REF. NO. C/11/69163

PLANNING APPLICATION REPORT

DESCRIPTION/ ADDRESS	-	Change of use of first floor to restaurant (A3) with ancillary bar (A4) La Dolce Vita High Street Hamble-Le-Rice Southampton SO31 4HA

SITE VISIT DATE 10/10/2011

ARE PLANS ACCURATE? Yes

HAVE ALL NECESSARY NEIGHBOURS BEEN CONSULTED? Yes

THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The first currently comprises two ancillary store rooms, toilets and a small kitchen area. The application seeks to retain the kitchen and toilets, add an ancillary bar area and use the store rooms as additional restaurant space during busy periods.
SITE CHARACTERISTICS	Existing restaurant within the Hamble Village centre as designated in the local plan. Within a conservation area. No parking provided as per all commercial premises within Hamble Square – customers use the pay and display car park opposite.
CHARACTER OF LOCALITY	Busy designated local centre within Hamble and the Hamble Conservation Area. Mix of commercial and residential.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
C/19942/009/00	CHANGE OF USE FROM ESTATE AGENTS TO RESTAURANT AND SINGLE STOREY REAR EXTENSION	Permitted 2003
C/39523/000/00	CHANGE OF USE FROM OFFICE TO BAR/RESTAURANT, TO ENLARGE EXISTING RESTAURANT AND CONSTRUCTION OF NEW SHOP FRONT	Permitted 2003

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
None	

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Hamble Parish Council	The Council resolved to leave the decision with the planning officers.
Environmental Health	We have no objections in principle to the proposed. However, we note that there is to be a new kitchen, and as there are no details about possible extraction, we would recommend that the following condition is added.

REF. NO. C/11/69163

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
	ODOUR The odour neutraliser plant must be installed and in full working order prior to the commencement of the use and, as long as the use continues, be operated in such a manner as will effectively suppress the emission of fumes or smell.

POLICY CONTEXT

DESIGNATION APPLICABLE TO SITE
Within Built-up Area Boundary Within Established Residential Area Within Designated Conservation Area

DEVELOPMENT PLAN POLICIES

Eastleigh Borough Local Plan Review (2001-2011) 59.BE, 101.T, 141.TC, 169.LB
Supplementary Planning Guidance : Residential Amenity in the Borough of Eastleigh

NATIONAL PLANNING POLICY GUIDANCE

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to form the criteria against which this application will be assessed with particular regard to the impact on the surrounding conservation area, impact on the highway and impact on the amenities of residents living in close proximity.

COMMENT ON CONSULTATION RESPONSES

Comments noted – see assessment below.

COMMENT ON REPRESENTATIONS RECEIVED

None

PLANNING OBLIGATION/CONSIDERATIONS

In accordance with the provisions of Circular 05/05 saved policy 101.T of the Eastleigh Borough Local Plan Review 2001-2011 and Supplementary Planning Document: Planning Obligations, Planning obligation contributions are sought to offset the impact of the development on local infrastructure. For this development contributions are sought towards Sustainable Transport.

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

material considerations indicate otherwise."

Policy context

Policy 59.BE requires development to be appropriate in for the context of the site and for it not to interfere with adjoining uses.

Policy 141.TC relates to the use of upper floors of premises within designated shopping areas. It states that proposals to put the upper floors of premises to use will be permitted provided the amenity of the upper floor use would not be adversely affected by the existing ground floor use and that it makes adequate provision for the disposal, storage and collection of waste.

The site also lies within a Conservation Area and Section 71(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 states:

"In the exercise, with respect to any buildings or other land in the Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

Policy 169.LB specifically relates to development within designated Conservation Areas. It contains several criteria of which the most relevant in this instance is criterion vii. which states that proposals will only be permitted provided they do not generate excessive traffic, car parking, noise or cause detriment to the character of the local environment.

The proposal is considered to comply with the above relevant Development Plan policies:

- The application site sits within a designated village centre where commercial uses, including A3, are deemed to be acceptable. The principle of the proposal is therefore considered to be acceptable provided the proposal accords with the other relevant local plan policies detailed above.
- The proposal is to enlarge the existing available dining area by utilising the upper floor in order to provide additional tables during busy periods. Policy 141.TC supports the use of upper floors of premises within designated village centres as it can add to the numbers of people using the centre, adding vitality. The proposal is considered to comply in this respect.
- Hamble village centre forms part of the Hamble Conservation Area so any proposal will also assessed in this context with the impact of potential increases in traffic & customers on the character of the conservation area carefully considered.
- Hamble Square and High Street form a vibrant and busy village centre. There are many existing restaurants and pubs with parking for most in the public car park in the centre of Hamble Square. On this basis, taking into account the scale of the existing restaurant and the scale of the additional floor area, the proposal is not considered to increase customer numbers or generate additional traffic to such an extent to cause any harm to the character of the conservation area.
- In terms of the impact on residential amenities, whilst the comments from Environmental Health Officers are noted, there is already a kitchen in use on the first floor which was installed without the need for planning permission. This kitchen replaced one shown on the floor plans when the building was originally changed from A2 into A3 (see history). This element is therefore not considered to form part of the proposal and any condition would therefore not be reasonable or specific to the development.

REF. NO. C/11/69163

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Planning Obligations

New development has a direct and indirect impact for transport systems within the Borough and measures are usually necessary to mitigate the impact and/or provide new and/or improvements to existing infrastructure to meet the extra infrastructure demand. The provision of infrastructure necessary to support development is a material consideration when determining application. Under the provisions of the Planning & Compulsory Purchase Act 2004, local planning authorities can seek to secure improvements through the use of planning obligations provided they meet the three tests set out in the Community Infrastructure Levy Regulations 2010 (SI 2010/948) as amended by the Community Infrastructure Levy (Amendment) Regulations 2011 (2011/987). Planning Obligations must be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the development
- fairly and reasonably related in scale and kind to the development.

The Eastleigh Borough Local Plan Review (2001-2011) includes Policy 101.T which relates to sustainable transport considerations. It states,

'**Development which results in additional traffic on the local road network greater than the levels of growth permitted by the RTRA targets for the Borough of Eastleigh will:**

i. only be permitted if the Council is satisfied that there is a proven need for the development in the location proposed and;

ii. be subject to the provision of contributions towards the implementation of the Local Transport Plan and/or other transport proposals set out in this local plan. Any such contributions will be set at a level appropriate to the scale and impact of the development

The Council also adopted a Supplementary Planning Document (SPD): 'Planning Obligations and the use of Developers' Contributions' and associated Background Paper in July 2008. The SPD provides additional detail and guidance on the legal and policy basis for negotiating planning obligations, increases developers' awareness of planning obligations and contributions and provides transparency to the process of negotiations.
The Council takes the view that every new non-residential development which increases floor space overall will contribute to additional traffic to the local highway network. As a result new development will be expected to make off-site transport contributions necessary to mitigate traffic impacts so that the achievement of the road traffic reduction target is not compromised. The contributions sought are based on a countywide tariff set by Hampshire County Council, where the basic measurement of transport impact is quantified by the number of multi-modal trips that a development is expected to generate.

The proposal, as an increase in floor space for an existing restaurant, is considered to contribute to additional traffic on the local highway network and the following contributions have therefore been sought in order to mitigate the impact:

Loss of 61.05sqm of B1 equates to 14.35 multimodal trips.
Gain of 61.05sqm of A3 equates to 56.77 multimodal trips.

56.77 – 14.35 = additional 42.42 @ £230 multimodal trips generated on the local highway network (car/walking/cycling) per day

REF. NO. C/11/69163

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Overall contribution = £9,756 (+indexation)

However, it is noted that the proposal is only for the use of the area for 'overspill' purposes. It is anticipated that this would potentially only be on a Friday and Saturday evening and so the contribution amount has been adjusted accordingly (reduced by 5/7ths to £2,787.30 (+ indexation).

These contributions would go towards the primary schemes in the vicinity on the Council's Transport Schemes Inventory:

- TSI 163 – Strategic cycle route between Hamble and the Southampton border via the Royal Victoria Country Park and Netley. The route is part of the strategic National Cycle Route 2, which links Kent to Cornwall. This section is one of the last non-completed sections. The route will be primarily off road, and also requires signage;
- TSI 164 – Cycle Strategy 3.17: Link from Spitfire Way, forming part of the overall local strategy linking into the NCN2;
- TSI 165 - Cycle Strategy 3.15: Link from Beaulieu Road, forming part of the overall local strategy linking into the NCN2.

The applicant initially indicated that they would pay the required contributions via a direct payment but, despite being chased many times over several months, has not ever come forward with confirmation that they will pay or with any payment. The proposal is therefore considered to conflict with national planning policy, the provisions of local plan Policy 101.T and the Council's SPD:Planning Obligations, and is recommended for refusal solely on the grounds of lack of contributions.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

Recommendation is to refuse for the reason detailed above.