

Site Address: Fiscal House, 2 Havant Road, Emsworth, PO10 7JE

Proposal: Change of use from existing two storey building from B1a to residential including part demolition of existing building and formation of a new residential garden, re-allocation of parking.

Application Type: Full Planning Permission

Application No: APP/21/01120 **Expiry Date:** 16/12/2021

Applicant: Mr Munday

Agent: Edward Caush **Case Officer:** Graham Speller
Edward Caush Associates

Ward: Emsworth

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 The application site relates to Fiscal House which is located just inside the boundary of the Emsworth Conservation Area and is located opposite a Grade II listed building at No. 4 Havant Road. The most original part of the building on the site was a C19 Public House. It is a two-storey building which was in use as offices and is also positioned on the corner of Warblington Road and Bath Road.
- 1.2 The site is located in Flood Zones 2 & 3.

2 Planning History

90/52444/002 - C/U of existing Unigate Dairy site with associated offices into office accommodation at ground and 1st floor level fo Accountancy practice.,
PERM,19/06/1990

02/52444/007 - Change of use of existing office space at ground floor level to a private hire office and erection of a 4.34m radio antenna on chimney stack (1.9m of which will extend above existing chimney pot)., TPP,11/12/2002

98/52444/006 - Change of use to taxi office and erection of 4.6m (15ft) radio antenna (retrospective application)., TPP,21/04/1998

92/52444/003 - Retention of internally illuminated fascia sign, REF,02/04/1992

93/52444/004 - Prior notification for telecommunications terminal block and cabling,
WD.22/12/1993

93/52444/005 - Notification as to whether prior approval is required for cables, terminal block and underground duct., PANR,21/01/1994

APP/16/01218 - Application for Lawful Development Certificate relating to existing use of site for office purposes., WD,07/02/2017

APP/17/00634 - Change of use from financial services (Class A2) to offices (Class B1A).. PERM.21/08/2017

APP/18/00827 - Removal of Condition 3 of Planning Permission APP/17/00634.,
REF, 10/10/2018

APP/20/01111 - Change of use of existing two storey building from B1a to residential including part demolition of existing building, formation of new residential garden and reallocation of parking., WD, 15/02/2021

3 Proposal

- 3.1 Change of use from existing two storey building from B1a to residential including part demolition of existing building and formation of a new residential garden, re-allocation of parking.
- 3.2 The proposals also include some fenestration changes to the building, including removal of existing signage. Whilst not in the description of the proposed development it is considered that the drawings clearly illustrated these changes and the application has been considered on that basis.

4 Policy Considerations

National Planning Policy Framework 2021
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016
Chichester Harbour AONB joint SPD 2017

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS2	(Employment)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
CS9	(Housing)
DM10	(Pollution)
DM12	(Mitigating the Impacts of Travel)
DM13	(Car and Cycle Parking on Residential Development)
DM3	(Protection of Existing Employment and Tourism Sites)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

DM17	(Contaminated Land)
DM20	(Historic Assets)
DM25	(Managing Flood Risk in Emsworth)
AL1	(Presumption in Favour of Sustainable Development)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Emsworth Neighbourhood Plan 2019 - 2036

ENP_H2 (Buildings of Local Historic Interest)

ENP_H1 (Design & Heritage)

ENP_D1 (General Design Policy)

Listed Building Grade: Not applicable.

Conservation Area: Emsworth

5 Statutory and Non Statutory Consultations

Building Control, Havant Borough Council

Building Regulation consent will be required for this work no other comment at this time

Coastal Engineering

No comments received.

Community Infrastructure, Planning Policy & Urban Design

With regard to CIL, the full proposed floor area is chargeable as the building has not been occupied for its lawful use for 6 continuous months of the 36 previous months so no credit can be given for any demolition :

<http://www.havant.gov.uk/community-infrastructure-levy-charging-schedule>

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 one additional dwellings 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>

Conservation Officer

Legislative and Policy Context

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

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning authorities, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

The revised National Planning Policy Framework (NPPF) was published in February 2019 and sets down the policies that the Council must take into account when determining planning applications. The 'Historic Environment Good Practice Advice in Planning Note 2', states at paragraph 4:

'The significance of a heritage asset is the sum of its archaeological, architectural, historic, and artistic interest' and provides at paragraphs 8, 9 and 10 that in order for the Local Planning Authority to make decisions in line with legal requirements, the objectives of the development plan; and the policy requirements of the NPPF, great importance is placed on understanding the nature, extent and level of the significance of the heritage asset.

The revised NPPF (July 2021) sets out in Chapter 16, the core principles relating to development affecting Heritage Assets that local planning authorities should consider in making planning decisions in the following paragraphs:

'184. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

189. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

191. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

192. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Considering potential impacts _

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

With regards to local planning policy, the following are relevant:

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

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

Policy CS16 (1a) of the Core Strategy states 'Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

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

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

1. Describe the significance of the asset and its setting, using appropriate expertise and where necessary original survey, at a level of detail proportionate to its significance and sufficient to understand the potential impact of the proposal.
2. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy heritage assets.

The Emsworth Neighbourhood Plan has now been adopted and has relevant policies which are applicable to this application:

Policy H1 – Design and Heritage

Policy H2 – Heritage Appraisals

Assessment: _

There is no objection in principle to the conversion of the office use to residential, as a residential use in this location is more appropriate to this section of the conservation area.

No. 2 Havant Road acts a gateway building into the Conservation Area so any proposed enhancement is welcomed. The removal of the large fascia signage boards will be a visual improvement to the building. The existing shopfront windows are proposed to be replaced with more domestic style windows to match those at first floor level and new front door. Amended plans have been submitted within this application which shows matching fenestration design and an enhanced front entrance door which includes a historic style canopy to add architectural interest. This is welcomed and will enhance the overall appearance of the building at the gateway to the conservation area.

Part of the existing wall which runs parallel with Warblington Road will remain to form the boundary of the newly created external amenity space. This part of the building is closest to the adjacent listed building at No. 4 Havant Road. There is no objection to this from a heritage perspective and the impact on the adjacent listed building is considered to be negligible. The proposal in this regard also meets the test of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Overall, it is considered that the proposal will serve to preserve and enhance the character of the conservation area and therefore meets the test of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires planning authorities, when considering whether to grant planning permission for development which affects a Conservation Area, to have special regard to the desirability of preserving or enhancing the character and appearance of that area.

Conclusion - No objection _

Additional comments:

Further to the response provided back in November 2021, I have reconsidered the proposal and in line with the previous pre-application advice, I advise the following conditions should be included on any planning permission:

1. Material samples and / or details/specifications to be provided prior to construction.

Reason – to preserve the character of the nearby listed building and conservation area.

2. No work shall start until new window and door details have been provided. Such information to comprise: - 1:20 plan, section and elevations shown in context with the opening within it is set. Details of finishes and the method of opening to be provided. The details shall be submitted to and approved in writing by the local planning authority and thereafter carried out in full accordance with such approval and be retained thereafter

Reason: In order to safeguard the building's special architectural and historic interest.

Councillor Julie Thain-Smith

No comments received.

Councillor Lulu Bowerman

No comments received.

Councillor R Kennett

No comments received.

Crime Prevention - Minor Apps

Having considered the application, I have the following comment to make with reference to the prevention of crime. I note that this dwelling is to be created by a change of use. I would remind the applicant that this development falls within the scope of building regulation Approved Document Q (ADQ).

Developer Services, Southern Water

The attached plan shows that the existing development lies over a public foul and surface water sewer. Approval should be sought from Southern Water where an extension to a building or underpinning work would be over a public sewer. An investigation of the sewer is required to confirm its size and depth, ascertain its condition, number of properties served and potential means of access before any decision can be made as to whether it would be acceptable for Southern Water to allow building-over the sewer.

The length of sewer to be built over under the terms of Part H of the Building Regulations dictates that the matter is determined by the sewerage undertaker, which in this case is Southern Water.

In order to protect and safeguard the existing public apparatus, Southern Water requests formal notification of any proposed demolition works prior to such works being undertaken.

In order to protect drainage apparatus, Southern Water requests that if consent is granted, the following condition is attached to the planning permission; Prior to the commencement of development, the developer must advise the local authority, in consultation with Southern Water, of measures which will be undertaken to protect the public sewers.

Southern Water requires a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer.

Economic Development

No comments received.

Environment Agency

New comments:

Environment Agency position

We have reviewed the amended Flood Risk Assessment (FLOOD_RISK_ASSESSMENT_FRA-1576623, dated 23 February 2022) and consider that it satisfactorily addresses our earlier concerns.

The proposed development will only meet the National Planning Policy Framework's requirements if a planning condition is included to ensure that the development is carried out in accordance with the amended Flood Risk Assessment (FLOOD_RISK_ASSESSMENT_FRA-1576623) dated 23 February 2022. Without this condition, the proposed development on this site poses an unacceptable risk and we would object to the application.

Environmental Health Manager, Pollution

Observations / Comments:

Thank you for consulting Environmental Health on the above application. I have reviewed the details and have no objection in principle to the change of use of the existing building to residential. I note the intention to retain some offices within the site which I have some concerns about due to the potential conflict in use which may arise should these be under separate ownership to the proposed residential use. I would recommend that if you are minded to grant permission a condition is attached requiring the proposed residential dwelling and offices to remain under the same ownership to protect future residential amenity.

Additional comments:

Air Quality – mitigating development emissions (LP2036 E23)

The development is not major development, and so is not captured by the requirements of policy E23. The specification of solar panels is supported on air quality grounds, though I note that the proposals are not especially clear on whether or not this forms part of the consent being sought – the design & access statement refers to the roof being 'suitable' for a solar installation, rather than stating that one is actually proposed – similarly, no panels are depicted on elevations.

I would always encourage the applicant to take a holistic approach to the design & specification of buildings so as to contribute toward the provide sustainable development that is fit for the future. For air quality in particular, any technology that avoids or reduces local combustion is beneficial – e.g. use of electrically powered cooking appliances, specification low-carbon heating appliances (e.g. an air source heat pump), and consideration of complementary technologies in the servicing strategy such as direct solar, solar PV, and heat recovery.

It is noted that preparatory works to facilitate future installation of an EV charging point is proposed, also supported as a positive feature.

Given the quantum of development, no in principle objections arise.

Air Quality – development as receptor

I note that the residential conversion would not place a new pollutant-sensitive receptor any closer to road traffic sources of atmospheric pollutants than already exists on the A259 Havant Road. It is not thought that any unacceptable exposures are likely to arise as a result of the development.

Contaminated Land

I note the statement at 5.3 of the design & access statement which seeks to dismiss the need to consider soil quality. I would however highlight the commercial history of the site, and the wording of paragraph 183 c) of the NPPF 2021, which requires 'adequate site investigation information' to inform the assessment that the 'site is suitable for its proposed use' (as claimed at 5.3).

I have reviewed the commercial history of the site, and note in particular its use as a public house, dairy depot, retail sales outlet, and as a base for both hackney carriage & private hire vehicles. There does not appear to have been any significant industrial activity or fuel storage associated with the dairy use, with relevant contaminants likely to arise principally from the operation of vehicles (whether conventionally fuelled or electric, the latter being a potential source of significant heavy metal contamination, Lead/Pb). It is acknowledged that vehicle maintenance & repair was restricted by condition on the taxi/private-hire businesses, but this was not the case for the dairy uses.

I also note that some plans available in the archive refer to the inclusion of corrugated asbestos within the structure, as well as 'insulation board'. The latter reference has an illegible prefix, but given the date of the plan (1963), it is reasonable to assume that it may refer to amosite-containing asbestos insulation board (AIB).

The courtyard proposed to be converted into soft-landscaped private amenity space is currently concrete hardstanding, not unlikely to be underlain by a thickness of made ground consisting of waste-hardcore which (given the commercial history, and history of successive modifications to the built form at the site-) may contain coal-tar containing waste Macadam, Coal, Ash, Clinker, and Asbestos.

The proposed dwelling is 3 bedroom, and may appeal to family use. Pathways to vulnerable persons (juveniles aged 0-6) are therefore considered to be relevant. The minimum standard referred to at NPPF para 183 b) is biased toward small averaging areas, as it is in principle easier to justify determination of a small area of land due to lower probability of spatial dilution of exposures to any contaminants present.

For these reasons, it is considered to be necessary to confirm that the private amenity space is either confirmed to be-, or is made- suitable for residential use.

In the event that the Development Management service is minded to recommend approval of this application, I would recommend it be subject to Grampian-style & compliance conditions.

Other observations

I note the objections of other consultees in respect of parking allocation. I also note that approximately 250sqm (~10 parking spaces) of the current parking/yard area is included within the red-line area, but is neither addressed by the design of the proposed scheme, nor included within its parking allocation. The intended future use & use class for this land is unclear.

Noting the comments of my colleague with respect to the potential for conflict between the residential & commercial uses it may be helpful to clarify how this land is to be integrated with the proposed scheme.

From an Air Quality / Sustainable travel perspective, it is unclear to me whether it would be acceptable to retain a significant surplus of parking spaces relative to SPD, as this would actively encourage private car use, surplus car ownership etc. It is expected that this would be addressed under the banner of parking-, and not air quality- policy, for the reasons stated in the sections above.

Hampshire Highways

Due to the scale of the proposal and that there is no change to the vehicular access, HCC's standing advice should be referred to in the first instance. As a result, the Highway Authority will not provide detailed comments on this planning application.

Natural England Government Team

DESIGNATED HABITATS SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.

Your appropriate assessment, dated 25 May 2022, 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.

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. 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 Team, Planning Policy

I can confirm there is sufficient capacity within the Council's mitigation scheme for planning application APP/21/01120.

Planning Policy

NB Policy comments were previously provided in January 2021 in respect of planning application reference APP/20/01111, but the application was subsequently withdrawn. There has been a material change in the local policy position with the Havant Borough Local Plan withdrawn in March 2022.

Policy Status: _

The Local Plan (Core Strategy) and the Local Plan (Allocations), together with the Hampshire Minerals and Waste Plan, provide the development plan for the borough. Following the receipt of the Inspectors' Interim Findings, the Examination was concluded, and the Havant Borough Local Plan was formally withdrawn on the 16th March 2022.

Principle of Development:

This application follows one submitted in January 2021 which proposed a change of use from Class B1A to C3 (change of use from an office to a dwelling). The previous application was withdrawn due to concern being raised regarding a lack of marketing detail, potential flood risk issues and the negative amenity levels caused to a future occupant. This consultation response shall address the above now that a revised planning application has been submitted.

The site lies within the built-up area as defined by Policies CS17 and AL2 of the Adopted Local Plan (ALP). As such, there is a presumption in favour of sustainable development, subject to other material considerations.

Given the building's last use for office purposes, ALP Policies CS2 and DM3 apply. These policies seek to safeguard existing employment sites that are fit for purpose from development proposals for non-employment uses.

To demonstrate that the site is no longer viable for employment purposes and to comply with policy requirements, a 12-month marketing exercise has been carried out. This has included advertising the site online, in newspapers and via a marketing board on the site. Although this has resulted in interest in the site, no offers for using the site as an office (or for alternative economic purposes) have been made. It is therefore considered that the applicant has demonstrated that the site cannot be used as an office space and has therefore complied with the marketing requirements of policies CS2 and DM3. There is no policy objection to the principle of the change of use.

Flood Risk, Sequential Test and Exception Test

The site lies in Flood Zones 2 and 3, both in the present day and in the future. The proposal is for a change of use and as such, according to national and local guidance, a sequential test is not required. However, in line with national and local policy (ALP Policy CS15), the applicant must demonstrate that the development will be safe over its lifetime and will not increase risk elsewhere.

Design and Heritage

The adopted local plan requires high quality design in all development under policy

- CS16 High Quality Design (Core Strategy)

The site lies within the Conservation Area and as such a consultation with the Heritage team is recommended.

Noise and Amenity Considerations

It is noted that the site neighbours an office building to the south west and a church to the south east. As such there would be the potential for prospective occupiers to be subject to noise and over-looking. ALP Policy DM10 is of relevance in terms of whether there would be likely to be a significant negative effect on the amenity of the future occupiers. The Council's Environmental Health Team should be consulted given the potential for noise.

It is noted the proposed amenity space itself is modest in size and that the Borough Design Guide expects new dwellings to achieve a minimum 10m garden depth and for the space to be private. The surrounding development would also create shadowing and limit the amount of sunlight reaching the outdoor space and dwelling itself.

Parking

The proposals would need to ensure that appropriate parking provision is provided in accordance with Policy DM13 and the Council's Parking SPD.

Conclusion:

In light of the information submitted with this revised application, it is considered that the previous concerns raised under application reference APP/20/01111 regarding the principle of the change of use and flooding have been addressed.

This application will need to ensure that the amenity of the prospective occupiers is considered having regard to the neighbouring uses in line with ALP Policy DM10.

Traffic Management, East Hampshire District Council

Original comments:

The Traffic team would be concerned that there is a shortage of one parking space for this proposal. We would expect to see 5 spaces available for the offices and 2 for the residential property.

Further comments:

In light of the revised internal floorspace, the traffic team are happy with the proposals for parking 4 spaces being available for the offices.

Waste Services Manager

No comments received.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 11

Number of site notices: At least one site notice exists

Statutory advertisement: 29/10/2021

Number of representations received: 1

One letter of representation commenting that the plans seem not to make mention of what will be happening to the " structure" to the right as you enter the property and whether it will stay as it is at present.

7 Planning Considerations

Appropriate Assessment (AA)

- 7.1 As a proposal resulting in new residential accommodation, 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.

- 7.2 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.
- 7.3 The Appropriate Assessment concluded that 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 entered into a legal agreement to secure the mitigation packages.
- 7.4 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:
- (i) Principle of development
 - (ii) Loss of employment use
 - (iii) Impact upon the character and appearance of the conservation area and heritage assets
 - (iv) Impact upon residential amenity
 - (v) Flood risk
 - (vi) Highways and Parking
 - (vii) CIL
 - (viii) Other matters
 - (ix) Compliance with Habitats Regulations
- (i) Principle of development
- 7.5 The application site is situated within an urban area where further development is considered acceptable subject to the usual development management criteria.
- (ii) Loss of employment use
- 7.6 A previous application was withdrawn due to, among other things, a lack of marketing detail due to the loss of employment use.
- 7.7 To demonstrate that the site is no longer viable for employment purposes and to comply with policy requirements, a 12 month marketing exercise has been carried out and no offers for using the site as an office (or for alternative economic purposes) have been made.
- 7.8 Therefore, it is considered that the applicant has demonstrated that the site cannot be used as an office space and has therefore complied with the marketing requirements of policies CS2 and DM3.

(iii) Impact upon the character and appearance of the conservation area and heritage assets

- 7.9 The site lies within the Emsworth Conservation Area. As noted above, the conservation officer has no objection in principle to the conversion of the office use to residential, as a residential use in this location is more appropriate to this section of the conservation area. Other aspects of the proposals, including the removal of the existing large fascia boards and replacing the existing shopfront appearance with more domestic style windows and front entrance door/canopy are considered to enhance the overall appearance of the building at the gateway to the conservation area.
- 7.10 The conservation officer considers that the impact on the adjacent listed building is negligible and raises no objection from a heritage perspective.
- 7.11 It is considered that the proposal will serve to preserve and enhance the character of the conservation area and that there would be no adverse impact on the character of the conservation area or heritage assets as a result of the development.

(iv) Impact upon residential amenity

- 7.12 The siting is such that there is no close relationship with existing residential properties and privacy, loss of light and outlook are not considered to be detrimentally harmed.
- 7.13 In terms of garden amenity area to serve future occupiers, the proposed amenity space is limited but considered adequate to serve the proposed dwelling. There are currently windows serving the proposed office toilet facilities and also one of the offices which, if retained, could result in unacceptable overlooking and loss of privacy to the future garden area of the proposed dwellinghouse. The design and access statement states that this would be eliminated by blocking up the windows and also that the office is served by another window and this is shown on the submitted drawings. As such, an appropriate condition is recommended to require the windows to be blocked up as shown on the submitted plans prior to the use of the dwellinghouse and its garden.

(v) Flood risk

- 7.14 As noted above, the site falls within Flood Zones 2 & 3. The proposal is for a change of use, and as such, according to national and local guidance, a sequential test is not required. However, in line with national and local policy, the applicant must demonstrate that the development will be safe over its lifetime and will not increase flood risk elsewhere.
- 7.15 Whilst the Design and Access Statement did address the flood risk to some extent, the Environment Agency's original position was that they raised objection in the absence of an acceptable flood risk assessment (FRA) and recommended that planning permission be refused. However, advice was also given as to how to overcome the objection.
- 7.16 Subsequently, a comprehensive Flood Risk Assessment & Drainage Strategy Report dated 23 February 2022 prepared by Paul & Elaine Munday Property Rentals was submitted.

- 7.17 The Environment Agency was reconsulted on the FRA and considered that it satisfactorily addressed its earlier concerns. No objection is now raised subject to the development being carried out in accordance with the FRA and the measures it details. As such, an appropriate condition is recommended to be imposed on any planning permission.

(vi) Highways and Parking

- 7.18 The parking SPD requires two spaces for a 3 bedroomed dwelling and as the proposal retains 100 sq m of office space the current parking standards requires one space per 30 sq m which is between 3 and 4 spaces. A parking plan has been submitted with the application demonstrating that there would be adequate parking provision within the site in accordance with the SPD.

- 7.19 It is noted that the Highway Authority has not raised any objection to the proposals on highway safety/capacity grounds. In addition, in light of the revised internal floorspace, the traffic team are happy with the proposals for parking 4 spaces being available for the offices and 2 spaces for the residential property.

(vii) CIL

- 7.20 With regard to CIL, the full proposed floor area is chargeable as the building has not been occupied for its lawful use for 6 continuous months of the 36 previous months so no credit can be given for any demolition. The appropriate forms have been submitted and acknowledgement sent from the LPA to the applicant confirming the Assumption of Liability for CIL.

(viii) Other matters

- 7.21 As noted above, Southern Water has advised that the existing development lies over a public foul and surface water sewer. In order to protect drainage apparatus, Southern Water has requested that a pre commencement condition is imposed requiring that prior to commencement of development, that the developer must advise the local authority, in consultation with Southern Water, of measures which will be undertaken to protect the public sewers. The applicant has agreed to such a condition.
- 7.22 As noted above, due to the historic use of the site, there may be potential contamination; in particular, where the new garden area is proposed. As such, the Environmental Control Officer (Environmental Health) has recommended a pre commencement condition regarding potential contamination. The applicant has agreed to such a condition.
- 7.23 The pollution Team Leader (Environmental Health) has some concerns regarding the potential conflict in use which may arise in terms of the retention of some offices and recommends a condition to ensure that the proposed dwelling and offices remain under the same ownership to protect future residential amenity. It is uncertain why the uses need to remain in the same ownership as the nature of office use is relatively quiet. Notwithstanding, such a condition would not pass the tests as set out in paragraph 56 of the NPPF (2021).

(ix) Compliance with Habitats Regulations

- 7.24 As a proposal resulting in new residential accommodation, 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.
- 7.25 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.
- 7.26 The Appropriate Assessment concluded that 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 entered into a legal agreement to secure the mitigation packages.

8 Conclusion

- 8.1 The proposal would have limited and acceptable impact on the character of the conservation area and is therefore considered to be appropriate and recommended for approval.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/21/01120 subject to the following conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Drawing No. 12:1089:L(2-)101/02/REV B - AMENDED - PROPOSED FLOOR PLANS, ELEVATIONS & LOCATION PLAN

Marketing Report dated 25th February 2022

Flood Risk Assessment & Drainage Strategy Report D2048/FRA 1.0 23rd February 2022

Reason: To ensure provision of a satisfactory development.

- 3 Prior to the commencement of development hereby approved (other than any site clearance partial demolition and consequential works for the purpose of ensuring structural stability), an assessment of the nature and extent of contamination at the site, whether originating from within or outside the curtilage, shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall be undertaken by competent persons, and the findings presented as a written report.

The assessment may comprise separate reports as appropriate, but unless specifically excluded in writing by the Local Planning Authority, shall include;

1) Site investigation appropriate to both the previous & approved use of the site, to provide sufficient data and information to adequately identify & characterise any physical contamination on or affecting the site, and to inform an appropriate assessment of the risks to future occupants.

2) The results of an appropriate risk assessment based upon (1), and where unacceptable risks are identified, a Remediation Strategy that includes;

- appropriately considered remedial objectives,
- an appraisal of remedial &/or risk mitigation options, having due regard to sustainability, and;
- clearly defined proposals for mitigation of the identified risks.

3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out any Remediation Strategy required under (2) are complete, identifying any requirements for longer-term monitoring of pollutant linkages, maintenance of engineered mitigation measures, and arrangements for contingency action.

All elements shall be adhered to unless agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from - or adversely affected by -, unacceptable levels of contamination, in line with policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) [2014], and paragraphs 178-180 of the National Planning Policy Framework. Contamination may be present at the site as a result of both previous & current land uses (&/or activities) that could pose a risk.

- 4 Prior to the occupation of any relevant part of the permitted development, any verification report required in accordance with condition 3 shall be submitted to and approved in writing by the Local Planning Authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan, and must demonstrate that site remediation criteria have been met. Where longer-term monitoring of pollutant linkages is identified as being necessary, the report shall clearly set out plans for monitoring, provision for maintenance, relevant triggers and contingency actions (a “long-term monitoring and maintenance plan”). The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from- or adversely affected by-, unacceptable levels of contamination, in line with policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011, DM17 of the Havant Borough Local Plan (Allocations) [2014], and paragraphs 178-180 of the National Planning Policy Framework. Contamination may be present at the site as a result of both previous & current land uses (&/or activities) that could pose a risk.

- 5 The development permitted by this planning permission shall be carried out in accordance with the amended Flood Risk Assessment (FLOOD_RISK_ASSESSMENT_FRA-1576623) dated 23 February 2022 and the measures it details, including the following requirements:

1. As proposed in Section 6 Mitigation subsection 6.2.1 ii. b. - all proposed bedrooms to be located on the higher floors of the property. Therefore, no sleeping accommodation should be allowed on the ground floor due to the severe risk of flooding.
2. As proposed in Section 6 Mitigation subsections 6.2.1 i. and 6.2.1 ii. – as the existing ground floor levels can’t be changed, all flood resistance and resilient measures proposed must be installed prior to occupation for the 1 in 200-year tidal flood levels including climate change for the lifetime of the development of 4.5mAOD.
3. As proposed in Section 6 Mitigation subsections 6.2.1 ii. d. – a Flood Evacuation Plan must be developed and agreed by the LPA. The occupants must also sign up to the Environment Agency’s Flood Warning System.

Reason: To reduce the risk of flooding to the proposed development and future occupants having due regard to policy CS15 of Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

The condition is in line with the Planning Practice Guidance (PPG) to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change.

- 6 No development hereby permitted, including demolition works, shall commence until details of the measures that will be undertaken to protect the public sewers have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.
- Reason:** To safeguard against undue damage to the public sewer in the vicinity of the site having due regard to policies CS15, CS19 and DM10 and the National Planning Policy Framework.
- 7 The new dwellinghouse/garden area shall not be brought into use until such time as the existing 3 windows in the south eastern/north eastern and eastern elevation of the retained offices/toilet facilities have been removed and the openings blocked up in accordance with the approved plans.
- Reason:** In the interests of the amenities of the future occupiers of the new dwellinghouse and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 8 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no extension or outbuilding permitted by Classes A, C, D or E of Part 1 of Schedule 2 to the 2015 Order (as amended) shall be constructed within the curtilage of the site without the prior approval of the Local Planning Authority.
- Reason:** In the interests of the amenities of the immediate locality and having due regard to policies CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 9 The development shall not be brought into use until a minimum of 2 parking spaces have been provided for the new dwellinghouse and 4 parking spaces have been provided for the retained office use all within the curtilage of the site in accordance with the approved details and thereafter all of those spaces kept available for such purposes.
- Reason:** In the interests of highway safety and having due regard to policy DM13 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Parking SPD July 2016 (Partially updated September 2019) and the National Planning Policy Framework.
- 10 Prior to the commencement of development material samples and / or material details / specifications shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained in accordance with the approved details.
- Reason:** To preserve the character of the nearby listed building and the Emsworth Conservation Area having due regard to policies CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and DM20 of Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework.

- 11 No development shall commence until details of new windows and doors have been submitted to and approved in writing by the Local Planning Authority. Such information to comprise: - 1:20 plan, section and elevations shown in context with the opening within which it is set. Details of finishes and the method of opening to be provided. The windows and doors shall thereafter be provided in full accordance with such approval details and be retained thereafter.

Reason: In order to safeguard the building's special architectural and historic interest and the character of the Emsworth Conservation Area having due regard to policies CS11 of Havant Borough Local Plan (Core Strategy) 2011, policy DM20 of Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework.

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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. 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, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.

- 13 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. 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, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.