

Recommendation: **REFUSE PERMISSION**

09/63424/003 - Enclosure of the front forecourt including the erection of 0.9m high railings positioned above the existing 0.4m high boundary wall, erection of 0.4m high conifer planters above the existing brick piers and the erection of 1.3m high railings and iron gate in between the existing brick piers and boundary wall and the erection of 1No. retractable awning to the north side of the front entrance. , PERM,02/02/2010
APP/16/00821 - Demolition of existing rear outbuildings, erection of 4No. three storey townhouses with parking and raise height of existing pub roof to form 1No. self

contained flat to second floor roof area., REF,18/10/2016

APP/17/00567 - Demolition of existing rear outbuildings, erection of 2No. 2 bed dwellings (Revised submission)., PERM,06/11/2017

APP/18/00057 - Retrospective planning permission for existing timber screen enclosure to refuse bins, awning to south wall on front elevation, external lighting, wall heaters and CCTV camera to front (west) forecourt area of Public House., PERM,05/04/2018

APP/18/00665 - Demolish existing outbuildings to ground/first floor at rear of site and construct 2No. new two bedroom houses with off road parking., DEL,

3 Proposal

The proposal is for the application to remove Condition 5 of Planning Permission APP/16/01311 and variation of Condition 6 of Planning Permission APP/16/01311 relating to alterations on the south elevation comprising removal of access door onto flat roof area and insertion of 2No. AOV obscurely glazed windows. Condition 5 of APP/16/01311, was the following:

The flat roof area at first floor level adjacent to the shared boundary with No. 93 and 93a North Street shall not be used for the purposes of a terrace or balcony at any time whatsoever, but shall only be used for infrequent and occasional maintenance purposes only.

Reason: To safeguard the amenities of the occupiers of the neighbouring property and having due regard to policy CS16 of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and the National Planning Policy Framework.

The application also proposes to vary condition 6, this condition was to ensure that the development was carried out in accordance with the approved plans.

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

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
CS21	(Developer Requirements)
CS9	(Housing)

Havant Borough Local Plan (Allocations) July 2014

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

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

5 Statutory and Non Statutory Consultations

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: 37

Number of site notices: 1.

Statutory advertisement: Not applicable.

Number of representations received: 2

Comment	Officer Comment
1. Condition 5 of Grant of Planning Permission APP/16/01311 should be retained because the reason for which the condition was placed is still relevant. Neighbours living next door at number 93 and 93a still need to have their amenities safeguarded. The effect of noise (including voices) coming from activities taking place on the flat roof travels to a far wider area than would any such activity taking place at ground level. Condition 5 should be retained.	See Section 7
2. Contrary to what the Applicant states on the Application Form (APP/18/00535), pedestrian access is easily available via the door leading out of the main building on the east elevation of the Railway Inn onto the flat roof. From there it is that a short step through the brown wooden gate in the fence And onto the flat roof area at first floor level adjacent to the shared boundary with number 93 and 93A.	
3. I do not object to obscured glazed a V	

windows providing they are activated only in the event of fire and not for everyday use.	
I cannot see a problem with obscured glazed AOV windows as long as they are only used in the event of an emergency and not for everyday ventilation. Reason being loss of privacy, extra light and noise pollution. The request to remove condition 5 would be unacceptable. The reason it was put in place is still very relevant, which is to ensure privacy and the quiet enjoyment of our home. Condition 5 should be retained and flat roof area should not be used as a storage area for privacy/safety reasons. The applicant has provided very vague reasoning for its removal.	See section 7
As an additional note, not once have us the neighbours have been asked, approached or even enquired concerning raising our chimneys to accommodate theoretical plans. I strongly advise to refrain from the commencement of any building work, as it may have to go back to the drawing board, which I have been advised will become a planning matter and could be an expensive and time consuming mistake.	This is 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 the character and appearance of the area
- (iii) Impact upon residential amenity

(i) Principle of development

The principle of this development was established under the granting of application APP/16/01311. In the intervening period from the decision, there has been no changes in terms of local or national planning policies to indicate that a difference decision should now be made.

(ii) Impact upon the character and appearance of the area

This variation/removal of condition application proposes largely the same scheme as was previously permitted. As outlined in the description of development, the changes involve the change of a fire door, and its replacement by two windows, on the rear (southern elevation), these changes are not considered to have a significant adverse impact on either the character or appearance of the property or the immediate and surrounding area.

(iii) Impact upon residential amenity

The previous application included, a restrictive condition to prohibit the use of the flat roof area unless for essential maintenance purposes, given its proximity to the shared boundary with No. 93 and 93a. The use of this area was considered to be unacceptable as it would have resulted in a loss of privacy to these neighbours, given its close proximity to the private amenity areas of this neighbouring property. The current application, outlines that given the removal of the fire door, and replacement with a window, that this condition is now not required, as access would not be possible from the building, in addition the application outlines that it does not propose to use this space for an amenity area. However, within the main building an existing fire access door is present, which will still allow access through a fence gate at first floor level to the flat roofed area, and could be used by guests of the B & B or the staff. It is considered that given the location of the flat roofed area, immediately adjacent to the boundary with 93 & 93A North Street, and being at first level would lead to direct overlooking and loss of privacy to the amenities of this neighbouring property.

The Local Planning Authority have considered this application in accordance with paragraph 203 of the National Planning Policy Framework, which outlines that "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions". The LPA have considered whether a condition to provide suitable screening between the application site and 93/93A North Street could be implemented, to provide the required level of privacy. However any such condition would require screening to a level, that in itself, could have a significant adverse impact on the amenities of the neighbouring property, in terms of further potential harm from loss of sunlight/daylight and/or further general disturbance. Furthermore any such structure would require planning permission in its own right, and to control it thorough a condition would render any condition which sought to control this ultra vires (unenforceable). Overall, it is considered that the removal of condition 5 is unacceptable, as it would have an unacceptable impact on the amenities of adjoining residents as a result of overlooking and loss of privacy.

(vi) Developer contributions

This development would increase the number of dwellings within the 5.6km zone identified as significant in potentially increasing recreational pressure on the Solent SPA. Natural England's advice in regard all new housing development within this zone is that it is likely to have a significant effect on the SPA. The measures of mitigation adopted by the LPA in April 2016 requires a payment these were secured in the previous application in accordance with the Solent Disturbance Mitigation Project.

8 Conclusion

The proposed removal of condition 5 is considered unacceptable, as the proposal would be un-neighbourly development, which would have an unacceptable impact on the amenities of 93 and 93A North Street as a result of overlooking and loss of privacy. As such the proposed development is considered to be contrary to the NPPF and policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011. The

application is therefore recommended for refusal.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/18/00535 for the following reason:

- 1 The use of the flat roofed area at first floor adjacent to the shared boundary with 93 and 93A North Street, as amenity space would result in unacceptable over looking and loss of privacy to neighbouring residents. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.