

Site Address: 7D West Street, Havant, PO9 1EH

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/22/00713 Expiry Date: 13/09/2022

Applicant:

Agent: Mr. P Bennett Case Officer: Graham Speller
Kalotec Limited

Ward: St Faiths

Recommendation: **GRANT PRIOR APPROVAL**

1 Site Description

- 1.1 The site comprises a vacant two storey building located within Havant Town Centre. The site is within the St Faiths Conservation Area and backs onto the Robin Hood Public House which is a Grade II listed building.

2 Planning History

02/56463/001 - Replacement internally illuminated fascia signs to west and south elevations and internally illuminated double sided projecting sign to west elevation., PERM, 19/02/2003

91/56463/000 - Automatic Teller Machine installation to front elevation., PERM,
APP/10/00213 - Display of 2No. internally illuminated fascia signs, 1No. externally
illuminated projecting sign, supporting window graphics and ATM cash machine
signage., PERM.27/07/2010

09/57719/021 - Renewal of Planning Permission 04/57719/015 and 04/57719/020 for street market to operate on Tuesdays and Saturdays in West Street Havant Precinct and on Tuesdays only outside St. Faiths Church plus for occasional use of specialist markets on other days., TPP,14/12/2009

APP/14/00995 - Renewal of Planning Permission 09/57719/021 for street market to operate on Tuesdays and Saturdays in West Street, Havant precinct, and on Tuesdays only outside St. Faiths Church, and for occasional use of specialist markets on other days.. TPP.21/11/2014

APP/21/01284 - Change of use from bank to Sui Generis (hot food takeaway), ground floor only. , WD,20/01/2022

APP/22/00322 - 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)., PAY, 14/06/2022

3 Proposal

- 3.1 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 2021
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)
CS4 (
CS9 (Housing)
DM13 (Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

DM20 (Historic Assets)
AL1 (Presumption in Favour of Sustainable Development)
AL3 (Town, District and Local Centres)

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

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.

Conservation Officer

Previously commented that the site is situated within the St Faiths Conservation Area. The building is not a heritage asset. No objection is raised on heritage / building conservation grounds.

Councillor Imogen Payter

No comments received.

Councillor Philip Munday - St Faiths

No comments received.

Councillor T Pike - St Faith's

No comments received.

Environmental Health Manager, Community Group

Thank you for consulting Environmental Health on the above resubmitted prior approval application.

In this instance the additional information on noise mitigation that the applicant has provided on the annotated drawing is sufficient to address previous concerns.

Hampshire Highways

The Highway Authority note that this is a resubmission of planning application APP/22/00322 where the Highway Authority previously provided no in principle objections to the principle of the development.

The Highway Authority have reviewed the plans submitted and are satisfied that they are the same, thus, no objections are provided to the principle of the 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: 48

Number of site notices: At least one site notice exists

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Preliminary Matters

- 7.1 Paragraph 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 The Conservation of Habitats and Species Regulations 2017 were amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

- 7.3 Whilst no mitigation has been submitted as part of this application for prior approval, it is not a criterion to be considered at this stage. However, in order to comply with Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 the proposal would require a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA) as the proposal is likely to have a significant effect on several Solent European Sites due to both the increase in recreation and the decrease in water quality that would result from the proposed

development as a result of the additional residential flat. As such, if prior approval were granted any works could not begin until such time as the applicant receives written notification (approval of the local planning authority) having carried out such assessments as the competent authority.

7.4 Furthermore, paragraph 3 (2) 'Permitted development' states:

"Any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2."

7.5 **Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO), permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.**

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

(a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

(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 offices (Class E) but has been vacant for a period of at least 3 months prior to the date of the application. The proposal therefore complies with criteria MA.1.- 1(a) and (b)

(c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

The cumulative floor space of the existing building changing use does not exceed 1,500 square metres.

(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.

(2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—

(a) the following classes of the Schedule as it had effect before 1st September 2020—

- (i) Class A1 (shops);
- (ii) Class A2 (financial and professional services);
- (iii) Class A3 (food and drink);
- (iv) Class B1 (business);
- (v) Class D1(a) (non-residential institutions – medical or health services);
- (vi) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
- (vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

See criteria MA.1.-1(a) and (b) above.

Conditions

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

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

- (a) transport impacts of the development, particularly to ensure safe site access;
- (b) contamination risks in relation to the building;
- (c) flooding risks in relation to the building;
- (d) impacts of noise from commercial premises on the intended occupiers of the development;
- (e) where—
 - (i) the building is located in a conservation area, and
 - (ii) the development involves a change of use of the whole or part of the ground floor,

the impact of that change of use on the character or sustainability of the conservation area;

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

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and

(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.

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), (c), (d), (e) & (f).

- 7.7 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.
- 7.8 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.
- 7.9 Development Plan Policies and the National Planning Policy Framework 2021 can be considered relevant to prior approval cases insofar as they relate to the development and prior approval matters.

See planning assessment below.

(3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

The application was made after 1 August 2021.

(4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph.

(5) Development must be completed within a period of 3 years starting with the prior approval date.

(6) 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.

Procedure for applications for prior approval under Part 3.

W. –

(1) The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

(2) The application must be accompanied by—

(a) a written description of the proposed development, which, in relation to development proposed under Class M, N or Q of this Part, must in the same application include any building or other operations;

(b) a plan indicating the site and showing the proposed development;

(ba) in relation to development proposed under Classes G, M, MA, N, O, P, PA and Q of this Part, a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, “net increase in dwellinghouses” is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);

(bc) in relation to development proposed under Class G, M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses.

(c) the developer’s contact address;

(d) the developer’s email address if the developer is content to receive communications electronically; and

(e) where sub-paragraph (6) requires the Environment Agency to be consulted, a site specific flood risk assessment, together with any fee required to be paid.

(2A) Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

(3) The local planning authority may refuse an application where, in the opinion of the authority—

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions limitations or restrictions specified in this Part as being applicable to the development in question.

7.10 Furthermore, an assessment against Nationally Described Space Standards must be carried out.

(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—

(a) where the gross internal floor area is less than 37 square metres in size; or

(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.

7.11 The space standard, states, inter alia, that individual dwelling types are expressed with reference to the number of bedrooms (denoted as ‘b’) and the number of bedspaces (or people) that can be accommodated within these bedrooms (denoted as ‘p’).

An example is given that a three bedroom (3b) home with one double room (providing two bed spaces) and two single bedrooms (each providing one bed space) is therefore described as 3b4p.

7.12 The document goes on to say that relating internal space to the number of bedspaces

is a means of classification for assessment purposes only when designing new homes and seeking planning approval. It does not imply actual occupancy, or define the minimum for any room in a dwelling to be used for a specific purpose other than in complying with this standard.

- 7.13 The submitted floor plan layout shows two bedrooms, one of which illustrates a double bed and one a single bed. Therefore, based on the methodology of the space standards, this would provide 3 bedspaces (2b3p). The minimum space standard would therefore be 61 square metres. The plans are annotated as being 62.03 square metres.

Assessment

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

(2) Before beginning a 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;

The County Highway Authority has not raised an objection in terms of highway safety or capacity. The site is in a very sustainable location and being within a town centre there are nearby amenities and public transport links.

Whilst there is no parking provision, as noted above, being in a sustainable location this is considered acceptable and therefore, it is considered that the proposal would not result in any highway safety or capacity issues.

(b) contamination risks in relation to the building.

The proposal involves the first floor of the property and there is no record of any contamination of this site.

(c) flooding risks in relation to the building.

The application site is within flood zone 1 and is not identified in an area of risk of flooding.

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

One of the matters that must be considered is the noise impact from commercial uses on future residential occupiers.

The site is located within the Town Centre surrounded by a mix of uses, including the Robin Hood Public House.

The Environmental Health Pollution Team previously commented that the site is adjacent to the Robin Hood Public House which has an outdoor patio space that can be used outside of typical retail hours and that there is a potential for harm from noise from the public house.

The Environmental Health Pollution Team have been consulted on this revised

application and comment that in this instance the additional information on noise mitigation that the applicant has provided on the annotated drawing is sufficient to address previous concerns.

Paragraph W (13) states:

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

It is considered appropriate that the acoustic mitigation measures annotated on the drawing are put in place prior to occupation as a dwellinghouse. As such, this can be subject to an appropriate planning condition being imposed.

(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.

The building is located within the St Faiths conservation area; however, the proposed development relates to the first floor only.

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

There are existing windows in the building and the submitted plans show all habitable rooms will be served by windows. A site visit has also been carried out and whilst a Daylight and Sunlight Assessment has not been submitted, it is considered that all habitable rooms will be provided with adequate natural light.

(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.

The site is not located in such an area; therefore, this assessment is not applicable in this case.

(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.

Not applicable in this case.

8 Conclusion

8.1 The proposed development would not result in any material impact on highway safety

and capacity or the amenity of future occupants in terms of noise and adequate natural light and there are no issues regarding flood risk or contamination.

- 8.2 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 Prior Approval is required and that the Head of Planning be authorised to **GRANT PRIOR APPROVAL** for application APP/22/00713 subject to the following conditions:

- 1 Development must be completed within a period of 3 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 (as amended) Part 3 MA.2 (5)

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

APPLICATION FORM

KALO-0277-100 - REV B - EXISTING AND PROPOSED FLOOR PLANS AND ELEVATIONS

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

- 3 Prior to occupation of the new dwelling house, the acoustic mitigation measures as noted on the submitted plans must be put in place in full and thereafter maintained.

Reason: To protect the amenities of the future occupants of the proposed dwelling. 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.