

APP/15/01216 - Erection of flat roof brick store to rear of 50-52 Creek Road. Removal of existing container on completion of the works and formation of 2No. parking bays to rear of shop., PERMITTED, 28/01/2016

Garage to rear

APP/19/00236 - Retrospective application for full planning permission for change of use to B2 Classic and specialist car store and restoration workshop. PERMITTED, 13/06/2019

APP/16/00386 - Change of use from B8 classic car store to B2 classic car store and restoration workshop. PERMITTED, 07/07/2016

3 Proposal

- 3.1 The proposal is for the addition of a first floor to create 2No. two bed flats. The flats would be accessed via an enclosed rear staircase. The first floor would have a shallow pitched roof. The existing ground floor is brick with render to the southern elevation and the first floor is shown with cladding or tile hanging.
- 3.2 The flat units would be accessed at first floor level via a communal entrance lobby at the top of the enclosed staircase. The units would have internal floorspace of approximately 79sqm (flat 1) and 70sqm (flat 2). These would meet the Technical housing standards - nationally described space standard.

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

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|------|---|
| CS11 | (Protecting and Enhancing the Special Environment and Heritage of Havant Borough) |
| CS13 | (Green Infrastructure) |
| CS14 | (Efficient Use of Resources) |
| CS15 | (Flood and Coastal Erosion) |
| CS16 | (High Quality Design) |
| CS17 | (Concentration and Distribution of Development within the Urban Areas) |
| CS21 | (Developer Requirements) |
| CS9 | (Housing) |
| DM10 | (Pollution) |

Havant Borough Local Plan (Allocations) July 2014

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|------|---|
| AL1 | (Presumption in Favour of Sustainable Development) |
| DM18 | (Protecting New Development from Pollution) |
| DM24 | (Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development) |
| AL2 | (Urban Area Boundaries and Undeveloped Gaps between Settlements) |

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

5 **Statutory and Non Statutory Consultations**

Building Control, Havant Borough Council

Location of solid waste storage provisions not shown

Means of escape compliance with Approved Document B does not appear to comply

Building Regulation application will be required for this work

Officer Comment: *A condition is recommended in relation to bin storage. At the time of writing the means of escape issue is being explored with Building Control and members will be updated in relation to this issue.*

Community Infrastructure, Planning Policy & Urban Design

CIL Liable.

Additionally, instructions should be passed by the Case Officer to the CI Team to issue the Solent Recreation Mitigation Strategy Unilateral Undertaking, based on the number of dwellings and their respective number of bedrooms. See

<http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>

Officer Comment: *The Solent Recreation Mitigation Strategy Unilateral Undertaking has been completed (see part 7 of this report).*

Crime Prevention -Minor Applications

No comments received

Environmental Health Manager, Community Group

Observations | Comments:

I have no objection to the proposal as described, but if Planning are of a mind to approve this application, I would ask that the following conditions and informatives be applied to any consent granted:

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 LAeq,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 Dwellings and to ensure the residential amenity of the properties is not impacted upon by any internal or external noise sources, including any noise that may arise from the commercial premises on the ground floor.

Condition 2:

The applicant to ensure that all forms of external lighting, including those attached to dwellings, shall be installed in such a manner to ensure that the lighting does not impact in any way on neighbouring properties.

Reason: To protect the occupants of nearby residential properties from any light disturbance / pollution.

Informatives:

Regarding Hours of Work:

You are hereby requested to ensure that no works or ancillary operations associated with any demolition, excavation, clearance and construction works at the development, which are audible at the site boundary, shall take place on any Sunday or Bank / Public Holiday, nor on any other day except between the following times: Monday to Friday: 8.00 - 18.00 and Saturday: 8:00 - 13.00.

This is in order to protect the occupants of nearby residential properties from noise and vibration nuisance

Regarding Dust Control:

You are hereby requested to ensure that the Environmental Health Pollution team, at Havant Borough Council are advised in writing as to what measures are to be put in place for the control of any dust that might emanate from the development site.

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

Highways Engineer, Development Engineer

Standing Advice Applies on this application.

The Highway Authority have no adverse comment to this application

Natural England Government Team

Comments in Relation to Habitats Regulations Assessment

Consultation on HRA

Solent Recreation Mitigation Strategy - no objection subject to mitigation

This application is within 5.6km of Chichester and Langstone Harbours SPA and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council has adopted a planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

The Appropriate Assessment has taken this into consideration, therefore, providing the appropriate mitigation is secured by any approval, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site, and has no objection to this aspect of the application.

Nutrient Neutrality - no objection subject to mitigation

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.

Natural England is aware that your authority has adopted an interim strategy using Grampian conditions to address nutrient impacts from developments currently in the planning system and we have been working with the Council to develop this approach. It is noted that the mitigation would be secured through a Grampian condition, requiring the mitigation package to be agreed, provided to the Council and implemented prior to the occupation of the development.

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. With regard to deterioration of the water environment, it is noted that the approach to address the positive nitrogen budget for this development is to offset against the interim strategy, with measures to ensure this approach can be adequately secured and accounted for.

It is Natural England's view that in this case, provided the Council as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Please consult Natural England on the discharge of the Grampian condition.

Original Comments

Recreational disturbance

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). The development proposal will need to be in accordance with the Definitive Strategy rates. Please note these rates were updated as of 1 April 2019.

It is Natural England's view that the Solent Mitigation Recreation Strategy Contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

Deterioration of the water environment

Natural England is concerned about the deterioration of the water environment within internationally designated sites due to new residential development. We have recently issued wording in response to this issue for other similar applications. Please note this wording is also applicable in this case. Natural England is reviewing a recent legal opinion and we will respond in full once this has been completed.

Public Spaces

No comments received.

Waste Services Manager

I have no concerns over waste collection regarding this planning application.

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: 17

Number of site notices: Two site notes posted.

Statutory advertisement: Not applicable.

Number of representations received: 16 representations with 21 names objecting to the application and 2 representations with 3 names supporting the application.

The following is a brief summary of Objections and Supporting representations raised members will be provided with a more detailed Addendum update together with officer comments as appropriate.

6.1 Objections:

Character and appearance of the area

- Adds to empty properties
- Unpleasant view
- Out of keeping
- Concern at look of rear of shops
- Out of Character

Overlooking/Overbearing

- Overlooking to property and garden
- Loss of privacy
- Human right to enjoy house and garden in privacy
- Too big
- Loss of outlook
- Overbearing / oppressive to living environment
- Security
- Direct views from proposed windows
- Equivalent to two extra floors

Impacts on light

- Loss of light
- Overshadowing
- Effect on daylight
- Loss of sunshine
- Outlook of skyline

Parking/Traffic

- What is the parking provision for flats?
- Parking worse
- Deliveries to shop impacts
- Narrow road
- Highway safety
- Volume of traffic
- Disturbance
- Concern at parking to rear

- Extension to shop concerns re parking
- Concern at possible holiday let use
- Concern at use of access across private car park
- Parking across car park entrance, on double yellow lines and across drives
- Road congestion
- Parking on pavement
- Inadequate parking
- Garage/workshop relationship and parking
- Hours of shop opening
- Traffic on Island

Comments in relation to site history

- Four derelict shops to one large store
- Concerns re shop use and impact from deliveries
- Building work impacts from shop alterations

Noise

- Ventilator or extraction fan concerns
- Long shop opening hours and residential use increases noise at all times
- Noise from rear parking bays
- Noise from staircase use
- Traffic across car park noise

Views

- Loss of view
- Restrict views over Chichester Harbour and Trees in Creek Road

Construction phase concerns

- Construction works excessive
- Scaffolding on private parking bays unlikely to be granted
- Noise and disruption
- Concerns over previous construction works and hours of work
- Potential damage and impacts to cars in private car park
- Health and Safety concerns
- Fumes and dust
- Construction vehicles impact

Other Matters

- Bin storage
- Concern over existing building and condition of site
- Concern over safe access to flat
- Concern over safe access to flats
- Concern over works on site pre-empting decision
- Issues in relation to first floor addition
- Property values
- Impact on Human Rights
- Flats remain unsold in area

- Infrastructure impacts
- Sewage concerns
- Nutrients
- Concerns regarding how the Council will determine application
- Concern at previous work on site
- Better locations for flats to be provided

Ownership and rights

- Impact of stairway on common right of way
- Concerns regarding impact on private car park
- Access rights across car park
- Construction vehicles/materials not on private car park
- Possible covenant

6.2 Support

Character and Appearance

- First floor enhances overall development
- Pleasing façade under pitched roof brings premises in line with adjacent properties
- Improves appearance of property
- More balanced view from neighbours opposite
- Improvement to constantly improving area
- More visually attractive
- More in keeping with area

Impact on neighbours

- No side windows means kittiwake Row, Guillemot Place and properties other side of Creek Road barely affected in terms of privacy
- Revised plans improve staircase concerns and windows reduced at the back

7 **Planning Considerations**

Impacts on European Sites / Nutrient Neutrality

- 7.1 A Habitats Regulations Assessment including Appropriate Assessment has been undertaken in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended).
- 7.2 The authority has concluded that the adverse effects arising from the proposal are wholly consistent with the effects detailed in the Solent Recreation Mitigation Strategy with regards recreational disturbance. The adverse effects are also consistent with the effects detailed in the Position Statement on Nutrient Neutral Development with regards water quality. Natural England have been consulted in relation to the assessment and have concurred with the assessment conclusions providing that all mitigation measures are appropriately secured.

- 7.3 The appropriate assessment confirms that Solent Recreation Mitigation Strategy Contributions are required and these have now been secured. In addition, in relation to Water Quality, the Council's Position Statement sets out that mitigation would be secured through a Grampian condition, requiring the mitigation package to be agreed, provided to the Council and implemented prior to the occupation of the development. The applicant has agreed to this approach.
- 7.4 In other respects and 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) Impact upon the character and appearance of the area
 - (iii) Impact upon residential amenity/Human Rights
 - (iv) Highways and parking issues
 - (v) Flood Risk
 - (vi) Developers Contributions
- (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 control criteria. The development would make a modest benefit of two additional dwellings in relation to the Council's housing supply requirements.
- (ii) Impact upon the character and appearance of the area
- 7.6 The site lies to the east side of Creek Road in the south-east part of Hayling Island. The site lies approximately 31m north of the junction of Creek Road, Sandy Point Road and West Hays Road.
- 7.7 The area is mixed in character with a variety of building styles and heights and with different uses. To the south the former Kittiwake Public House site has been developed by the erection of two and a half storey dwellings incorporating rooms in the roof, these properties are 1-4 Kittiwake Row. These properties include pitched roof and brick and render materials. Beyond the Sandy Point Road/Creek Road junction to the south are residential and commercial premises of single storey, two storey and three storey heights with a variety of designs including pitched roofs, flat roofs and mansard roof designs. There are also a variety of materials including render and brick finishes and differing roof materials.
- 7.8 To the west are terraced and semi-detached houses with light coloured brick to the ground floor and tile hanging to the first floor. These properties have shallow pitched roofs.
- 7.9 To the north of the site the properties are generally single storey bungalows with some properties including rooms in the roof and dormers. The property immediately to the north of the application site is a bungalow No.58 Creek Road.
- 7.10 To the east of the site is a single storey workshop building. This is flat roofed and of brick construction. In addition, there is a store building associated with the shop located on the rear boundary, this is brick built with a flat roof. To the east and south-east are also properties in Guillemot Place a small cul-de-sac development accessed off Sandy Point Road. These properties are two storey houses including a semi-detached pair to the east of the site.

- 7.11 The context for the development is therefore considered to be mixed in character with a variety of building types and heights and including different materials and roof designs.
- 7.12 The application site itself is currently a single storey building in retail use with a flat roof incorporating brick piers to the front and an extensive shopfront. The other elevations have brick finishes with render to the southern elevation. To the front there is also an existing area of parking which has a tarmac finish. To the south is a car parking area associated with the houses to the south and to the north an access route to the rear workshop. The existing building is considered to have a utilitarian appearance, however, due to its single storey height it is relatively recessive in the street scene.
- 7.13 The proposal is for the addition of a first floor to the building this is being shown with a clad or tile hung finish and the agent has been asked to clarify the material detail. A condition in relation to the materials is also recommended should permission be granted. The building would also incorporate a shallow pitched roof with a concrete roof tile. To the rear there is a proposed internal staircase proposed which would incorporate a small area of flat roof.
- 7.14 It is clear that the addition of a first floor would result in a significant change to the building with the new first floor changing the scale of development on the site. It is however considered that the alteration would result in a building which is more reflective of the general character of the existing context for this building. To the south, east and west there are existing two storey or two and a half storey dwellings which are set back from the road frontages a similar distance as that proposed with the application site. The ground floor retail element is as existing and reflects the other commercial uses further to the south and the history of the site.
- 7.15 Subject to appropriate materials and finishes it is considered that the proposal represents an acceptable scale and form of development in the existing context of the site.

(iii) Impact upon residential amenity/Human Rights

- 7.16 In relation to the impact on residential amenity a large number of representations have been received on a variety of matters raising concerns in relation to the development. These have been considered in detail during the protracted consideration of the application. This has resulted in amendments to the proposed development. The main impacts of the development in relation to impacts on neighbours are considered to be to 1-4 Kittiwake Row, properties in Guillemot Place, 58 Creek Road and properties 43b- 43e, 45, 45a and 47.
- 7.17 The main issues identified in relation to the impact on neighbours are considered to be:
- Overbearing / height mass and bulk issues;
 - Potential overlooking;
 - Light impacts;
 - Noise;
 - Private rights and access issues;
 - Construction phase impacts;
 - Human Rights.

These are considered below.

Overbearing / height mass and bulk issues

- 7.18 In relation to potential overbearing issues the application has been assessed against the criteria in the Havant Borough Design Guide SPD 2011 (HBDG).

1-4 Kittiwake Row:

These two and a half storey properties lie to the south of the site and have relatively short rear gardens which back onto a parking area for Kittiwake Row. The houses are a little over 16m from the southern flank wall of the existing building. The proposed first floor addition would result in a blank gable facing south. The HBDG requires that *Where a dwelling faces a blank gable, 10 metres separation distance is required*. This separation distance is exceeded in the current proposal and it is considered that this relationship is acceptable and would ensure an appropriate set off.

Guillemot Place:

The closest property in Guillemot Place is No.6, this is set a minimum of 14.4m from the proposed enclosed staircase and 16m from the main rear wall of the development. No.6's flank wall has a small obscure glazed first floor window and two small ground floor windows (one obscure glazed) facing the site. The ground floor windows face the existing workshop and store building. The set off is considered appropriate and meets the HBDG guidance. This relationship in terms of overbearing is considered acceptable.

Other properties in Guillemot Place 1-5 are set further off and at an angle to the development. No.1 is the closest of these properties and is a minimum of 21m from the proposed first floor. This relationship is considered acceptable.

58 Creek Road:

This property has a side elevation facing the application site this is set a minimum of 7.5m from the proposed first floor. No.58 is a bungalow and does include a side bedroom window to a room also served by another window fronting Creek Road. There is also a small slot window to a further room. The application proposal is for a flank wall to the proposed elevation. Whilst it is acknowledged that this would result in a two-storey to single storey relationship there is a vehicular access and a drive between the properties and the new first floor would not project to the rear of No.58. The rear garden of No.58 is relatively constrained by outbuildings, however, given the gap retained between dwellings and the siting of the first floor addition it is not considered that proposal would result in an impact that would warrant a refusal of planning permission in terms of the proposals mass and bulk.

43b- 43e, 45, 45a and 47 Creek Road:

These properties are set on the opposite side of Creek Road approximately 24m from the frontage of the new first floor. The HBDG states that *Minimum front to front dimensions depend on local context/privacy daylight and overshadowing*. Some of these are considered further below. There are proposed and existing windows facing each other, however, given the intervening road and the distance this relationship is considered acceptable.

In conclusion, it is considered that the proposed development would have an acceptable impact on neighbouring residents in relation to overbearing issues.

Potential overlooking

- 7.19 In relation to overlooking, the proposal has been amended during the course of application's consideration to remove from the east elevation a previously proposed external staircase and to reduce the number of east facing windows from four clear glazed and two obscure glazed windows to two clear glazed and three obscure glazed windows. There are no windows proposed to the side north and south facing elevations.

1-4 Kittiwake Row:

These properties are located to the south of the development and would face a flank wall with no new windows facing these properties directly. Any view from the closest rear window in the development (a rear kitchen window) would be at an oblique angle to 3 and 4 Kittiwake Row. This view is not considered to result in unacceptable overlooking.

Guillemot Place:

1 and 2 Guillemot Place are set to the south-east, any views between the new windows and the rear windows of these properties would again be at an angle. The window to window distance is approximately 21m. The HBLP considers that a minimum 20m distance is required in an immediate back to back situation. Given this distance and angled relationship, it is not considered that a reason for refusal would be justified. Any additional over looking to the garden would again be at an angle. Whilst it is appreciated that this would introduce a new element it is also noted that a much more direct view is already afforded from 6 Guillemot Place.

No.6 Guillemot Place is set to the rear of the application site and this is a more direct line from the application site. There would be two clear glazed kitchen windows facing this direction, one to the less private front garden and one to the rear with the intervening workshop building between. The side wall of No. 6 is a flank wall with two obscure glazed windows and a small clear glazed window facing the store and workshop. Given the intervening buildings, the distance between the properties (16m) and the limited number of clear glazed windows proposed it is not considered that a refusal of planning permission in relation to overlooking to this property would be justified. A condition is recommended to ensure that the other three windows are obscure glazed and fixed shut below 1.7m from finished floor level.

58 Creek Road:

The northern flank wall to the application site does not include any new windows facing directly to No.58. The closest rear window is a kitchen window that would face east. Any view to the rear garden of No.58 would be at an angle and any impact would be limited and is not considered to warrant a refusal of planning permission.

43b- 43e, 45, 45a and 47 Creek Road:

Whilst six new clear glazed windows would face west towards these properties, given the distance between properties (approximately 24m) this relationship is considered to be acceptable.

Overall, it is considered that the proposed development has been assessed in detail and amended where required to mitigate potential overlooking issues. Subject to a recommended condition in relation to obscure glazing the relationships are considered acceptable.

Light impacts

- 7.20 In relation to light impacts, there are two elements to this:- daylight and sunlight. The HBDG states that *New developments should not result in the loss of light to existing buildings. Acceptable daylight to interiors can be provided once there is a 25 degree vertical angle from a point 2 metres above the ground on the facing external facade. (This results in a 10 metre minimum separation distance between dwellings)*. This separation distance is achieved for all the adjoining premises with the exception of 58 Creek Road. In this case an assessment has been made in relation to the side facing window in that property. It is noted that there would be an impact on daylight to the side window of this property. This property has been visited and it is noted that the room is a bedroom with dual aspect windows with a large window facing west and therefore not impacted by the proposed development. It is not considered that the impact on light to this room would be sufficient to warrant a refusal of planning permission based on the impact on daylight.

In relation to sunlight, the proposed first floor is located to the north or north west of the properties in Kittiwake Mews and 1-5 Guillemot Place, as such it is not considered that there would be any unacceptable impacts on sunlight. The proposed development is located to the west of No.6 Guillemot Place, given the separation distance between properties the orientation of the existing garden (to the north of No.7) and the intervening building it is not considered that the impact on afternoon sunlight would be sufficient to warrant a refusal of planning permission.

No.58 is sited to the north of the application site, and the proposed first floor would impact the existing side window at certain times of the day as considered above. Given the dual aspect of this room this is not considered to be unacceptable. There would also be an impact on the rear garden, however this is set off the boundary with the two drives between and impacts would be for only part of the day and year. On balance these impacts are not considered sufficient to warrant a refusal of planning permission.

Noise

- 7.21 The main noise impacts are considered to relate to traffic movements, activities from residents accessing the flats and potential re-location of equipment to the rear of the shop unit. In addition, it is necessary to consider the residential amenities of proposed occupants.
- 7.22 With regards to traffic movement, it is noted that there are two spaces for the flats located to the rear of the property which is accessed through the parking area to the south which is used for parking for properties to the south in Kittiwake Row. This area has been used for parking in the past in association with the shop use. It is not considered that parking in this area is likely to lead to significant additional noise or impacts to neighbours. It is noted that the area is contained with existing fencing.

7.23 The proposal previously included an open external staircase that would have led to noise and overlooking as a result of its use. This has now been enclosed which will avoid these negative impacts. Access by the occupants and visitors to the shop to the rear of the building will increase activity although this should be seen in the context of the existing commercial retail use with rear storage areas and doors. It is not considered that the additional activity resulting from the flat use would result in an unacceptable impact on neighbours amenities.

7.24 The shop unit currently includes rear air con/chiller units on the rear wall. It is apparent that two of these units would need to be re-located as a result of the staircase extension. A condition is recommended in relation to the provision of or re-siting of equipment to ensure that it would not result in unacceptable noise impacts.

7.25 The proposed flats are located in close proximity to the rear workshop building. This use has planning permission and is restricted in terms of its use by planning conditions. The planning permission APP/19/00236 was for Retrospective application for full planning permission for change of use to B2 Classic and specialist car store and restoration workshop. The conditions imposed relate to:

*The premises shall only be open for trade or business between the hours of:
09.00 hours and 18.00 hours Monday to Friday;
09.00 hours and 17.00 hours on Saturday;
and not at all on Sundays or Bank Holidays.*

The use of the premises hereby permitted shall exclude the following operations:

- 1. Panel beating,*
- 2. Paint spraying,*
- 3. Engine tuning.*

In addition, the doors to the building shall be kept shut whenever work is being carried out within the building.

The use hereby permitted shall be limited to classic and performance car store and restoration for cars purchased by the operator of the site and shall not be open to members of the public for general car servicing, repairs or restoration. Furthermore no car sales shall take place from the site.

7.26 These restrictions were required to seek to ensure that impacts to neighbouring properties are minimised. The restrictions are also helpful in relation to the proposed development. The existing shop use also results in potential noise impacts for future residents. In this case the Council's Environmental Health officer has recommended a condition in relation to internal noise for the new flats and the condition is recommended to secure an acceptable internal environment for future residents.

7.27 Concern has been raised in relation to the proposed access across the parking area to the south of the site which is used for parking by residents of the dwellings beyond. It is understood that a right of access exists across this area and a Certificate B has been served on the owners. There have also been concerns raised in relation to the slight overhang of the first floor which is a result of the proposed material finish. This is shown as 0.1m in the latest elevation drawings. The rights to construct this element are a private legal matter between the parties. Any permission would be subject to a materials condition and it is considered that if necessary a brick or rendered wall could be used to avoid any overhang to the private car park area at first floor level.

Construction phase impacts

- 7.28 In relation to construction phase impacts, it is the case that most developments will have an impact on the residential amenities of nearby residents. These impacts are by their nature temporary and should be managed appropriately by the developer in order to minimise their impact.
- 7.29 In this case given the relatively high density urban environment and the limited areas around the building it is considered appropriate to recommend a planning condition in relation to construction vehicle parking and material storage. This will need to avoid the private parking area to the south of the building associated with Kittiwake Row.
- 7.30 Noise, dust, lighting and hours of construction are principally a matter that would be considered by the Council's Environmental Health Team if complaints were received during the construction process. Informatives in relation to hours of construction, noise, dust and lighting are proposed to guide the developer and would be included if the application is granted planning permission.

Private rights and access issues

- 7.31 The Human Rights Act 1988 incorporated provisions of the European Convention on Human Rights ECHR into UK law. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every person together with the limitations placed on these rights in order to protect the rights of others and of the wider community.
- 7.32 The specific Articles of the ECHR relevant to planning include Article 6 (Right to a fair and public hearing), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).
- 7.33 In relation to Article 6 (Right to a fair trial) this is centred around the determination of civil rights and obligations or of any criminal charge against him. This would for example allow for an appeal to the Planning Inspectorate by the applicant should planning be refused.
- 7.34 Article 8 (Right to respect for private and family life) states that *Everyone has the right to respect for his private and family life, his home and his correspondence*. Issues in relation to the impacts of the development on their residential amenities have been raised by a number of nearby residents and these have been considered in detail in this report. There is also an opportunity for deputations to be made to the Development Management Committee. The application has been assessed in this report in relation to its planning merits including the impacts on neighbouring properties.
- 7.35 Article 14 (Prohibition of discrimination) states that *The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*. This planning application has been assessed on its planning merits.

- 7.36 Article 1 of Protocol 1 (Protection of property) and states *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

The application consideration has taken into account the impact of the development on the adjoining properties as set out in this report.

- 7.37 It is considered that the relevant provisions of the Human Rights Act 1988 and ECHR have been taken into account in the consideration of this planning application as set out in this report.

(iv) Highways and parking issues

- 7.38 The existing shop unit has a retail floorspace of approximately 106sqm and under the Council's Car Parking standards would require 8 parking spaces. The frontage parking area has recently been marked out with 8 spaces whereas they were previously unmarked out. This will lead to parking being more organised than was previously the case.
- 7.39 The proposal would provide 4 spaces to serve the two residential units, two would be positioned at the front of the site and two to the rear. The two spaces to the rear would be accessed through the adjacent private car park where there is understood to be a right of access across this area. The provision of the 4 spaces would be required for the 2 x 2 bed dwellings to meet the Council's car parking standards.
- 7.40 The provision of two parking spaces for the residential use at the front would result in the retail car parking being restricted to 6 spaces which is two short of the parking standards. This has been considered in detail and the context of the site and its type of retail use considered further. The site is located close to existing public car parking which serves the Creek Road area and is available for people visiting the shop and other facilities in Creek Road including retail and leisure facilities. In addition, there is on street parking to the north of the site within Creek Road which is also available for parking. The store itself is a convenience store which serves the everyday retail needs of the local area where it is anticipated that a significant number of customers will walk to the facility from nearby residential areas.
- 7.41 It is also noted that an appeal decision in relation to 12 Creek Road for the Conversion of existing first and second floors from a nightclub into 10 letting rooms dated June 2016 considered the implications of not providing any parking for the proposed letting rooms. Whilst that was for a different proposal, the Inspector concluded that the type of accommodation proposed was unlikely to result in high car ownership, that there were a range of shops to meet everyday needs, that there were good bus services and that cycle storage was provided. The Inspector also noted that there were areas of unrestricted on-street parking in the vicinity of the site and in terms of visitors a car park in Wheatlands Road. The Inspector concluded that in that case whilst there might be some reduction in on-street parking as a result of the proposed change of use, given the existing conditions, any additional competition for on-street spaces as a result of the proposed change of use is unlikely to significantly inconvenience local residents or future occupants.

- 7.42 The parking standards require the provision of 2 secure long stay cycle spaces per 2 bed unit. These would be provided beneath the proposed staircase. This will enable future residents with non-car based transport options and will be secured by condition.
- 7.43 Concern has been raised in relation to deliveries to the site, parking taking place on double yellow lines and across driveways. In relation to deliveries, this is in relation to the shop as existing and could potentially have been a more significant concern had the previous four units been operating independently. As it is the units have been converted to a single store. Deliveries take place for a short period and whilst they can cause issues this is a temporary matter and would not be significantly altered by the proposed residential development at first floor level. Issues in relation to parking on double yellow lines or across driveways are a matter for potential enforcement. It is not considered that such parking is required to take place bearing in mind the nearby public car park and on street parking that is available to the north of the site.
- 7.44 In relation to Highway Safety, some of the concerns raised partly relate to access through the private car park to the south of the site and the relationship to existing residential parking areas. There is understood to be a right of access across this area and it has been used for access to the rear of the shop unit. This would remain the case and the proposed two parking spaces for residential occupants is not considered to significantly alter the level of vehicular movements across this area and would not warrant a refusal of permission. Pedestrian access to the rear access to the residential units across the parking area would cross this residential parking area. It is considered unlikely to result in unacceptable conflicts between pedestrians and car movements given the limited parking area and low speeds of vehicles manoeuvring in this area.
- 7.45 Additional levels of traffic and vehicle movements resulting from the provision of two dwellings in the wider area are not considered likely to result in significant additional impacts that would warrant a refusal of planning permission.
- 7.46 Overall and bearing in mind the marginal shortfall to the parking standards for the retail store, the nature of the store meeting local day to day retail needs, local car parking provision and the proposed residential parking including cycle parking it is not considered on balance that a refusal of planning permission based on parking / traffic or road safety could be sustained.

(v) Flood Risk

- 7.47 The site is located in Flood Zone 1 (lowest flood risk) and new residential development in this location is therefore considered acceptable in terms of flood risk.

(vi) Developers Contributions

- 7.48 The proposal would secure Community Infrastructure Levy contributions based on the proposed floorspace this will be at a rate of £100 per square metre of new floorspace plus indexing. The contribution will be approximately £15,800.
- 7.49 In addition contributions have been secured in relation to the Solent Recreation Mitigation Strategy of £1000 plus administration and monitoring fees.

8 Conclusion

- 8.1 In conclusion, the principle of development is considered acceptable subject to conditions in relation to nutrient neutrality and a Habitats Regulations Assessment/ Appropriate Assessment have been carried out in consultation with Natural England. The site is located within the built up area but outside flood zones 2 and 3 and is therefore suitable for residential development subject to other development management criteria.
- 8.2 The impact on the character and appearance of the area and on neighbours residential amenities are considered acceptable as set out above. Highways and parking concerns are recognised, however, it is not considered that the proposals would result in impacts sufficient to warrant a refusal of planning permission as set out above.
- 8.3 Overall it is concluded that the proposed development is acceptable and planning permission can therefore be recommended subject to the conditions set out below.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/19/00279 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:
- Location Plan Drawing No.14 Rev I
Block Plan Drawing No. 13 Rev I
Parking Plan Drawing No. 11 Rev I
Proposed Elevations Drawing No. 06 Rev I
Proposed Floor Plans Drawing no. 04 Rev I
- Reason:** - To ensure provision of a satisfactory development.
- 3 No development shall take place until plans and particulars specifying the following matters have been submitted to and approved in writing by the Local Planning Authority:
- (i) The provision to be made within the site for contractors' vehicle parking during site clearance and construction of the development;
- (ii) The provision to be made within the site for a material storage compound during site clearance and construction of the development.

Thereafter, throughout such site clearance and implementation of the development, the approved parking provision and storage compound shall be kept available and used only as such.

Reason: To safeguard the amenities of the locality and/or in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains and sewers proposed to serve the same, and details of any other proposed ancillary drainage works/plant (e.g. pumping stations) have been submitted to and approved in writing by the Local Planning Authority. Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority.

Reason: To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and a full specification of the materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 No additional or repositioned extract vents, chiller units, air conditioning or other noise making equipment shall be installed on the building unless and until, a scheme showing details of the equipment, its design and its operation including manufacturer's operating instructions and a programme of equipment servicing/maintenance has been submitted to and approved in writing by the Local Planning Authority. The duly approved scheme shall be implemented in full before the use of any such equipment first takes place and shall remain operational thereafter.

Reason: To safeguard the amenities of the locality and/or occupiers of neighbouring property and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.

Reason: In the interests of highway safety and having due regard to policies DM13 and DM14 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

8 The three windows at 1st floor level in the east facing elevation of the building serving the communal staircase, bathroom and Entrance/Hallway to flat 2 and annotated as obscure glazed on drawing No. 04 Rev I Shall:-

(i) consist of at least two lights divided horizontally with only the top light capable of being opened, and shall be maintained in that condition at all times; and

ii) at all times be and remain glazed entirely with obscure glass, the particular type of which glass shall provide a degree of obscuration no less obscure than that which is provided by Pilkington's Texture Glass Obscuration Level 4.

Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2018.

9 The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed water efficiency calculation must be installed before first occupation and retained thereafter;
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and

All measures forming part of that mitigation package have been provided to the Local Planning Authority.

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 for 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 and Policy E14 of the Pre-Submission Havant Borough Local Plan 2036.

- 10 The development hereby permitted shall not be occupied unless and until details of bin stores have been submitted to and approved in writing by the Local Planning Authority and thereafter provided and maintained in accordance with the approved details.
Reason: In the interests of the amenities of the area and future occupants having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 11 The bike storage area shown on the approved plan shall be provided prior to the occupation of the flats and shall thereafter be kept available for the storage of four bikes.
Reason: To ensure that non-car based travel options are available to the future residents in the interests of sustainability and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Parking SPD 2016 (as amended) and the National Planning Policy Framework.
- 12 The dwellings hereby permitted shall not be occupied unless and until details in relation to the acoustic mitigation measures to be employed with regard to the building envelope, including fenestration and ventilation, to 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 LAeq,16 hour and at night (23:00 to 07:00) 30 dB LAeq,8 hour for bedrooms have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
Reason: To protect the amenities of the future occupants of the proposed Dwellings and to ensure the residential amenity of the properties is not impacted upon by any internal or external noise sources, including any noise that may arise from the commercial premises on the ground floor or to the rear of the site having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework..
- 13 No external lighting shall be installed at the site in relation to the residential uses hereby permitted unless and until details are submitted to and approved in writing by the Local Planning Authority. Any lighting so approved shall thereafter be installed and maintained in accordance with the approved details.
Reason: To protect the occupants of nearby residential properties from any light disturbance / pollution having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Appendices:

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| Appendix A | Location Plan |
| Appendix B | Location and Access Plan |
| Appendix C | Proposed Parking Plan |
| Appendix D | Existing Elevations |
| Appendix E | Proposed Front and Rear Elevations |
| Appendix F | Proposed Side Elevations |
| Appendix G | Previous Floor and Roof Plans |
| Appendix H | Existing Floor and Roof Plans |
| Appendix I | Proposed Floor Plans |
| Appendix J | Proposed Roof Plan |