
Site Address: 139 Elm Grove, Hayling Island, PO11 9ED
Proposal: Changes to approved planning permission APP/15/01436 comprising of reduction in window size and relocation of entrance door on front elevation, addition of conservatory, smoking shelter to rear elevation and erection of fence and gates to rear boundary. (Part retrospective Application.)
Application No: APP/17/00025 Expiry Date: 01/03/2017
Applicant: Mrs Keillor
Agent: Mr Murray Case Officer: Daphney Haywood
I J Murray Associates
Ward: Hayling West

Reason for Committee Consideration: At the request of Councillor Wilson

HPS Recommendation: **GRANT PLANNING PERMISSION**

Executive Summary

The application site is located on the west side of Elm Grove , within the defined urban area of Hayling Island, and comprises a ground floor A4 (Bar and Restaurants) use with residential flat above. The proposal is a retrospective application for a rear extension to provide additional bar space for customers and a smoking shelter, and the proposed erection of fencing/gates to the rear.

The site adjoins residential development on all sides and the proposal has been the subject of extended negotiations with the applicant and the Environmental Health Officer to address issues of nuisance. In particular the adjacent flats to the north have bathroom windows on the boundary facing the application site. The rear extension as constructed has a conservatory style roof and the plans have been amended to provide internal insulation to reduce noise emissions. The amended plans are considered to satisfactorily address the impact and approval is recommended.

1 Site Description

- 1.1 139 Elm Grove, Hayling Island, comprises a former retail unit with ancillary flat above on the west side of Elm Grove. The ground floor retail unit has recently been converted to a Public House under planning permission APP/15/01436 - Change of Use from A1 (Retail) to A4 (Bar and Restaurants).
- 1.2 The site is located within a parade of similar units which run from No's 127 to 139 Elm Grove. This side of Elm Grove lies outside the designated shopping centre and a number of the units have been converted to residential use, such that residential properties adjoining the site on both sides.
- 1.3 The property has a rear access off St Mary's Road which is primarily residential in character comprising a mixture of dwelling types including flats and bungalows, with bungalow development being located opposite the application site.

2 Relevant Planning History

APP/15/01436 - Change of Use from A1 (Retail) to A4 Bar and Restaurants. Permitted 17/02/2016.

APP/16/00544 - Proposed new garage to rear of property and insertion of windows to both side elevations. Permitted 14/07/2016

In November 2016 officers of the Planning Enforcement team were contacted regarding building operations under way at the premises. An investigation revealed that alterations had been made to the front elevation facing Elm Grove; a conservatory style structure had been added to the rear of the premises; a smoking shelter had been added beyond the conservatory which was physically attached to the adjoining property; and works had commenced in respect of a new boundary treatment fronting St Marys Road.

The current application has been submitted in an effort to resolve these breaches of planning control.

3 Proposal

3.1 The current application follows on from the Planning Enforcement investigation and seeks consent for a number of alterations from the scheme granted approval under APP/15/01436:

- (i) Reduction in window size and relocation of entrance door on front elevation;
- (ii) Addition of conservatory to rear elevation - the originally constructed roof of the structure to be replaced by an insulated roof structure;
- (iii) Addition of smoking shelter to rear elevation - this to be altered so that it is no longer physically attached to the adjoining property
- (iv) Erection of 1.8m fence and gates to rear boundary.

3.2 In many respects the application is a retrospective one, and the details of the application have been the subject of extensive negotiations including on site meetings and discussions with the Environmental Health Officer. Further to those discussions the plans have been amended to propose insulation to the roof of the single storey extension (currently of a conservatory type construction) and the provision of acoustic plasterboard to the existing internal brickwork to provide some noise absorption.

4 Policy Considerations

National Planning Policy Framework 2012

Havant Borough Local Plan (Core Strategy) March 2011

- CS14 (Efficient Use of Resources)
- CS16 (High Quality Design)
- CS17 (Concentration and Distribution of Development within the Urban Areas)
- DM10 (Pollution)

Havant Borough Local Plan (Allocations) July 2014

- AL1 (Presumption in Favour of Sustainable 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

Development Engineer

The Highway Authority have no adverse comment

Hampshire Constabulary

No comments received

Traffic Management

There is insufficient information on the application form for me to make any comment regarding Traffic Management

Environmental Health Manager

Further from the proposal to sound insulate the conservatory (walls and ceiling) I believe that this would make great progress towards minimising noise transfer between the public house and the residential units adjacent. Notwithstanding the above, should doors or windows to the conservatory be left opened, the noise from the public house would have a direct exit path and therefore any insulation work carried out within would be rendered useless. In order to ensure that adequacy, it may be worth putting a condition relating to keeping doors and windows closed at all times whilst the public house is open to the public. The door should only be opened during egress and access but left closed at any other time.

This may mean that the Public house may want to add air conditioning to the area, which may require consent.

When the "smoking shelter" is in use, the door from the conservatory to the shelter must be kept closed at all times so to prevent cigarette, cigar, pipe or any tobacco smoke product to enter the premises.

In relation to having guests in the rear area of the public house, I have now conducted further investigation, and the noise from guests using the rear open area is clearly audible in nearby property. Further, the sound of either snooker/pool playing (shouting, racking of balls, cue hitting the cue ball/other balls) is very audible together with music played within the public house and this may be due to doors/windows being opened. As I have mentioned, I have not completed the assessment but should the noise from the Public house amount to a statutory noise nuisance, I shall have no option but to serve an abatement notice on the owner/occupier and/or person responsible, requiring the abatement of the nuisance.

Officer Note:- *The use of the yard area is not restricted by condition and the use of the yard in association with the A4 use is lawful. The snooker table and source of music is located within the original building and should it be considered a statutory nuisance this would be an environmental health issue and the Environmental Health team has powers to deal with this.*

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: 13

Number of site notices: One

Statutory advertisement: Not applicable.

Number of representations received: 7

Summary:

In support

- 6.1 Access through the rear of the premises is imperative not only for use as an emergency exit but also for disabled access. It is dangerous for the main drop off point of the building to be the front, parking at the front is very inconvenient and dangerous.
- 6.2 Smoking has migrated to the front entrance of the main building and frankly looks repulsive and dirty, also the litter from the cigarettes is becoming an issue and does not look inviting for anyone to come into the public house let alone walk down that side of the street.
- 6.3 The previous Hayling Billy pub was located nearby and therefore many residents were already aware of general noise from both the previous, and new premises. The landlady has already put many precautions in place to keep noise to a minimum and there have not been complaints from neighbours.
- 6.4 Moderated open air drinking should not be an issue, many pubs on the island also take precautions for anti social behaviour and noise and neighbours have no complaints because of this. Some noise is expected when living near to a public house or bar.
- 6.5 When the new Hayling Billy was opened, a letter was sent to residents requesting any objections and there weren't any. I feel as though Hayling is a close knit community and therefore most of the public are mindful of the residents.

Objections

- 6.6 Concerns regarding gatherings at the rear of the building, especially smokers who congregate and the residents nearby are subjected to anti social language and noise. Anything that encourages open air drinking should be discouraged in this densely populated area.
- 6.7 The proposed "lean to"/smoking area is only 150mm from the adjacent building, which means that flat 145 (on the ground floor) cannot open one of their windows – this being the main access to vacate the flat if there was a fire.
- 6.8 There has been "flashing" attached onto the adjacent property without any written consent from the landowner.
- 6.9 The volume of noise from the customers/staff using the outside area where the hut/conservatory lies is excessive, and antisocial behaviour takes place in this area.
- 6.10 The development poses a fire risk and a security risk by giving ease of entry from the Hayling Billy roof into flat 145A. Currently the buildings are already there despite the Hayling Billy not having any planning permission to erect these.
- 6.11 The noise level that can be heard inside the adjoining flat from the customers using the area/buildings outside the back of the Hayling Billy is unbearable. It is both loud and constant and can be heard throughout the whole day and evening (up to 12 hours). The proposed sound proofing will not make sufficient difference to address the nuisance.
- 6.12 The smoking shelter could have been located away from the adjacent flats; alternatively smoking can take to the front of the premises
- 6.13 Consideration should be given to a restricted time that customers can use the designated smoking area and that may well be a long time before the actual licensing hours finish -

12 hours is far too long.

- 6.14 Black mould on the outside wall of the adjoining flat has appeared since the (illegal) building has been attached to the flat wall affecting health.

Officer Comment: *The majority of the points raised are considered in Section 7 below. With regard to 6.8 and 6.14, the submitted plans indicate that the current lead work which ties in with the neighbouring property would be removed and the work would not infringe the boundary - any allegations of property damage are a civil matter and not a material planning consideration.*

7 Planning Considerations

- 7.1 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 residential amenity
- (iii) Impact upon the streetscene

- (i) Principle of development

- 7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development management criteria. Planning permission has previously been granted for the use of the premises as a Class A4 Bar and Restaurant and the premises are now operating as a public house under this permission. The proposed development would provide additional floorspace to serve the approved use including a single storey extension and attached smoking shelter together with alterations to the Elm Grove frontage and St Marys Road means of enclosure.

- (ii) Impact upon residential amenity

- 7.3 The site adjoins and is located in proximity to a number of residential properties, and the current retrospective application has been submitted in response to an enforcement complaint. The existing Public House use, owing to its nature and operating hours into the evenings and at weekends, has the potential to result in noise and pollution nuisance to adjoining properties - this must be weighed in the balance with the benefits that derive from enabling a community use to expand.

- 7.4 At the time of the granting of planning permission for Class A4 use under APP/15/01436, consideration was given to the small extent of the floorspace. The current application extends this by a modest single storey extension of approx 9 sq m and a smoking shelter; however, due to the nature of the extension with a conservatory type construction, the development has resulted in reported noise nuisance to the neighbouring property at No.145A Elm Grove. Additionally the representations make reference to nuisance from smoking fumes. In this regard it should be noted that the neighbouring properties have bathroom windows in close proximity to the smoking shelter.

- 7.5 In response to the objections received, negotiations have been undertaken between the officers and the applicant, and the plans have been amended to provide for noise insulation to the roof of the single storey extension and plaster board to its internal brick work to provide some noise absorption. The Environmental Health officer has been extensively involved in negotiations and, as now submitted, is satisfied that the proposed measures will assist in reducing the impact to an acceptable level. With respect to the smoking shelter consideration has been given to redesigning this - but owing to site restrictions, technical requirements for smoking shelters, together with the fact that the

rear entrance enables access for disabled customers, it has not been possible to relocate this away from the windows with the neighbouring property. It does however, have a solid roof and is not sited directly under the windows in question. Clearly the use of the shelter is resulting in perceived nuisance and loss of amenity, however, the principally affected windows of the adjoining building do not serve habitable rooms but serve 2 bathrooms and as such it is considered that any loss of amenity to these particular non-habitable rooms does not support refusing the application. With respect to the single storey extension, providing the structure is insulated as now proposed, it is considered that this would provide sufficient mitigation to reasonably address any impact arising from its use.

- 7.6 Concern has been raised regarding the opportunity the extensions afford to access the adjacent first floor flat, however, the design of the extensions are consistent with a normal single storey structure and do not provide stairs/ ladder which would provide access to the roof. With respect to obstruction of ground floor windows in adjacent flats, these serve bathrooms, and all habitable rooms to the flats can be accessed off the entrance or, in the case of an emergency, non-obstructed windows fronting either St Marys Road or Elm Grove.

(iii) Impact upon the streetscene

- 7.7 The property has two frontages - Elm Grove and St Mary's Road. With respect to Elm Grove the original front elevation of the building has been altered to provide a new entrance and window detailing. Given the mixed commercial character of the area these alterations are not considered to be detrimental to the street scene.
- 7.8 Regarding St Mary's Road the smoking shelter and boundary fencing will be visible from this frontage. The smoking shelter, which has already been constructed, is set back from the road and is not prominent in the street scene. With regard to the proposed 1.8m high boundary fence and gates, substantial front boundary fencing is not currently a feature of the area and to avoid an adverse visual impact the proposed fencing, which incorporates double gates to allow for delivery vehicles, has been amended from the original submission to be 1.5m high with 0.3m high trellis. It would comprise vertical boarding of a non-solid (i.e. 'hit and miss') appearance, and as such is not considered to be overly prominent and would have an acceptable visual impact.

8 Conclusion

- 8.1 This largely retrospective application relates to relatively modest works to augment an existing community (Public house) use; however, because of the nature of the use and the form of construction of the additions the development has resulted in concerns regarding residential nuisance. The proposal has been the subject of extensive negotiations and it is considered that as now proposed, with the incorporation of insulation measures, the impact of the rear extension would be sufficiently mitigated. With respect to the smoking shelter this is of limited size and does not lie directly under the windows in the adjacent flats and as such its impact is not sufficient to support a refusal. Therefore it is considered that the proposal can now be recommended for permission.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PLANNING PERMISSION IN RETROSPECT** for application APP/17/00025 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 Compulsary Purchase Act 2004.

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

Proposed plans A103 received 8 June 2017
Proposed Elev's and views A104 received 8 June 2017.
Agents email of the 6 June in respect to polyurethane foam

Reason: - To ensure provision of a satisfactory development.

- 3 The development hereby permitted shall not be occupied/ used by the public until the noise insulation measures set out on plan A103 received 8 June 2017 and detailed in Agents email of the 6 June 2017 in respect to polyurethane foam have been fully implemented and shall thereafter be retained unless otherwise agreed in writing by the local planning authority.

Reason: To protect the amenities of nearby residential properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 The premises shall only be open for trade or business between the hours of 11.00 and 23.20.

Reason: To protect the amenities of nearby residential properties and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 No external extraction and filtration equipment shall be erected without the prior written approval of the Local Planning Authority. Any such approved scheme shall be implemented fully in accordance with the approved details 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.

Appendices

- (A) Location Plan
- (B) Floor plans as approved under APP/15/01436
- (C) Elevations as approved under APP/15/01436
- (D) Proposed Floor Plans
- (E) Proposed Elevations
- (F) Proposed Views