
Site Address:	3 Elm Grove, Hayling Island, PO11 9EA		
Proposal:	Erection of 5No. 2 bed holiday flats/commercial leisure accommodation (Sui Generis Use)		
Application No:	APP/16/00720	Expiry Date:	15/09/2016
Applicant:	Mrs Simmons	Case Officer:	Tina Pickup
Agent:			
Ward:	Hayling West		

Recommendation: **GRANT PERMISSION**

1 Site Description

The application site is located to the rear of 5 Elm Grove (a post office with flat above and rear ground floor extension) and adjacent to and accessed through a public car park. The site is currently derelict and overgrown and the former remanent's of single storey timber buildings previously used as a printing workshop and two garages have recently been cleared from the site. There is a post and chain link fence that is overgrown with ivy etc on the boundaries to the car park (north and west). To the southern boundary there is a 1 metre high wall, but to the east there is no boundary treatment between the site and the rear of the flats in the premises fronting Elm Grove and their rear entrances/patio areas.

To the south of the site lies the South Hayling United Reform Church - the small church garden abuts the western half of the site and a two storey gable end with some windows sits close to the shared boundary at the eastern half of the site. Elm Grove is mixed in character with commercial properties at ground floor level and residential accommodation above. There are further residential properties in Elm Close, which is located to the west of the public car park. The site is located within the Mengham/Gable Head District Centre.

2 Planning History

90/52810/0001: Replacement of existing single storey print works with a two storey building with offices over and associated car parking. Approved.

06/52810/0004: Erection of a new two storey building to house existing print works with offices over and associated car parking. Approved.

09/52810/0005: Erection of a two storey building to house existing print works with offices over, and associated parking - renewal of previous consent 06/52810/004. Demolition of existing single storey timber building. Approved.

APP/11/01191: Removal of Condition 8 of Planning Permission 09/52810/005 in order to allow for light industrial use (Class B1c) with ancillary office and storage space. Approved.

APP/13/00496: Erection of new building following demolition of timber building and garages and change of use from printers workshop to MOT test centre. Refused.

APP/13/00982: Erection of new building and lych gate following demolition of timber

building and garages, and change of use from printers to MOT Test Centre. (Revised Application). Approved. A condition of this Planning Permission was varied at Appeal.

APP/14/00974: Creation of new building following demolition of timber workshop and garages and change of use from printers to MOT test centre and 1No. 2 bed dwelling. Refused.

APP/14/01277: Creation of new building following demolition of timber workshop and garages and change of use from printers to MOT test centre and offices. Approved.

APP/15/00368: Demolition of existing timber building and garages. Construction of new building comprising 4No. 1 bed flats. Permitted September 2015.

APP/15/01265 - Demolition of timber building and garages and erection of new building containing 4No. 2 bed flats (revised scheme to that approved under Planning Permission APP/15/00368) Permitted 23/12/2015

APP/16/00364 - Demolition of timber building and garages and erection of new 2 storey building containing 5No. 2 bed flats (revised scheme to that approved under Planning Permission APP/15/01265) Permitted 06/06/2016

3 Proposal

Erection of 5No. 2 bed holiday flats/commercial leisure accommodation.

This application is identical in design, layout and built form to the scheme for 5No. 2 bed flats recently approved under APP/16/00364. The difference relates to the intended occupiers - instead of standard residential units this application seeks permission for the units to be occupied on a commercial basis as tourist/holiday accommodation i.e. self-catering holiday apartments - likely in connection with watersports tuition.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS4	()
CS5	(Tourism)
CS6	(Regeneration of the Borough)
CS9	(Housing)
DM10	(Pollution)
DM13	(Car and Cycle Parking on Residential Development)

Havant Borough Local Plan (Allocations) July 2014

DM17	(Contaminated Land)
AL1	(Presumption in Favour of Sustainable Development)
DM18	(Protecting New Development from Pollution)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL3	(Town, District and Local Centres)

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

5 Statutory and Non Statutory Consultations

Estates Manager - With reference to this application, the route shown for vehicular access to the proposed development at 3 Elm Grove is across the area of car park accessed from Hollow Lane. Whilst the land over which this part of the proposed route passes does currently form a car park and is therefore accessible to the public, it is not publicly adopted highway and remains within the private ownership of the Council. Should the decision be taken by the Council in the future to develop this area of the car park for alternative use, the route as shown on the application may no longer be available to occupiers of the proposed development.

Building Control - No comment

Hampshire Biodiversity Information Centre, Hampshire House

Environmental Health Manager - Re *Nuisance*: Note similarity to APP/16/00364 and request same conditions and informatives; Re *Ground Contamination*: change in occupation to leisure accommodation - Comments are therefore largely unchanged from the previous response(s)

It is significant that the use class proposed under this application is distinct from the residential use class previously consented. The Sui-Generis use not being an extension of a C3 accommodation status (which would otherwise accommodate use for the purpose of a holiday let) effectively precludes future use of these properties as C3 accommodation without specific consent for a change of use. This in turn means that the development could be considered to have a reduced sensitivity to contamination, where short-duration exposure profiles would apply alongside different activity based exposure scenarios.

This does not negate the need to quantify the nature & extent of contamination at the site (as it is foreseeable that it might be desirable to change the Sui-Generis use to C3 in future, in response to different funding or market environments), however it would be appropriate for remedial & risk mitigation standards to reflect the consented use class (e.g. to increase the contamination intervention benchmark, or reduce the target for contamination exposure reduction)

As these proposals still represent a comprehensive redevelopment of the site, it remains appropriate to require that baseline conditions are established, for the purpose of identifying & mitigating;

- i) any acute risks that may exist,
- ii) any unacceptable risks to the occupants of off-site premises,
...and to inform future planning decisions in respect of the properties.

Conditions are therefore recommended, as previously, in order to secure a physical investigation & inspection of the site of sufficient scope to enable an appropriate assessment of associated risks to human receptors &/or the built environment (including those off site).

It is noted that conditions 4 & 5 of the existing consent relate to the assessment of ground conditions & dealing with unexpected contamination (respectively). In line with the comments above, I would request that these conditions be transferred to any consent granted under the current proposals.

Re Air Quality

As previously, the proposed development does not introduce new exposure to an area of poor air quality, particularly given the reduced sensitivity of occupants under the commercial use classification for reason of likely exposures being limited to a short-term scenario.

The development is of insufficient scale as to be likely to materially impact local traffic movements, congestion, or (therefore) air quality.

Development Engineer - The Highway Authority has no adverse comment to this application because the proposal is located in a car park and is sufficiently far enough from the adopted highway for it not to cause a highway safety problem on the surrounding highway network (that already has traffic regulation orders on the roads). However HBC estates have pointed out that " should the decision be taken by the Council in the future to develop this area of the car park for alternative use, the route as shown on the application may no longer be available to occupiers of the proposed development." As a result the building could not be serviced and the availability of the existing car will not be available for this proposed building which lack it own car parking.

Waste Strategy Team Leader - none received

Hampshire Constabulary - none received

Traffic Management - As highlighted in the initial application, there is concern from a Parking & Traffic Management perspective that the development has no associated parking provision despite a probable requirement for up to 10 spaces when the leisure accommodation is at full occupancy.

The risks of displaced parking congestion onto adjoining residential areas such as Hollow Lane would be mitigated if approval is conditional on the owner arranging parking permits for the use of guests. Otherwise changes to the existing on street parking restrictions may need to be considered as a result and it is requested that provision is made for a sum no less than £3000 to be provided by the developer to be set aside to allow a TRO be processed within a three year period of the construction of the development.

Housing Needs Manager - 5 units does not reach the current threshold for affordable housing

County Ecologist - The application is not accompanied by any ecological information and I have therefore undertaken a non-exhaustive desk-based assessment using the application documents, recent GIS mapping and online sources. In short, the building is situated in an urban location and is of a type that would not be likely to support legally-protected species. I do not consider that further information is required

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: 36

Number of site notices: one

Statutory advertisement: Not applicable.

Number of representations received: 5

Summary: No parking & if attracting watersport industry will have vans, campers, trailers with boards & sails - since car park charged parking shifted to side streets which are congested; Agree need for parking permits for the use of guests; previous permission for ordinary residential use likely to be workers only needing to park in evening when car park free; but tourist would be all day with trailers trying to avoid paying and parking elsewhere; updated parking standards should require 2 spaces per unit; church car park dedicated for church builder users; construction vehicles will

also require parking
Comment: see section 7

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 and tourist use
- (ii) Impact on the application site and locality
- (iii) Impact on neighbouring amenity
- (iv) Parking
- (v) Developer contributions and other matters

(i) Principle of development and tourist use

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria.

Planning permission has already been granted for various schemes on the site, but none so far implemented. In terms of design and built form an identical extant permission exists for residential development in the form of 5No. 2 bed flats - APP/16/00364 refers. As such the principle of this new building and residential use on the site has already been established. It has been accepted that a residential use can contribute to the vitality of the District Centre and this would still be the case if occupied by tourists. Policy CS5 supports proposals for tourist accommodation.

However this proposal is for tourist accommodation and seeks to allow the occupation of the flats in connection with leisure purposes on a commercial basis - given Hayling's association with watersports and windsurfing it is likely to be operated by a Watersports company enabling them to offer watersports lessons and accommodation as a complete package.

The applicant considers this to be a Sui Generis Use, citing the Moore Court of Appeal case in 2013 which related to a 9 bedroom dwelling used for short term holiday lets for those with shared interests eg yoga, cycling etc. It was found that because up to 20 people could occupy the dwelling, not arriving as pre-formed groups but coming together because of their shared interests, and therefore not occupying it as a single household, then the characteristics of the occupancy resulted in a material change of use as a holiday let.

Whilst standard self-catering holiday occupation is usually a C3 use, in this instance the applicant has specifically applied for holiday flats or "commercial leisure purposes" as a Sui Generis Use in order to progress the financing of the site. Therefore this application will be determined on this basis which means that if implemented as this Sui Generis Use there is no permitted change back to standard residential use and should the tourist/commercial leisure use business fail in the future then a further planning application would be needed to revert back to residential C3 use.

(ii) Impact on the application site and locality

The current proposal is identical in terms of massing and design to the previously approved scheme and therefore would similarly have no detrimental impact on the character and appearance of the application site and locality.

The internal layout continues to propose the main living space (lounge/kitchens) at the western end of the building to maximise outlook and light. This offers a less oppressive outlook and allow more light into windows, to a degree that would be acceptable within the context of densely developed urban areas, where there are often limited amenity areas around flatted buildings. The Environmental Health Officer has recommended conditions aimed at protecting occupiers from potential contamination at the site.

(iii) Impact on neighbouring amenity

Occupation by tourists coming together for a shared leisure activity such as watersports lessons is likely to mean that the comings and goings and activity is more 'group' based with occupiers in each of the 5 units possibly arriving and leaving at similar times for days activities and even possibly sharing meals/BBQ together i.e. creating a more 'party' atmosphere.

In this mixed area this potential additional noise and disturbance is not however likely to be overly harmful - The closest residential units are above the shops in Elm Grove to the east and the layout of the building would have bedrooms at this eastern end and not the living rooms. The courtyard where joint outdoor activities may take place is also at the western end away from any neighbours. The rear gardens of dwellings in Elm Close are buffered by the public car park. Therefore it is considered that the proposed use would not have any material harm to neighbouring amenity.

(iv) Parking

The car parking requirements of tourists is likely to be subtly different to permanent residents in that they are likely to arrive by vehicle and need daytime parking and possibly have windsurfs on trailers or roof rack. Given that the site is adjacent/within a public car park where there are some 20 minutes free spaces and then charges are currently only £3 per day - tourists may find this acceptable and simply pay the daily charge. Alternatively the Parking Team have confirmed that weekly permits are also available to tourists and not just residents of HBC. Whilst local residents try to avoid the charge by parking on nearby residential roads, this is considered less likely for tourists unfamiliar with the locality.

There is space for windsurfs and small trailers within the courtyard. On this basis, it is considered that the material difference to parking requirements of tourists compared to the previous standard C3 use would be insignificant and manageable through the purchase of either daily tickets or weekly permits. Given these factors, it would be difficult to justify a reason for refusal on the grounds of lack of parking provision. Likewise funding for a TRO could not be substantiated

The reference by the Highway Engineer and Estates Manager that the car park could be developed in the future and no longer be available as a route to serve the development is a future scenario that cannot influence this decision - the existing proposal currently has adequate access over a public car park and any future redevelopment would need to take account of surrounding development at that time.

(v) Developer contributions and other matters

Policy CS9 requires that on smaller sites of between 5 and 14 dwellings a financial contribution be sought towards off-site Affordable Housing. However, following the

recent Court of Appeal decision on the quashing of the previous Ministerial Statement made by the legal challenge by Reading & West Berks - the PPG was updated on 19th May 2016 to re-introduce the higher affordable housing thresholds of 11 units or over. This national policy change in effect supersedes the local policy CS9 and as such at the time of reporting (05/09/16) it would therefore be contrary to national policy to seek a financial contribution towards Affordable Housing.

The proposal is subject to the Community Infrastructure Levy and following discussions about the floorspace calculation, revised forms have been submitted for the agreed gross internal floorspace of 438.18 sqm. Therefore the chargeable development requires a CIL payment of £52,620.72 and the Draft Liability Notice has been issued. The required Assumption of Liability Notice form has been returned.

This development would also 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. Policy DM24 of the Allocations Plan which was adopted on 30 June 2014, covers this issue and allows for a financial contribution to be made towards mitigation measures. This is currently set at £176 per dwelling plus monitoring and admin fee to the Solent Disturbance Mitigation Project. This development triggers a financial requirement of £944. However the applicant has already made 2 payments under both APP/15/00368 (£742) and APP/15/01265 (£748) which exceeds the amount now due. The applicant has returned the appropriate form acknowledging and agreeing to the current amount, and once it is known which scheme is implemented, the appropriate refund will be made.

There is sufficient room for cycle and domestic bin storage within the site.

8 **Conclusion**

The proposed construction of the new building comprising 5No. 2 bed flats to be occupied for tourist/ commercial leisure uses is a Sui Generis Use and is considered acceptable in principle and, subject to appropriate conditions, should not have a detrimental impact on the character and appearance of the application site or locality or the amenity of occupiers of neighbouring properties. Developer contributions and other matters can be satisfactorily dealt with by way of planning conditions and normal process. The planning application should therefore be approved.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/16/00720

(A)

(B) 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:
5 No 2 bedrooms holiday flats/Commercial Leisure Accommodation Drawing No 4 dated 17th June 16
Reason: - To ensure provision of a satisfactory development.
- 3 Construction of the building hereby permitted shall not commence until samples and details of all external facing and roofing materials, including those to be used in the boundary treatment, shall be submitted to and approved by the Local Planning Authority. Thereafter only such approved materials and finishes shall be used in carrying out the development.
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 2012.
- 4 Prior to the commencement of development approved by this planning permission, a scheme to deal with the risks associated with potential ground contamination at the site shall be submitted to and approved in writing by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.
1. A site investigation appropriate to the scale of the site and to its previous commercial use(s), to provide sufficient information for an appropriate assessment of the risks to all receptors that may be affected, including those off site.
 2. The results of the site investigation and risk assessment (1) and if appropriate, a remediation strategy based on these results giving full details of the remediation measures required, and how they are to be undertaken.
 3. A verification report shall be prepared on completion of the remediation measures set out in (2) (if any) confirming that measures have been undertaken in accordance with the method statement, and setting out measures for maintenance, further monitoring and reporting.
- All elements shall be adhered to unless agreed in writing by the Local Planning Authority.
Reason: To prevent future occupiers being exposed to unacceptable contamination risk associated with previous commercial activities at the development site; to ensure that the site does not pose a risk to nearby residential properties, and having due regard to policies DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and DM17 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework.
- 5 If, during development, contamination not previously identified on site is found to be present (for example solvent odour, stained or discoloured soils or sub-soils), no further development shall be undertaken until a report has been submitted to and approved by the Local Planning Authority detailing how that contamination is to be dealt with. Unless otherwise agreed in writing with the Local Planning Authority, all works outlined in the submitted report shall be adhered to.
Reason: To prevent future occupiers being exposed to unacceptable contamination risk associated with previous commercial activities at the development site; to ensure that the site does not pose a risk to nearby residential properties, and having due regard to policies DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and DM17 of the Havant Borough

Local Plan (Allocations) 2014 and the National Planning Policy Framework.

- 6 The development shall not be brought into use until space for the storage of cycles and refuse bins has been provided within the site in accordance with details, including plans and elevations, to be agreed in writing with the Local Planning Authority. Such areas shall thereafter be retained and used solely for those purposes.

Reason: In the interests of local amenity and highway safety and having due regard to policies CS16, DM10 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 7 The development shall not be brought into use until the proposed acoustic fence has been provided in accordance with further details to first be agreed in writing with the Local Planning Authority. The fence shall thereafter be retained and maintained in the position and condition thus agreed.

Reason: In the interests of local amenity and the amenities of occupiers of the building, and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and policy DM18 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

- 8 Unless otherwise agreed in writing with the Local Planning Authority, the windows at first floor level in the east elevation of the building shall have a sill height of a minimum of 1.7m above finished floor level, and shall be retained in that condition at all times.

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.