
Site Address: 4A Record Road, Emsworth, PO10 7NS
Proposal: Variation of Condition 4 of Planning Permission APP/18/00709 to allow for use of annexe for occasional AIR BnB rental, up to a maximum of 90-days per calendar year.
Application Type: Variation/Relief of Condition
Application No: APP/24/00242 Expiry Date: 05/06/2024
Applicant: Mr Blatch
Agent: Case Officer: Tina Pickup
Ward: Emsworth

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 The application site relates to a detached chalet style dwelling set in a backland position served by a private graveled drive. This dwelling was permitted under 09/64293/004 in December 2009. The principal elevation of the dwelling faces south over the turning and parking area, where, on the southern boundary is a long single storey, pitched roof, barn style outbuilding.
- 1.2 The outbuilding spans the entire southern boundary but is in dual ownership with the eastern half having doors in its northern elevation and belonging to the application site; whilst the western half belongs to and fronts south, No 61 Havant Road. Where within the application site, the outbuilding has been renovated and converted to living accommodation under APP/18/00709 and now includes large crittel style windows in its north elevation and roof lights within the roof slope. Internally the space includes a bedroom, bathroom and living space with kitchenette (sink, fridge, microwave, but no cooker). Condition 4 of APP/18/00709 required the accommodation to be occupied solely for purposes ancillary to the main house, and not to be used as a separate unit of accommodation.
- 1.3 However, following Enforcement enquires, it became apparent that the accommodation has been let out on AirBnB as tourist accommodation, in breach of condition 4. This application seeks to regularise the use, which would remain largely for family use on an ancillary basis, but with the ability to rent it out as separate tourist accommodation for up to 90 days a year.
- 1.4 Outside the converted barn a small area has been paved to form a sitting out area for occupiers of the accommodation - separated from the main gravel drive by some trellis with planting. The eastern boundary with 2 Record Road comprises a high brick wall and thus the created sitting out area is quite private and independent.

2 Planning History

09/64293/003 - Erection of 1No. 3 bed detached dwelling to rear of No. 4 Record Road, with associated parking and landscaping (Revised Application).WD,13/10/2009
09/64293/004 - Erection of 1No. 3 bed detached dwelling to rear with associated parking and landscaping (revised application)., S106,24/12/2009
APP/18/00709 - Conversion of existing outbuilding to ancillary accommodation to main dwelling., PERM,12/09/2018

3 Proposal

- 3.1 Variation of Condition 4 of Planning Permission APP/18/00709 to allow for use of annexe for occasional AIR BnB rental, up to a maximum of 90-days per calendar year.
- 3.2 This would result in a mixed use site: mainly C3 dwellinghouse but with some C1 guest house/tourist use.

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

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

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)

Emsworth Neighbourhood Plan Post Examination Version 2020

ENP_W4 (Technology & Tourism)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Emsworth Residents Forum

None received

Environmental Health Manager

No Objection

Natural England

No comments received on the HRA AA, despite chasing

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: 10

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
No objection in principle provided that AirBnB is strictly limited to a maximum of 90 days per calendar year and the use of the ancillary accommodation for this purpose is carefully monitored.	Condition can be applied requiring records of occupation to be kept for monitoring purposes
Notwithstanding our reluctant acceptance of this particular proposal, subject to strict conditions over the permitted use, we are concerned that the proposal could set a precedent which could lead to the proliferation of AIR BnB within residential areas of the borough to the detriment of the amenity of residents. In the circumstances, we believe that:-	Noted - but each application considered on its merits
1. Havant Borough Council should prepare and adopt an overall policy for the control of AIR BnB in the borough, ideally before determining this application.	New Local Plan will in due course update existing tourism policy CS5; W4 from Emsworth Plan up to date
2. This application should be considered by the full Planning Committee rather than being dealt with under delegated powers.	Not been referred to committee by Ward Members

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 tourism use
- (ii) Appropriateness of design and impact on the character of the area
- (iii) Effect on neighbouring properties
- (iv) Access and Parking
- (v) Compliance with Habitats Regulations

(i) Principle of development and tourism use

7.2 This is a Section 73 application to vary a condition and if approved, its granting effectively re-issues the original permission and must repeat and update the relevant conditions unless they have been discharged. In this case condition 4 is being sought to be varied (ancillary use). The determination of this application must consider the impact of the proposed changes only and does not need to re-consider the whole development which already has planning permission and been implemented under APP/18/00709.

7.3 The application site is located within the defined urban area, therefore development is considered acceptable in principle subject to development management criteria. The site lies beyond the defined town centre of Emsworth but is readily accessible to the centre and foreshore etc. Policy CS5 of the Core Strategy and policy W4 of the Emsworth Neighbourhood plan support the principle of providing tourist accommodation and the growth of the tourist industry in Emsworth, recognising that visitors contribute to the local economy. Therefore, the mixed use of the site for both C3 dwellinghouse and C1 holiday accommodation can be supported in principle, subject to consideration of any adverse impacts that may arise from the new use, as set out below:

(ii) Appropriateness of design and impact on the character of the area

7.4 The external design and appearance of the site is largely unchanged from that approved as ancillary accommodation under APP/18/00709. The introduction of the trellis to create an enclosed outdoor space was not expected as ancillary accommodation, but in itself, due to its height and siting, the erection of the trellis does not constitute development requiring permission. As the site is set in a backland position it is not visible at all from public vantage points and therefore has no visual impact on the character of the area.

7.5 In terms of character of area, the site is located in a quiet residential suburb. The scale of the tourist use, at just one double bedroom, for up to 90 days a year, is considered to have a minimal impact on that character - the additional comings and goings to the site and area would be marginal and would not be harmful to the locality, meeting the requirements of Policy CS16 of the HBLP (Core strategy).

(iii) Effect on neighbouring properties

7.6 The converted outbuilding and its outside space forms the boundary with its neighbours at 2 and 2a Record Road, as well as 61 Havant Road and therefore has a tight relationship with the gardens of these properties. It is noted that holiday occupation can result in more opportunity to socialise with resultant disturbance. However the scale of the accommodation and proposed use, at just one double room for only 90 days per year, would likely only result in couples occupying the annexe with limited additional noise and disturbance above genuine ancillary use. The applicant notes that they would not tolerate parties or noise after 10pm and would manage arrivals and departures between 9am and 7pm - all to reduce any impacts on neighbours and themselves as occupiers of the main house.

7.7 The outside space is bounded by a high brick wall which would provide effective screening - so there would be no overlooking or loss of privacy to the neighbouring gardens. This wall also helps mitigate any noise and light disturbance.

- 7.8 Overall it is considered that the scale of the proposal is sufficiently modest to have minimal impact on the quiet amenity of the neighbours and the proposal would not result in any loss of light, outlook, or privacy and would have limited and acceptable noise and disturbance impacts on the properties immediately adjacent to the application site, meeting the requirements of Policies DM10 and CS16 of the HBLP (Core Strategy).

(iv) Access and Parking

- 7.9 The adopted Parking SPD requires 1 space to be provided per hotel/guest bedroom, which would be in addition to the parking to serve the main dwelling. The submitted parking plan indicates a dedicated space for AirBnb guests outside the entrance to the annexe and there would still be adequate parking on the site for the main house. Notably there is also adequate space in the drive area for vehicles to turn, which, given the long narrow drive, is necessary to enable vehicles to leave the site in a forward gear, see approaching vehicles and minimise noise associated with reversing.
- 7.10 Overall it is considered that the parking and turning on site is adequate for the additional 90 day tourist use of the site, and can be considered compliant with policy DM13 and the Parking SPD.

(v) Compliance with Habitats Regulations

- 7.11 The formation of a new tourist accommodation unit, with its associated overnight stays by people unrelated to the main dwelling, would introduce independent residential occupation, tantamount to the creation of a new residential unit in terms of the Habitats Regs. The future occupiers of the holiday unit would be independent to the existing dwelling on the site and be making their own recreational trips to the foreshore and have their own impacts on water quality. Therefore appropriate mitigation for the additional recreational disturbance and effects on water quality need to be provided, at a proportionate level for the proposed 90 day use, in order to comply with the Habitats Regulations.
- 7.12 The Council has therefore conducted a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several Solent European Sites due to both the increase in recreation and the decrease in water quality that would result from the proposed development resulting in the independent residential occupation of this 1 bed annexe for up to 90 days per calendar year, i.e. equivalent to 1/4 of the year.
- 7.13 Using Natural England's updated Methodology in January 2024, the planning application was then subject to Appropriate Assessment under Regulation 63. This included two packages of avoidance and mitigation packages. The first is a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy. The second is a package of measures based on the Position Statement on Nutrient Neutral Development.

- 7.14 With respect to the Solent Recreation Mitigation Strategy the applicant has entered into a Unilateral Undertaking and paid the appropriate sum of £145.06 to address the proportionate potential recreational harm from the new development. Therefore it is considered that the recreational element of the impacts of development have been adequately mitigated against. With respect to the water quality issue and the Council's updated Position Statement, January 2024, the applicant has been able to also enter into the mitigation scheme at Warblington Farm to offset the nitrogen from the development. A Unilateral Undertaking has been received, together with the appropriate contribution of £480.66 as proportionate nutrient mitigation. This is based on the development achieving a water efficiency of 110 l/p/p/d. Since this is a retrospective development and the building is already fitted out with fixtures and fittings, a water calculator has been provided demonstrating that the annexe building achieves a water efficiency of only 92.98 l/p/p/d in compliance with the nitrogen budget. To ensure ongoing compliance it is necessary to add a monitoring condition.
- 7.15 The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have in this instance not provided a formal response, despite chasing. NE recognise that HBC have measures in place to manage potential impacts through contributions to an agreed strategic solution which they consider to be ecologically sound. Since these measures have been secured and the appropriate monitoring condition proposed, then as competent authority it is considered that the proposal will not result in any adverse effects on the integrity of the Solent European Sites.

8 Conclusion

- 8.1 This is a Section 73 application and its granting effectively re-issues the original permission and must repeat or amend accordingly the relevant conditions unless they have already been discharged. It is considered that it would be appropriate to vary condition 4 of APP/18/01234 to allow the use of the otherwise ancillary annexe for 90 days per calendar year for tourist use. It is considered that there would be minimal adverse impacts of doing so and conditions could satisfactorily control the use. On this basis it is recommended for approval.

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT PERMISSION** for application APP/24/00242 subject to the following conditions

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

Location and Site Plan
Parking Plan
Existing & Proposed Floor Plans Drawing No 001 from APP/18/00709
Existing & Proposed Elevations Drawing No 002 from APP/18/00709
Existing & Proposed Elevations Drawing No 003 from APP/18/00709
Occupancy Calculator

Solent Nutrient Budget Calculator on Council's website dated 3 June 2024
Water Calculator on Council's website dated 21 June 2024

Reason: To ensure provision of a satisfactory development.

- 2 The accommodation hereby permitted shall be occupied for purposes ancillary to the occupation and enjoyment of the existing dwelling and for tourist holiday accommodation for up to 90 days per calendar year, and shall not be used as a sole or main residence or separate unit of accommodation. A log book must be kept of paying visitors, their arrival and departure dates, which must be made available for inspection by the Local Planning Authority upon request.

Reason: The unit of accommodation is not in a satisfactory position with insufficient amenity space to be occupied separately from the main dwelling and to monitor the 90 day per calendar year tourist use, having due regard to policies CS5 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, and policy W4 of the Emsworth neighbourhood Plan, 2019 - 2036, and the National Planning Policy Framework.

- 3 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no additional windows, doors or rooflights shall be inserted within the south or eastern elevation and roofslope of the hereby approved annexe without the prior approval of the Local Planning Authority.

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.

- 4 At all times following occupation of the development hereby approved, all measures for water usage within the submitted nutrient budget and water calculator shall be maintained in the development in perpetuity.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. In compliance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017, the local planning authority has a duty to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council has also had regard to Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011.