
Site Address: 26A Elm Grove, Hayling Island, PO11 9EF
Proposal: Application for Change of Use from Existing Sui Generis (Taxi Offices) to Sui Generis (Hot food Take-away) establishment.
Application Type: Full Planning Permission
Application No: APP/22/00408 Expiry Date: 15/06/2022
Applicant: Mr Munteanu
Agent: Mr Hopper Case Officer: Graham Speller
 HOP Architects Ltd
Ward: Hayling East

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 The site is located on the eastern side of Elm Grove and was a taxi office known as Summerfield of Hayling Ltd., albeit it appears that it was more recently used for a school wear outlet.
- 1.2 It forms one of a terrace of units with two other hot food takeaways adjacent, namely Nobbies Fish & Chips and Royal Chef Chinese Take-Away.
- 1.3 The site is located on the fringe of the Mengham Town Centre.
- 1.4 There is limited off street parking on the frontage but there is a large public car park situated to the rear of the unit.

2 Planning History

93/56127/001 - Continued use for an unlimited period of ground floor for private hire offices (renewal of previous temporary consent 91/56127).
PERM,05/04/1993
91/56127/000 - Continued use of ground floor for private hire offices.,
ZHIS,28/05/1991

3 Proposal

- 3.1 Application for Change of Use from Existing Sui Generis (Taxi Offices) to Sui Generis (Hot food Take-away) establishment.
- 3.2 The application is for a material change of use and no operational development is proposed as part of this application but it is clear that there will be a requirement for some form of extraction system.
- 3.3 As noted above, it appears that the premises was last in use as a school wear outlet, however, the authorised use is private hire offices, and the application has been made on that basis following officer advice.

4 Policy Considerations

National Planning Policy Framework 2021
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)
CS2 (Employment)
CS4 (
DM10 (Pollution)
DM14 (Car and Cycle Parking on Development (excluding residential))
DM2 (Protection of Existing Community Facilities and Shops)
DM5 (Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)
AL3 (Town, District and Local Centres)

Submission Version Havant Local Plan

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

5 Statutory and Non Statutory Consultations

Councillor Leah Turner - Hayling East

No comments received.

Councillor M Wilson - Hayling East

No comments received.

Councillor R Raines - Hayling East

No comments received.

Crime Prevention - Minor Apps

Thank you for your letter of the 27th May 2022 and the opportunity to comment upon the application. Having considered the application I have the following comments to make with reference to the prevention of crime and disorder (Anti-Social Behaviour (ASB)).

The National Planning Policy Framework makes clear the Government's continuing commitment to "create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and resilience".

National Planning Practice Guidance advises, that planning has a role in preventing crime and malicious threats. It reminds Local Authorities of their obligations under Section 17 of the Crime and Disorder Act 1998 (as amended), specifically "to exercise their functions with due regard to their likely effect on crime and disorder, and to do all they reasonably can to prevent crime and disorder."

The guidance advises: "Planning provides an important opportunity to consider the security of the built environment, those that live and work in it and the services it provides." It continues, "Good design that considers security as an intrinsic part of a masterplan or individual development can help achieve places that are safe as well as attractive, which function well and which do not need subsequent work to achieve or improve resilience." "Good design means a wide range of crimes from theft to terrorism are less likely to happen by making committing those crimes more difficult."

Whilst we have no objections in principle to this change of use, we note that this application proposes opening hours of noon until midnight on Saturday and Sunday. We would be concerned if these closing times are later than the adjacent takeaway businesses. This may cause the nearby takeaways to apply for longer opening hours, which may lead to an increase in crime and disorder. To reduce the opportunities for crime and disorder we would recommend that the closing time is in line with the nearby takeaway establishments, with a latest closing time of 11pm.

Economic Development

No comments received.

Environmental Health Manager, Community Group

Observations / Comments:

I refer to the above application under the Town & Country Planning Acts passed to this Service for comment.

I have read the enclosed documentation provided by the applicant and can comment as follows:

As this is an existing mixed use area, I have no objection in principle to this application.

However, this development could potentially lead to a detrimental loss of amenity, to nearby residential properties due to odour, noise and vibration. Furthermore no clarity has been provided as to how this proposed hot food take-away will integrate their extraction equipment into the existing extract system of an adjacent or nearby similar operation. There are no drawings, other than an east & south elevation depicting an extractor flue, to show the layout of the proposed integrated extract system:

"Measures are incorporated to mitigate the effect of hot food preparation on nearby properties by utilising existing extract and ventilation from neighbouring premises"

I would suggest that if this has been agreed with one of the existing take-aways, the LPA would need to understand who will take responsibility for any odour, noise or vibration issues that might arise in the future from such an arrangement, and whether such an arrangement is in fact, feasible.

There is also no detail concerning any other air moving equipment such as compressor / condenser units, the proposed extraction system, any anti-vibration measures, noise reduction measures or predictions of noise impact, and / or odour reduction or filtration.

An additional aspect to also be covered in the aforementioned acoustic report, is that it be clarified as to whether any additional mitigation measures are required, to ensure that there will be no impact on any residential receptors above the shop, from any structure borne and / or air borne noise that may be generated within the proposed hot food take-away, below.

The hours of opening are given as 12:00 to 23:00 Monday to Sunday on the application form. However, in the Planning statement, times of opening are given as 12:00 to 23:00 Mon to Fri & 12:00 to midnight Sat & Sun. Based on the existing times of operation of the existing two hot food businesses, I would recommend that the times of operation for the proposed take-away be restricted to the closing times of 23:00 for each day of opening, to ensure no additional noise impact on nearby residential receptors.

There is no mention of any delivery service to customers. However, if such is to operate from this premises, I would also recommend that this concludes by the 23:00 closing time.

Both of the above could be conditioned as such, unless the applicant is prepared to agree to those restrictions in writing.

However, if the Committee were of a mind to approve this application at this time, I would ask that the following conditions and informatives also be applied to any consent that may be granted:

Condition 1: Noise

No commencement of operation shall take place until an acoustic assessment to show that the rating level of any plant & equipment, including extraction systems, condensers, air conditioning plant and so forth, as part of this development, will be at least 5 dB below the existing background levels, has been submitted to and been approved in writing by the Local Planning Authority. The assessment must be carried out by a suitably qualified acoustic consultant / engineer and be in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound. Such acoustic assessment should also clarify any additional mitigation measures that may be required, to ensure no impact from structure borne and / or air borne noise generated within the proposed hot food take-away

Reason: In order to safeguard the amenities of adjoining residential occupiers. The details are needed prior to the start of work so that any potential mitigating measures can be incorporated into the build.

Condition 2: Cooking odours

Equipment shall be installed to suppress and disperse fumes and/or odours produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. Details of the equipment shall be submitted to, and approved by, the Local Planning Authority and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties.

Condition 3: Cooking odours

The extraction equipment installed in pursuance to Condition (No.2) above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority and shall not be resumed until the system has been restored to full working order. Documentary evidence including receipts, invoices and copies of any service contracts in connection with the use and maintenance of the extraction equipment, shall be kept and made available for inspection at the premises by officers of the Local Planning Authority, to facilitate monitoring of compliance with this condition.

Reason: To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected.

Condition 4: Opening times

Times of opening/ closing and any deliveries to customers, can be agreed by the applicant, or conditioned as such.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

Condition 5: Delivery times

Deliveries of goods to the premises should be restricted to 09:00 to 20:00 Monday to Saturday & nothing on a Sunday. Again this can be conditioned as such or agreed by the applicant.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

Informatives:**Regarding Hours of Work:** _

You are hereby requested to ensure that no works or ancillary operations associated with any construction / installation works at the development, which are audible at the site boundary, shall take place on any Sunday or Bank / Public Holiday, nor on any other day except between the following times: Monday to Friday: 8.00 – 18.00 and Saturday: 8:00 – 13.00. This is in order to protect the occupants of nearby residential properties from noise and vibration nuisance during this period.

Regarding Dust Control:

You are hereby requested to ensure that measures are put in place for the control of any dust that might emanate from the development site, during construction / installation. This is in order to protect the occupants of nearby residential properties from dust nuisance.

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: 18

Number of site notices: At least one site notice exists

Statutory advertisement: Not applicable.

Number of representations received: 4

Four representations raising the following comments:

- Not served notice on
- Plans inaccurate
- Planning statements fails to mention what mitigation measures are and how the proposal will protect amenities
- Plans suggest an extract will be installed but no extraction system shown on plans
- No noise assessment reports to assess noise and vibration levels of the new extraction system
- Fails to comply with policies CS16 and DM10
- When all three ducts are in operation, there is already an excessive noise, unpleasant smell of grease, and vibrations shake the whole flat
- Another extraction system will even worsen the existing situation
- Object to opening hours
- Will be a fourth extraction system which will be extremely noisy notwithstanding the smells from the kitchen and air pollution
- Will block out outlook from windows
- More intensive use open 7 days a week and until such late hours will significantly be detrimental to life and amenities
- Only 1 parking space that can be used for the taxi office and isn't sufficient space for 2 car parking in front of the office
- Will worsen the traffic in the area and cause hazards due to increase of customers without enough parking

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 including hours of opening
- (iv) Parking

(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.

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

7.3 As noted above, whilst it appears that the unit was last used as a school wear outlet, its authorised use with the benefit of planning permission was as private hire offices and the application for a change of use has been submitted on that basis. As such, there would be no loss of an authorised retail unit as a result of the proposed change of use.

7.4 The other units within the terrace are already in take-away use and whilst the representations are noted there is no planning policy objection to the proposed change of use.

- 7.5 As advised by Environmental Health, there will be a requirement for an extract system, however, details of such a system have not been submitted as part of the application. Notwithstanding, this can be dealt with by appropriate pre-commencement conditions, which the applicant's agent has agreed to. There are already extract systems serving the other take-away outlets and therefore it is not considered that an additional flue would be detrimental to the appearance of the building or the character of the wider area.

(iii) Impact upon residential amenity including hours of opening

- 7.6 In relation to the impact of the proposed use of the premises on the amenities of local residents, the representations cited above are noted. However, Environmental Health have recommended appropriate pre-commencement conditions in relation to noise, cooking odours, opening times and delivery times. As such, it is considered that the addition of a further take-away unit would not have a materially greater impact than the existing units provided appropriate conditions are imposed and the development operates in accordance with these.
- 7.7 It is also considered appropriate, as recommended by Environmental Health, that appropriate conditions are imposed regarding hours of opening as well as hours of deliveries. The Crime Prevention Officer also comments that to reduce the opportunities for crime and disorder they would recommend that the closing time is in line with the nearby takeaway establishments, with the latest closing time of 11pm.

(iv) Parking

- 7.8 There is one parking space available on the frontage, however, there are public car parks both to the rear of the property and across the road which would be sufficient for parking of additional vehicles.

8 Conclusion

- 8.1 The proposal would have limited and acceptable impact on the neighbours and the character of the area and is therefore considered to be appropriate and recommended for approval subject to appropriate conditions.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/22/00408 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 Compulsory Purchase Act 2004.

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

HOPA-002-P - SITE LOCATION PLAN EXISTING & PROPOSED PLANS

SUPPORTING STATEMENT

Reason: To ensure provision of a satisfactory development.

- 3 The take-away use hereby permitted shall not be commenced until an acoustic assessment to show that the rating level of any plant & equipment, including extraction systems, condensers, air conditioning plant and so forth, as part of this development, will be at least 5 dB below the existing background levels, has been submitted to and been approved in writing by the Local Planning Authority. The assessment must be carried out by a suitably qualified acoustic consultant / engineer and be in accordance with BS4142: 2014 Methods for rating and assessing industrial and commercial sound. Such acoustic assessment should also clarify any additional mitigation measures that may be required, to ensure no impact from structure borne and / or air borne noise generated within the proposed hot food take-away

Reason: In order to safeguard the amenities of adjoining residential occupiers and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2021. The details are needed prior to the start of work so that any potential mitigating measures can be incorporated into the build.

- 4 Equipment shall be installed to suppress and disperse fumes and/or odours produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. Details of the equipment and any necessary mitigation measures shall be submitted to, and approved in writing by, the Local Planning Authority. The equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority along with any necessary mitigation measures prior to the commencement of use.

Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2021.

- 5 The extraction equipment and any mitigation measures installed in pursuance to Condition (No.4) above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority and shall not be resumed until the system has been restored to full working order. Documentary evidence including receipts, invoices and copies of any service contracts in connection with the use and maintenance of the extraction equipment, shall be kept and made available for inspection at the premises by officers of the Local Planning Authority, to facilitate monitoring of compliance with this condition.

Reason: To ensure that the use does not result in excessive cooking odours outside the premises and that the amenity of occupiers of nearby properties is protected and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2021.

- 6 The premises shall not be open to the public or deliveries dispatched from the premises before 12:00 hours or after 23:00 hours on Monday to Sunday.

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 2021.

- 7 Deliveries of goods to the premises shall be restricted to 09:00 hours to 20:00 hours Monday to Saturday & nothing on a Sunday or recognised Public Holidays.

Reason: In order to safeguard the amenities of adjoining residential occupiers and having due regard to policy DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2021.