



PLANNING
DESIGN, ACCESS & HERITAGE
STATEMENT

ADDENDUM
To Cover Reasons for Refusal F/21/91037

Proposed Change of Use from Restaurant to 2 No. Residential Dwellings (1 No. 5-bedroom and 1 No. 1-bedroom) with Two-Storey Rear Extension, Removal of Existing Pitched Roof, New Pitched Roof, External Alterations to Openings and Internal Alteration only as necessary to facilitate Change of Use

at
The Slipway, No.1 Rope Walk, Hamble SO31 4HB

JUNE 2023

1. Preamble

- 1.1 It is not intended in this document, to reiterate the detailed information submitted to the Council with the original planning application but to set out responses to the Reasons for Refusal as a means of providing additional substantiation for this proposed resubmission.
- 1.2 Permission was refused with the officers being placed in the position of having to set out reasons for refusal which clearly contradict their own interpretation and opinion of the case. The application F/21/91037 was refused on 9th December 2022 for the following reasons:

- 1 The proposed development does not provide sufficient on-site parking to serve the development and likely to result in overspill parking into surrounding streets, to the detriment of the amenity of neighbouring residents, and into public car parks, thereby limiting spaces available for visitors and customers of the Hamble Local Centre, to the detriment of neighbouring uses and businesses. As such, the application is considered to be contrary to Policies DM1, DM14 and DM22 of the adopted Eastleigh Borough Local Plan 2016-2036 and the Council's 'Residential Parking Standards' Supplementary Planning Document.***
- 2 The proposed development fails to provide adequate private external amenity space to serve the dwellings proposed, to the detriment of the amenity of future occupiers. As such, the application is considered to be contrary to Policy DM1 of the adopted Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document.***
- 3 The proposed development would result in the loss of a commercial use within a designated retail, commercial and leisure area, to the detriment of the vitality, viability and character of the Hamble-le-Rice Local Centre and the wider Hamble Conservation Area. As such, the application is considered to be contrary to Policies DM12 and DM22 of the adopted Eastleigh Borough Local Plan 2016-2036 and the Council's 'Hamble-le-Rice Conservation Area Appraisal' Supplementary Planning Document.***
- 4 The application fails to provide for the required mitigation to offset the impacts of the development on the European protected sites (i.e. The Solent and New Forest Special Area of Conservation, Special Protection Area and Ramsar Site) from nutrient loading and recreational disturbance generated by the population increase resulting from the development. The application is therefore contrary to Policies S1, DM10 and DM11 of the Eastleigh Borough Local Plan 2016- 2036, provision within the National Planning Policy Framework and The Conservation of Habitats and Species Regulations 2017.***

- 1.3 Each of these reasons will be considered in depth below.

2. Reasons for Refusal

REASON 1 - *The proposed development does not provide sufficient on-site parking to serve the development and likely to result in overspill parking into surrounding streets, to the detriment of the amenity of neighbouring residents, and into public car parks, thereby limiting spaces available for visitors and customers of the Hamble Local Centre, to the detriment of neighbouring uses and businesses. As such, the application is considered to be contrary to Policies DM1, DM14 and DM22 of the adopted Eastleigh Borough Local Plan 2016-2036 and the Council's 'Residential Parking Standards' Supplementary Planning Document.*

- 2.1 A separate technical report by a highways consultant has been commissioned to address the issues raised in this reason which is summarised here. For clarity, the following are quotes from the Officer Report:

“HCC Highways – No objection: The change from restaurant to residential will result in a reduced trip rate, which would be beneficial to the local highway network. Whilst the existing vehicular access does not meet modern standards, vehicle speeds along High Street are very low, so unlikely to cause any highway safety issues. EBC should assess the need to meet local parking standards.”

“53.Concerns have also been raised that the scheme does not provide adequate off-road parking to serve the development. It is accepted that the two in-curtilage spaces proposed falls short of the five which would be required by the Council's 'Residential Parking Standards' SPD (2 spaces for the two-bedroom dwelling and 3 for the four-bedroom dwelling), however, it is not always possible to meet the standards set out, particularly in more historic areas which were never designed with car ownership in mind. That being the case, some degree of compromise is required, and a balance must be struck between strictly adhering to standards versus ensuring the development works and the character of the area is protected. In this instance, whilst the provision of just two spaces is not ideal, it is something that future occupiers of the dwellings will be aware of, and there is alternative public parking elsewhere in the village should occupiers choose to use it. Although the proposed parking provision does fall short of standards, on balance it is not considered that this could reasonably be used as a reason to refuse the application.”

- 2.2 From this it is clear that the Committee chose not to follow the advice from both a statutory consultee and their professional officers that:

(a) There would be resultant lower trips as a result of the development leading to a benefit to the road network and;

(b) that flexibility is required in determining the level of on-site parking to be required;

2.3 What was not made clear in the Officer report is comparative 'overspill' parking between the current approved use and that of the proposed use which, in point of fact forms the basis of the reason for refusal. This is fully clarified under section 7 of the Technical Report as now submitted which concludes that the parking demand created by the floorspace of the restaurant use would be **28 spaces of which NONE are available on site**. This is compared to a requirement (according to the Council's own Parking Guidance) of **5 spaces for the proposed use of which 2 spaces would be provided on site**. The result would be an overall **25 car parking space reduction** in pressure on parking on local streets and in local car parks.

2.4 There is therefore not (and there was not, at the point of determination of the refused application) any evidence to justify the reason for refusal as worded and issued.

REASON 2 - *The proposed development fails to provide adequate private external amenity space to serve the dwellings proposed, to the detriment of the amenity of future occupiers. As such, the application is considered to be contrary to Policy DM1 of the adopted Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document.*

2.5 The Officer views on this matter were clear:

"both dwellings would have access to individual terraces/patio areas which would provide useable outdoor amenity space. The site is also in very close proximity to Hamble Foreshore, thereby allowing a smaller than standard amenity space to be acceptable. In terms of privacy, light and outlook, these again are all acceptable, with the dwellings also having direct views of the river"

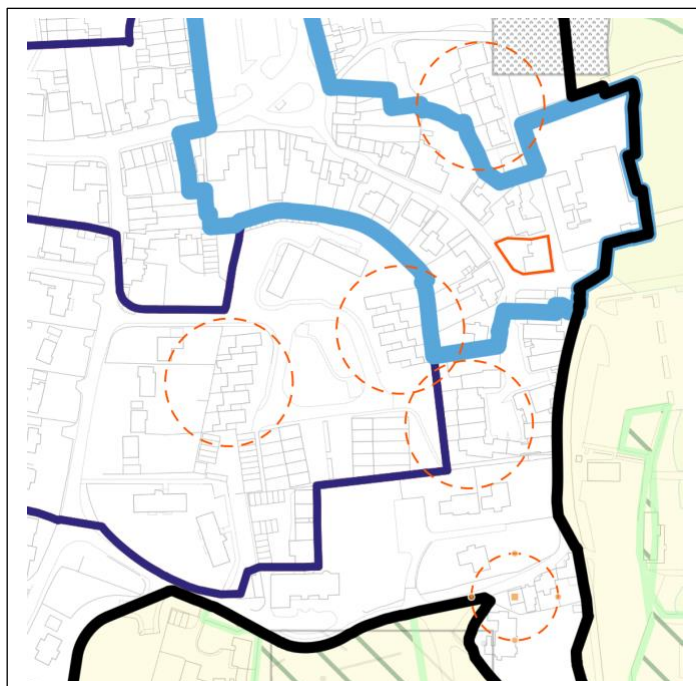
2.6 The Reason for Refusal sets aside what is a perfectly reasonable and pragmatic approach to a site which:

- a) Is existing
- b) Was originally built and used as 2 residences with the amenity space as now shown
- c) Is in a historic environment
- d) The historic and unaltered street form prevents the addition of further space

2.7 The Reason for Refusal refers to the Council's 'Quality Places' Supplementary Planning Document however the preface to the document itself makes it clear that its primary purpose is to guide new built development and states:

"Purpose of the Document - *This document provides detailed guidance in support of the Local Plan Policy 59.BE which relates to the design of development buildings and spaces in Eastleigh Borough." (underlining added)*

- 2.8 It is self-evident that the whole of this document is related to how 'new' development proposals are designed and should be used only circumspectly when considering proposals of the kind represented in this appeal, where the clear facts of historical form and location must take a predominant and determinant position.
- 2.9 This is precisely how the Planning Officers of the Council considered the case, taking a realistic approach to re-establish the original building uses in order to secure a firm future for these important listed buildings. In the Committee Report the Officers state:
- "As stated above, the building is Grade II listed, as well as being within the heart of the Hamble Conservation Area in a very prominent position visible from the river. As such it is important to ensure the building is maintained in an appropriate fashion. The best way to achieve this is to bring the building back into a viable use. Whilst loss of the restaurant is unfortunate, bringing the building back into its original domestic use will be a more viable use which will ensure this important historic building is appropriately maintained and looked after."*
- 2.10 Notwithstanding this, only a crude investigation of the immediate locality of the site identifies a close-knit character where large private amenity spaces are not the priority but rather the quality of the surroundings and the often unique outlook from properties.
- 2.12 The plan below, extracted from the Council's Planning Policies Map is sufficient to show that small amenity spaces are common within the vicinity. The appeal site is shown outlined in red with dashed circles around broad areas where private amenity spaces associated with dwellings are small.



REASON 3 - *The proposed development would result in the loss of a commercial use within a designated retail, commercial and leisure area, to the detriment of the vitality, viability and character of the Hamble-le-Rice Local Centre and the wider Hamble Conservation Area. As such, the application is considered to be contrary to Policies DM12 and DM22 of the adopted Eastleigh Borough Local Plan 2016-2036 and the Council's 'Hamble-le-Rice Conservation Area Appraisal' Supplementary Planning Document.*

- 2.13 Although the appellants understand and appreciate the Council's aims set out in Policies DM12 and DM22 which are to help retain and enhance the vitality of places such as Hamble where that vitality is a major draw to visitors to the area, it is also true that visitors are majorly attracted to the riverine, yachting and historic character of the village, in no small part established by its historic layout and buildings. The commercial uses are a 'service' to those visiting for the active pursuits provided and the visual/townscape/landscape beauty.
- 2.14 There remain numerous 'service' commercial uses to provide for visitors' needs. The appeal site contributes mostly towards the character, historic and visual draw of the village. Even when operating as a commercial use, the building retained is domestic appearance:



- 2.15 The above photograph (appeal site circled red) does not exhibit the features of a commercial building. The Officer Report points out in relation to criterion (a) of Policy DM22 (that the new use retains an active ground floor frontage):

"Whilst a residential use would not usually be considered as an 'active use' for a commercial area, in this instance the original domestic form of the building and its fenestration already impede the relationship between the inside and external public realm, being very different to that provided by an open glazed shopfront. In relation to a) above therefore, it is not

considered there would be any noticeable difference, other than the level of activity, which at present is zero given the restaurant has been shut for a year or more"

In other words, this does not look like a commercial premises and cannot be made to be viable as one, without significant and detrimental alteration to its fabric which would be contrary to conservation aims.

- 2.16 In this latter regard, the planning application made it clear that every attempt has been made to sustain the use of the building as a viable commercial business but that this has proved impossible without consideration being given to significant and unacceptable alterations being made to the fabric of the listed building. Again, the Officer Report states:

"..... evidence has been provided in support of the application to demonstrate that whilst the location may be ideal, the internal layout of the building is not suitable to be able to successfully run and manage a modern restaurant business. Given eight different businesses, including a successful local restaurant, have been unable to make the business viable, it would strongly suggest that the building is indeed unsuitable for a viable commercial use. That being the case, consideration of allowing a change of use which would result in the loss of a local centre use should be given in order to bring the building back into use."

- 2.17 The commercial history of the site has been set out in a separate document submitted with this revised application. This clearly shows how attempts to use the site commercially have faltered on numerous occasions with most recently the operator of the nearby 'Bugle' Pub concluding:

"Having seen the levels of trade we have determined that it wouldn't be viable for us to enter into a long term lease with you for the premises"

- 2.18 The insistence of the Committee that the building should be used commercially with no acceptable way of achieving this within Conservation constraints is wholly unreasonable and unsupported by any professional advice. To emphasise this the Officer Report states:

"As stated above, the building is Grade II listed, as well as being within the heart of the Hamble Conservation Area in a very prominent position visible from the river. As such it is important to ensure the building is maintained in an appropriate fashion. The best way to achieve this is to bring the building back into a viable use. Whilst loss of the restaurant is unfortunate, bringing the building back into its original domestic use will be a more viable use which will ensure this important historic building is appropriately maintained and looked after."

- 2.19 Albeit in 2004, the Council permitted the change of use of a property known as 'Compass Point' from restaurant/retail to residential with no apparent car parking on site and little residential amenity. Notwithstanding the age of the permission the site is very close to the current appeal site and was and is within the Conservation Area. The building is shown circled in green on the photograph above. Below are photographs of 'Compass

Point' at present and taken from the Howards Way TV series which emphasise also the visual harm that can be caused to an historic area by inappropriate development (in that case the building was reverted to an appropriate use [residential] with the visual character of the building being restored).



Compass Point Google Earth 2023



Compass Point - 'Howards Way' 1985 - 1990

- 2.20 Reverting to the appeal site, importantly, the Council has granted Listed Building Consent for the extensions and alterations required to achieve the reversion to residential use (Decision Notice included as part of application documentation).

REASON 4 - *The application fails to provide for the required mitigation to offset the impacts of the development on the European protected sites (i.e. The Solent and New Forest Special Area of Conservation, Special Protection Area and Ramsar Site) from nutrient loading and recreational disturbance generated by the population increase resulting from the development. The application is therefore contrary to Policies S1, DM10 and DM11 of the Eastleigh Borough Local Plan 2016- 2036, provision within the National Planning Policy Framework and The Conservation of Habitats and Species Regulations 2017.*

- 2.21 These particular issues were fully covered within the application and prior to the determination. With regard to '***mitigation to offset the impacts of the development on the European protected sites***' the Officer Report clarified:

"Whilst this concern is noted, Eastleigh Borough Council as the competent authority for the purposes of Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended), are content that adequate mitigation in this respect can be provided through the Council's New Forest Mitigation Scheme, contributions to which have already been provided by the applicant."

- 2.22 The contributions made by the applicants are to be repaid as the Council are unable to retain them without a related extant planning permission; however, the appellant is willing to pay the contributions again should the Council reconsider its position and be minded to grant planning permission.

- 2.23 With regard to Nitrate/Nutrient issues the position remains unchanged from the Officer Report which states:

"The application site will use the Peel Common wastewater treatment works, which discharges into The Solent. As such the proposed development is required to achieve nutrient neutrality for nitrogen. To mitigate for the increase in nutrients the developer intends to purchase credits from the Eastleigh Borough Council scheme, which takes land out of agricultural uses and creates recreational spaces, thus reducing the nutrient output of the land. The developer will need to provide evidence of this mitigation via a pre-occupation condition."

- 2.24 The applicant is happy to accept a pre-occupation condition as previously suggested by the Council Officers but amended (underlined) as below in order to take further account of recreational disturbance mitigation.

14. *The development hereby permitted shall not be occupied until a mitigation package addressing the additional nutrient inputs arising from the development, together with recreational disturbance generated by the population increase resulting from the development, has been submitted to, and approved in writing by, the Local Planning Authority. Such a mitigation package shall address all of the additional nutrient loading upon protected European sites from the development 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 those European Sites, having regard to the conservation objectives for they are designated. The mitigation package shall be implemented in full and evidence of this provided to the Local Planning Authority in writing prior to first occupation of the development.*

Reason: To mitigate the recreational disturbance and nitrates impacts arising from the development upon the European protected Solent Complex in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017.

- 2.25 As an alternative to the proposed condition, the appellant is prepared to submit a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended), should the Council indicate that this would be preferred.