

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

Havant Borough Local Plan (Allocations) July 2014

DM17 (Contaminated Land)
AL1 (Presumption in Favour of Sustainable Development)
DM18 (Protecting New Development from Pollution)

Submission Version Havant Local Plan

Emsworth Neighbourhood Plan Post Examination Version 2020

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

5 Statutory and Non Statutory Consultations

Community Infrastructure, Planning Policy & Urban Design

CIL Liable: <http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>.
CIL Forms 1: Additional Information and 2: Assumption of Liability have not been submitted. These can be submitted prior to decision, or we will require a CIL Form 5: Notice of Chargeable Development if prior approval is granted.

Additionally, 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 <http://www.havant.gov.uk/unilateralundertaking-solent-recreation-mitigation-strategy>.

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

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.

Councillor Leah Turner - Hayling East

No comment received

Councillor M Wilson - Hayling East

No comment received

Councillor R Raines - Hayling East

No comment received

Environmental Health Manager, Community Group

The construction date for this property is thought to be 1971/1972, as a replacement for a retail shop and outbuildings (i.e. the site was brownfield in 1971). I have not identified from available records any previous potentially contaminating landuses having been associated with the site or with immediately adjacent land.

The build-date for this property suggests that Asbestos Containing Materials (ACM) are likely to have been used in the original construction, and within in the construction of the building it replaced. These materials may have been disturbed during prior alterations and could be present at the property as buried demolition wastes within topsoil / made ground under hard-standing or within landscaped areas.

It is recognised that the proposed scheme does not include any external private amenity spaces, and the development is likely to comprise internal & above-ground works only. Similarly, I note that the form of the development, being a single-bedroomed ground floor residential unit lacking in meaningful defensible space, is unlikely to attract the most contaminant-sensitive occupants, e.g. a family with infants). As such, whilst it might be expected that construction-related contaminants are likely to be present in soils within the curtilage of the development land, their disturbance during development is unlikely, and the risk of occupants becoming exposed to any such contaminants during their tenure is negligible.

ACM within the building is a safety hazard, to which health & safety- (and upon occupation, housing-) legislation applies. I therefore have no comments to make as regards asbestos within the fabric of the building other than to flag it as a both a risk & a liability (which the applicant will need to consider &/or manage during the course of internal works, in accordance with the Building Regulations).

No adverse comments in respect of contamination.

Hampshire Highways

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

The Highway authority have undertaken a TRICS assessment and are satisfied that the proposed change of use would not have a detrimental impact on the wider highway network.

Parking is a matter for Havant Borough Council to comment on as Local Parking Authority whether the number of parking spaces is adequate for the proposed change of use.

Having regard to the above, the Highway Authority would not provide any objections to the above planning application,

Natural England Government Team

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED BY

LOCAL PLANNING AUTHORITY

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of:

- Chichester & Langstone Harbours Special Protection Area (SPA) and Ramsar site
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Dorset Coast Special Protection Area (SPA)
- Solent and Southampton Water SPA and Ramsar site
- Portsmouth Harbour SPA and Ramsar
- Solent and Isle of Wight Lagoons SAC

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured by the local planning authority:

- Land at Warblington Farm is secured to neutralise the additional nutrient burden arising from the proposed development, including long term management and maintenance to ensure effective mitigation for the lifetime of the development
 - The provision of funds in line with the Solent Recreation Mitigation Strategy to ensure that the effects of recreational disturbance upon the Solent SPA's are mitigated for the lifetime of the development. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below
- Natural England's Opinion under Regulation 76 Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

We have no comment to make on other prior approval matters included in the consultation.

We recommend that Havant Borough Council give its prior approval to the proposed permitted development, the following paragraphs are included on the decision notice as advisory notes to the applicant;

Sites of Special Scientific Interest

Should prior approval be given, and before a landowner commences a permitted development within a Site of Special Scientific Interest (SSSI), they must give written notice to Natural England and await its consent

. See here for further details.

Should prior approval be given, and before a public body, statutory undertaker or other body commences a permitted development within or might affect a Site of Special Scientific Interest (SSSI), it must give written notice to Natural England and await its assent or, in some cases, its advice. See here for further details.

Protected Species

In addition to the advice in this letter, there may be impacts on protected species and a mitigation licence may be required from Natural England. Further information can be found here

<https://www.gov.uk/guidance/wildlife-licences>

Further advice on mitigation is provided below.

Further Advice on Mitigation

Deterioration of the Water Environment

Nutrient Budget

We note that an alternative occupancy figure has been used in the calculation. It is Natural England's view that competent authorities may choose to adopt bespoke calculations for detailed planning applications, if sound evidence is available. These are matters for each competent authority. Natural England's advice is to take a precautionary approach that recognises the uncertainty.

1 Because permitted development is not authorised by a planning permission granted following an application under Part III of the Town and Country Planning Act 1990, it is not a 'reasonable excuse' under section 28P(4) of the 1981 Wildlife and Countryside Act to carry out operations affecting a Site of Special Scientific Interest without giving prior notice to Natural England and without receiving its prior SSSI assent/consent/advice.

Failure to do so is an offence.

Provided that your authority, is assured and satisfied that the budget calculations are suitably precautionary and accurately reflect the proposal, then Natural England raise no concerns with regard to the nutrient budget.

Nutrient Mitigation

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

This advice is provided on the basis that all mitigation measures will be secured as planning

conditions or obligations by your authority to ensure their strict and timely implementation for the full duration of the development. Your authority should be assured that proposed financial contribution rates are proportionate to the identified effects of the proposed development, suitably precautionary, and in line with the Retail Price Index, where relevant.

Recreational disturbance - Solent Special Protected Areas (SPAs)

This application is within 5.6km of Solent SPAs and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council have adopted planning

policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP), also known as Bird Aware Solent. Provided that the applicant is complying with the policy and the Bird Aware Definitive Strategy,

Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and has no objection to this aspect of the application.

Please note, your authority's appropriate assessment should reflect the current developer contribution rates, which are updated every April in line with the Retail Price Index.

Other Advice

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

If you have any queries relating to the advice in this letter please contact me on max.glasser@naturalengland.org.uk.

Should the proposal change, please consult us again.

Environmental Health

I refer to the above consultation request for this outline application under the Town & Country Planning Acts passed to this Service for comment.

It is noted that 1 Four Keys House is existing residential, with existing residential above, as would be the case with No. 2, plus has existing retail shop adjoining at No. 3.

I can advise therefore that whilst this office has no objection in principle to the formation of a residential property at this site as per the proposed plans, I would ask that the following condition and informative, be incorporated to any favourable decision notice:

Condition 1:

The applicant to confirm that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms

and bedrooms i.e. during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms.

Reason: To protect the amenities of the future occupants of the proposed dwelling, and to ensure the residential amenity of the properties is not impacted upon by any external noise levels, especially from the commercial premises at No. 3 to the left of this proposed unit, and any road traffic noise.

Informatives:

Regarding Hours of Work:

You are hereby advised to ensure that no works or ancillary operations associated with any conversion / construction works at the 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

Nutrient Team

I can confirm that there is sufficient capacity in the Council's mitigation scheme for the proposed development.

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: 28

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
No comments received	

7 **Planning Considerations**

- 7.1 The change of use of the premises proposed is the subject of recent 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 conditions and limitations (MA.1.) These set criteria for such proposals and development is not permitted under certain circumstances - these are listed and commented on in relation to this application in 7.4 below:
- 7.3 Having regard to the relevant conditions of the GPDO it is considered that the main issues arising from this application are:

(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;

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

Restriction of development under Class MA

- 7.4 Having regard to the restrictions on the exercise of permitted development rights under Class MA:

(a) Under Class MA of the General Permitted Development Order (GPDO) (Part 3 of Schedule 2) it states that the premises should be vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval - it is understood that the premises has been vacant for this time period.

(b) The building has been in use Class E use for at least 2 years prior to the date of submission- confirmed

- (c) The cumulative floor space changing use would not exceed 1500m².
- (d) The building (or land on which it sits) does not form part of a site of special scientific interest, a listed building or its curtilage, a scheduled monument or its curtilage, a safety hazard area, or a military explosives area
- (e) The building is not within an area of outstanding natural beauty (AONB), an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, the Broads, a National Park or a World Heritage Site.

These requirements are therefore understood to have been met. The floor area also meets Nationally Described Space Standards.

Transport Impacts

- 7.5 This proposal is for a 1 no bedroom flat and therefore the 1 parking space necessary has been provided. The location plan provided shows one allocated car parking space in the car park located to the rear of the property accessed via Legion Road. The Highways Authority has been consulted and have no objection to this proposal. Given the above, the transport and parking impacts are deemed to be acceptable.

Contamination risks

- 7.6 The Environmental Health Officer has been consulted in this regard and has stated there is some risk that Asbestos containing materials could be present due to the age of the building. The applicant has been made aware of the risk and liability however no adverse comment is raised.

Flood risks

- 7.7 The site is not within a Flood Zone.

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 is a retail unit on one side and a residential dwelling on the other. The retail unit is only likely to result in general noise during opening hours and not throughout the night. Noise levels are generally expected to be minimal. Environmental Health have been consulted in regards to this proposal and have upheld no objection however have requested the following condition be attached as well as an hours of work informative (please see informatives).

The applicant to ensure that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e. during the day (07:00 to 23:00) 35 dB L Aeq, 16 hour and at night (23:00 to 07:00) 30 dB L Aeq, 8 hour for bedrooms.

Reason: To protect the amenities of the future occupants of the proposed dwelling, and to ensure the residential amenity of the properties is not impacted upon by any external noise levels, especially from the two commercial premises either side of this proposed unit, and any road traffic noise and deliveries to businesses from Tidworth Road.

Overall the noise amenity impact from the adjacent commercial premises are deemed on balance to be acceptable.

Impact on the Conservation Area .

- 7.9 The site is not within a Conservation Area.

Natural light to habitable rooms

- 7.10 There would be windows to the front and rear elevations serving the living area and bedroom - habitable rooms are therefore deemed to be adequately lit with natural light.

Other matters .

- 7.11 The Council has conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several Solent European Sites (as defined in the applications HRA) due to both the increase in recreation and the decrease in water quality that would be a result of the proposed development.

The planning application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement and Mitigation Plan for Nutrient Neutral Development. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation packages.

The Appropriate Assessment concluded that is the avoidance and mitigation packages are sufficient to remove the significant effects on European Sites which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation packages. Both payments have been received.

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 and impact on a conservation area arising from the proposal. Prior Approval is therefore required and granted subject to relevant conditions and informatives.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PRIOR APPROVAL** for application APP/22/00396

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:

001 Amended proposed elevations
002 Amended proposed ground floor plan
Location plan uploaded on the 13.05.2022

Reason: - To ensure provision of a satisfactory development.

- 3 Prior to the occupation of the development hereby approved, the applicant shall provide documentary evidence to confirm that the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, will meet BS8223:2014 standards as recommended for indoor ambient noise levels for dwellings, especially in relation to living rooms and bedrooms i.e. during the day (07:00 to 23:00) 35 dB L Aeq,16 hour and at night (23:00 to 07:00) 30 dB L Aeq,8 hour for bedrooms.

Reason: To protect the amenities of the future occupants of the proposed dwelling, and to ensure the residential amenity of the properties is not impacted upon

by any external noise levels, especially from the two commercial premises either side of this proposed unit, and any road traffic noise and deliveries to businesses from Tidworth Road. This condition is in line with Policies CS16 of the Havant Borough Local Plan (Core Strategy) 2011, DM18 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework.

- 4 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.
(c)

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.

To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017 and Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

- 5 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.

To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided

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Habitats and Species Regulations 2017 and Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.