undertaken their own TRICS assessment removing those sites surveyed during the pandemic and are content that the change of use continues to lead to a net reduction in trips on the network within the AM and PM peak periods (10 and 9 respectively) and 36 over a daily period.

Recommendations

Having regard to the above, the Highway Authority are unable to recommend approval for this application until alterations are regarding access to the car parking provision for future residents to reduce the risk of any overspill parking occurring on the highway network to the detriment of highway safety.

Nutrient Team - No Objection

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

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/>.

Officer Comment: *the agent is aware that there are other third party nitrate mitigation providers.*

Natural England - No Objection

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

Natural England considers that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites.

Your authority has measures in place to manage potential impacts through contributions to an agreed strategic solution(s) 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. Mitigation measure(s) to offset any positive nutrient budget should be provided within the relevant catchment area(s).

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

A lack of objection does not mean that there are no significant environmental impacts. Natural England advises that all environmental impacts and opportunities are fully considered, and relevant local bodies are consulted.

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: 78

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
Existing residents park in the access car park -concerns over its loss Lack of car parking on completion of the development Designated bays required	12 No. unallocated parking spaces and 2 No. visitor spaces (ie total 14) would be provided, in compliance with Havant's Car Parking SPD standards.

7 Preliminary Matters Habitats Regulations - HRA/AA

- 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 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 one package of avoidance and mitigation, as the site falls outside of the limitation of 5.6 km for the provision of mitigation under the Solent Recreation Mitigation Strategy. This package of measures is based on the Position Statement and Mitigation Plan for Nutrient Neutral Development. The applicant has entered into a legal agreement to secure the mitigation package.
- 7.5 The Appropriate Assessment concluded that the avoidance and mitigation package is 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 entered into a Section 106 agreement agreeing to pay the appropriate mitigation for the water quality mitigation, totalling £27,217.52, with the associated Deed 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 (1bed) and 61 square metres in size (2 bed); 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 one bed flats floor space would exceed 37 square metres in size, with the two bed flats floor spaces exceeding 61 square metres in size. These sizes which exceeds the nationally described minimum of 37 sqm and 61 sqm 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 Class E use for at least 2 years prior to the date of the application. 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;
 - (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, the impact on the local provision of the type of services lost;
- (the site is not a registered nursery or a health centre) and**
- (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 - it is not, building is 13m high)*

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), (b), (d), & (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 application is accompanied by a Transport Statement and the Highway Authority has been consulted over the proposal and following an amended plan raises no objection.

The existing access will be used off Linnet Close. 14 car parking spaces, which includes 2 visitors' spaces, together with eight cycle racks are proposed to the north. Bin storage would also be provided. The proposal is considered to accord with Havant's Car Parking SPD and Policy DM13 of the Core Strategy.

(b) contamination risks in relation to the building.

The application is accompanied by Contamination Investigation Report on which Environmental Health (Contamination) was consulted raising no objection to the proposal subject to a Watching Brief condition as to contamination and soil hazards. Such a condition is recommended.

(c) flooding risks in relation to the building.

The application is accompanied by a Flood Risk Assessment, which found that the flood risk for the site for all categories of flooding as being at a very low risk, with no increase in impermeable areas to increase the risk of flooding. The application site is within flood zone 1 and is not identified in an area at risk of either current day or future flooding and therefore the proposal is considered to accord with Policy CS15 of Core Strategy.

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

There are no commercial premises in the locality to be impacted by noise. However it is noted that Environmental Health have requested lighting and CEMP conditions. Such conditions are recommended if prior approval is granted.

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

Changes are proposed to the fenestration of the proposed flat which includes the replacement of some of the existing windows and the replacement of the oriel windows, with new windows and bay windows. Adequate nature light in habitable rooms would be provided in all the flats by the proposal.

**Environmental Health did not raise any comment or objection to this issue.
Overall this issue is considered acceptable.**

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.

Several conditions are recommended, which includes 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, contamination, flooding, noise and natural light provision arising from the proposal. Prior Approval is therefore required and granted subject to relevant conditions and informative.

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).

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT PRIOR APPROVAL** for application APP/24/00652 subject to the following conditions:

1 GENERAL

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 building hereby permitted shall only be used as dwellinghouses by virtue of Class MA of the General Permitted Development Order 2015 (as amended) and shall remain in use as dwellinghouses 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.

Reason: To ensure that the building remains as dwellinghouses within the meaning of Class C3 of Schedule 1 to the Use Classes Order in accordance with Class MA of the General Permitted Development Order 2015 (as amended) and the National Planning Policy Framework.

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

Plans

Proposed Site & Location Plan - Drawing No. 18177-PD011 Rev C
Proposed Plans & Elevations - Drawing No. 18177-PD012 Rev C
Site Plan - Drawing No. 28179-SK110 Rev A

Documents

Flood Risk Assessment by Kingfisher Property Group Ltd dated June 2024
Contamination Investigation Report by 40 Soils dated August 2024
Preliminary Investigation Report by 40 Soils Ltd dated July 2024
Nutrient Budget Calculator
European Site Avoidance & Mitigation Checklist
Occupancy Calculator
Noise Assessment Report by Auricl Acoustic Consulting dated 2 July 2024
Transport Statement by Nightingale Apartments Ltd dated July 2024
Email dated 15/1/25 confirming building vacated on 29 April 2024

Reason: To ensure provision of a satisfactory development.

- 4 The external materials used shall be as indicated on the submitted forms and hereby approved plans, or 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.

- 5 No floodlighting, street lighting or other form of external lighting scheme, including at or on dwelling units, shall be installed unless it has been approved by the Local Planning Authority. Such details shall include, Location, height, type and direction of light sources and intensity of illumination. Any lighting scheme agreed in writing by the Local Planning Authority shall not thereafter be altered without prior consent other than for routine maintenance, which does not change its details.

Reason: To protect the occupants outside of and within the development from light disturbance / nuisance having due regard to Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 The car 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.

PRECOMMENCEMENT

Prior to the commencement of development a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority.

The plan should include, but not be limited to:

- a. Procedures for maintaining good public relations including complaint management, public consultation and liaison and site management contact details
- b. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays.
- c. Deliveries to and removal of materials, plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- d. Mitigation measures as defined in BS 5528: Parts 1 and Part 2, 2009 and A1:2014 - Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from clearance and construction works.
- e. Procedures for emergency deviation of the agreed working hours
- f. Measures for controlling the use of site lighting during all phases, whether required for safe working or for security purposes, to ensure no impact on any nearby residential receptors;
- g. Control measures for dust and other air-borne pollutants. It should advise as to what measures are to be put in place for the control of any dust that might emanate from the development site. The methods of dust control should be in accordance with the guidance as laid out in the BRE Report 456 - Control of Dust from Construction and Demolition activities, and also the IAQM Guidance on the assessment of dust from demolition and construction 2014.
- h. No bonfires to take place on the site at any time;
- i. A scheme for recycling/disposing of waste resulting from demolition, clearance and construction works is to be implemented.

The approved plan shall be in operation throughout the development.

Reason: In the interests of amenity having due regard to Policies DM10 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

PRIOR TO OCCUPATION

Reasonable vigilance for the presence of contamination and soil hazards shall be maintained during all groundwork, service installation, and any work involving access to wall cavities or voids/soils below ground floor level.

In the event that any suspected contamination (stained soils or fuel/solvent odour); 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) Investigation in the vicinity of the suspect material, 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 / Risk Management 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 & recorded by competent persons, and the findings presented in a written format. 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 written statement confirming that no suspected contamination was identified during development, OR;
- B) Documentation in accordance with 1) & 2) above; together with a Verification Report (where appropriate) which demonstrates that the agreed remediation objectives (3)) have been met.

Reason: Site investigation has not ruled out the possibility of discrete deposits of fuel contamination associated with the building's former heating systems. Such a deposit could pose a risk to future occupiers of ground-floor units, &/or to the local water environment. 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 196 & 197 of the National Planning Policy Framework 2024

9

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.

10 **POST OCCUPANCY**

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.