

Planning, Design & Access Statement

18 Rails Lane, Hayling Island, Havant, PO11 9LL.

Continued use as a cafe [E(b)] and bar (sui generis).



Prepared by
Robert Tutton Town Planning Consultants Ltd
on behalf of Mrs F. Branwhite

Introduction

This statement supports the full planning application for the continued use of the vacant cafe [E(b)] and bar (*sui generis*) premises at 18 Rails Lane.

This statement explains the nature and extent of the proposal and how it responds to the local environment, in its built and socio-economic contexts. It has regard to key national and local planning policies relating to commercial premises and should be read in conjunction with the other supporting documents.



The application site viewed from the west, on Rails Lane.

Context

This 'L'-shaped 'brownfield' site of **0.012 hectare** forms part of a local centre on the east side of Rails Lane on Hayling Island, within Havant Borough Council's administrative area,

Regardless of whether one approaches the site from the north or south along Rails Lane, public views of the site are blocked by the properties that face west towards the road.

Pedestrian access to the holding is afforded via entrances in the east (private) and west (public) elevations. A surfaced courtyard at the rear affords parking for one member of staff, via Bembridge Drive. Kerbside parking is afforded along the east side of Rails Lane outside the parade. A public litter bin stands in the Rails Lane frontage.

Patrons of this locality enjoy safe and convenient access to the wide range of services and facilities offered by the local centre and the substantial public car park on Sea Front (just a minute's walk away to the southwest). Sea Front forms part of the route followed by three bus services (nos.30, 31 and 630) that take passengers west to West Town and north to Havant town centre. This site evidently enjoys good access to a range of services and facilities without the need to use a private car (ie. it is an accessible, sustainable location).

In his 'Written Ministerial Statement: Planning for Growth' of March 2011, Decentralisation Minister Greg Clark confirmed that the *'Government's clear expectation is that the answer to development and growth should wherever possible be 'yes' except where this would compromise the key sustainable development principles set out in national planning policy'*. Paragraph 11 of the 'National Planning Policy Framework' ('NPPF') reiterated that principle, by generating a presumption in favour of sustainable development and the approval without delay of proposals that accord with the development plan.

Paragraph 117 of the NPPF ('Making effective use of land') states that *'Planning...decisions should promote an effective use of land in meeting the need for...other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.'*

Section 38 of the 'Planning and Compulsory Purchase Act 2004' requires an application to be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise; an element of flexibility is provided which enables decisions to be made which may disagree with the development plan.

The development plan for Hayling Island comprises the 'Havant Borough Core Strategy' (2011), the 'Havant Borough Local Plan (Allocations)' document (2014) and Supplementary Planning Documents. The Policies Map of the development plan shows this site within the 'Urban Area Boundary' and the Rails Lane 'Local Centre' with no special designations; it does *not* fall within a Flood Zone.

Core Strategy Policy CS4 ('Town, District and Local Centres') states that '*Planning permission will be granted for appropriate town centre development proposals that...Support small and independent businesses*'. Core Strategy Policy CS16 ('High Quality Design') indicates that planning permission will be granted for development '*...which helps to create places where people want to live, work and relax...Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible*' and '*...does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking*'. Core Strategy Policy CS17 ('Concentration and Distribution of Development within the Urban Areas') provides for the grant of planning permission for development that makes the most effective use of land which '*Prioritises development on previously developed land, including redundant, derelict or underused land and buildings within the urban area*'. Core Strategy Policy DM2 ('Protection of Existing Community Facilities and Shops') recorded that '*Development proposing the change of use or loss of any premises...currently or last used as community services and facilities, including local shops, will only be permitted where both the following criteria can be met: 1. It has been demonstrated, through an active marketing process that the premises or land are no longer viable for their authorised use or any other use which would provide a beneficial facility to the local community. 2. The facility is no longer required for a community use or that there is an easily accessible existing or new facility for the community it is intended to serve*'. Core Strategy Policy DM10 ('Pollution') provides for the grant of planning permission for development that does not cause pollution through noise, where the health and safety of existing and future users of the site or nearby occupiers and residents, is not put at risk.

Paragraph 10.17 of the Core Strategy recorded Havant Borough Council's recognition that '*...food, drink...uses can be important in adding to the vitality and viability of an area for residents and visitors.*'. Core Strategy Policy DM5 ('Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses') consequently generates a presumption in favour of the use of existing premises for Class A3 and A4 purposes where:-

"Measures are incorporated, where a proposal includes the preparation of hot food, to mitigate the effect on nearby properties.

- 1. The measures proposed in respect of criterion 1 are such that the installation does not materially detract from the appearance of the building itself and the wider locality.*
- 2. The measures proposed in respect of criterion 1 are suitable for the range and nature of hot food to be prepared on the premises.*
- 3. The development includes adequate provision for the disposal, storage and collection of refuse, including litter bins for use by customers.*
- 4. The development would not result in indiscriminate customer parking and/or traffic movement that would be likely to create hazards for traffic or pedestrians.*
- 5. The development would not cause unacceptable disturbance to the occupiers of nearby residential property at times when activity in the immediate vicinity would otherwise be at a relatively quiet level.*
- 6. In the case of changes of use, any marketing requirements are met."*

This locality is characterised by two- and three-storey premises with residential accommodation above, in a variety of formats and styles (see the aerial photograph on the

cover page); with commercial uses at ground-floor level which notably, include neighbouring premises that open late for the majority of the week eg: 'Best-One' convenience store (no.22 Rails Lane, next-door to the north opens until **10.00pm**); the 'Dynasty' takeaway (no.2 Southwood Road, next-door but one to the south also opens until **10.00pm**, Tuesday-Sunday); 'Virdees Ice Cream & Pizza' takeaway (no.12 Rails Lane, next-door to the south is open until 9.00pm, Monday-Sunday); the 'Hayling Grill Chicken' takeaway (no.10 Rails Lane, next-door but one to the south opens until **10.00pm** Monday-Saturday and 9pm on Sundays) [planning permission APP/18/00176 was granted by Havant Borough Council in July 2018 for that use]. Notably, Condition 3 imposed on permission APP/18/00176 at 10 Rails Lane allows the premises to operate until **11.00pm** Monday-Saturday and **10.00pm** on a Sunday or Bank Holiday.

The application premises is a three-storey building, with a vacant, mixed-use cafe/bar (E(b)/*sui generis* - formerly A3/A4) at ground-floor, with a two-storey flatted accommodation above that is accessed via a enclosed staircase on the south boundary.

The application site comprises the ground-floor unit [with a gross internal area of **59.98m²**]. Planning permission APP/11/01205 was granted by Havant Borough Council in September 2011 for mixed use of the premises as a shop (A1) and cafe (A3), with **six** external tables on



The application site viewed from the east, on the rear private parking area.

the paved forecourt area. The mixed shop/cafe use commenced in May 2011. Condition 1 of the Borough Council's decision notice recorded that *'The premises hereby permitted shall not open to the public before 09:00 hours or remain so open after **19:00** hours on **Monday to Sunday** inclusive', 'Reason' being 'To protect the amenities of nearby residential properties and having due regard to policy DM10 of the Havant Borough Core Strategy 2011, which forms part of the Local Development Framework and Planning Policy Statement 23.'* (emphasis added). The associated Officers' Report had recorded that:

- Paragraph 1.3 (Site Description') - *'There is a mix of units within the parade including an A1 local shop, Off Licence and a Gift Shop. Thus ensuring a strong A1 retail mix within the parade serving both local residents and tourists.'*
- Section 5 ('Statutory and Non Statutory Consultations') - *'Planning Policy...As there is no primary shopping area identified in local centres there is no concentration test to apply on the change of use from A1. Considered that the change of use will enhance the vitality and viability of the local centre which serves both local shopping needs and tourists. The application therefore complies with Policy CS4. Recommend approve on policy grounds.'*
- Paragraph 7.3 ('Effect on existing retail units and tourist facilities') - *'It is considered that the provision of an additional A1/A3 facility in the area will improve the economic viability of the area as a whole, attracting additional visitors both in the form of local residents and tourist visitors. Encouraging tourists to utilise existing A1 facilities in the area. It is not considered that there is an over provision of A3 facilities in the area.'*
- Paragraph 7.6 ('...Adequacy of parking') - *'It is considered that the parking provision in the surrounding area will sufficiently support this change of use.'*

In principle, a mixed shop/cafe use was evidently seen to accord with its surroundings and satisfied Havant Borough Council's requirements; it was a useful model for this proposal.

Notwithstanding permission APP/11/01205, the application premises came to be used as a wine/gin bar (a *sui generis* use) on **19th July 2016** (ie 5 years ago), when the shop (A1) use ceased; it has been a mixed-use cafe [E(b)] and gin bar (*sui generis*) since **June 2018** (ie over 3 years). It is understood that the premises closed on 26th March 2020 due to the Covid-19 lockdown, reopened in July 2020 and has been closed again since November 2020. Despite the 7pm curfew imposed by Condition 1 of permission APP/11/01205, the Premises Licence (HPR0321) issued by Havant Borough Council in December 2018 allowed the consumption of alcohol on the premises from 4pm until **10.30pm**. The earlier (ie July 2016-June 2018) mixed-use cafe [E(b)] and wine/gin bar (*sui generis*) operated **9am-10.20pm**, Monday-to-Sunday, serving tea/coffee 9am-6pm and alcohol thereafter (ie 6pm-10.20pm). Between June 2018 and November 2019, the gin-bar use was open **4pm-10.30pm**, Monday-Sunday, in accordance with the Premises Licence (ie HPR0321).

Since the A1 retail use ceased in **July 2016** (ie 5 years ago) and even then sold only ice-creams, sweets and drinks (ie it was not a 'local shop'), Policy DM2 ('Protection of Existing Community Facilities and Shops') and criterion 7 of Policy DM5 ('Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses') are not relevant to the consideration of this application. Further, the neighbouring 'Best-One' convenience shop (to the north) has since afforded such provision. Hot food would not be prepared on these premises, so no special measures are required and criteria 1-3 of Policy DM5 are not irrelevant. Since the premises has operated as a part-bar since **July 2016** (ie 5 years ago) and completely as a bar since **June 2018** (ie for over three years) until **10.30pm** Monday-Sunday, without the concern of Havant Borough Council; such use has evidently not disturbed the occupiers of nearby residences at times when activity in the immediate vicinity would otherwise be relatively quiet (see criterion 6 of Policy DM5). The historic bar use has not resulted in indiscriminate customer parking or hazardous traffic movement for users of the adjacent highways (ie criterion 6 of Policy DM5 has been satisfied).

It is evident that the use of this urban, sustainable commercial premises as a mixed-use cafe/bar [E(b)/*Sui generis*] accords with the character of its surroundings without detriment to the amenities of neighbours or the vitality/viability of the local centre and not has compromised *any* key sustainable development principles of national or local planning policy.

The applicant acquired the premises in May on the understanding that the bar (*sui generis*) use was authorised.

The Premises Licence that was issued on 7th July (HPR0321) allows the consumption of alcohol on the premises from 12pm until **10.30pm**.

Consultation

In accordance with the advice proffered at paragraph 39 ('Pre-application engagement and front loading') of the NPPF, the views of immediate neighbours at nos. 22 (to the north), 12 (to the south) and 20 (above) Rails Lane were invited by the applicant on the proposal; no adverse comments were received.

Amount, Layout, Scale & Appearance

In light of the previous usage, the favourable views expressed by neighbours, the character of the area and the positive presumption set down in the development plan, it is proposed that these premises continue to operate as a mixed-use cafe [E(b)] and gin bar (*sui generis*), to derive maximum advantage from the site's accessibility benefits.

Respect for the privacy of existing and future residents has been accorded priority in the formulation of this proposal, from concept stage. It is proposed that the premises operate from **9am-10pm**, Monday-Sunday; tea, coffee and sandwiches would be served from 9am-12pm, with alcohol thereafter, in accordance with the Premises Licence. **Eight** new staff positions would be created by this proposal (ie two full-time and six part-time). The **four** (two less than before) sets of tables and chairs on the Rails Lane frontage would be removed at **7.30pm** every evening.

It is submitted that continued use of these premises in this manner would make most efficient use of this sustainable site that accords with the character of its surroundings and would not result in a detrimental impact on the amenities of neighbours.

Crime & Anti-social behaviour

No special measures are considered necessary for the prevention of crime or anti-social behaviour.

Access

The site would continue to be served by the existing pedestrian access arrangements. Refuse and recycling bins would be stored by the rear (east) elevation and collected on the requisite day.

Pedestrian and vehicular traffic associated with the proposal would not be materially harmful to neighbouring properties or cause danger or inconvenience to users of the public highway.

Noise

The view is held that there would be no significant loss of amenity caused by noise.

Conclusion

It is submitted that the requirements of the development plan are *satisfied* by this proposal since it: has not reduced the vitality or viability of the local centre; has not detracted from the existing street-scene; is in keeping with the character of its surroundings; provides safe access for pedestrians; respects privacy, outlook and sunlight; and takes into account the prospect of criminal activity and anti-social behaviour.

Continued use of these vacant commercial premises as a cafe/bar would regain efficient use of this highly sustainable urban site without harm to the character or appearance of the locality or the amenities of neighbours. It is contended that this proposal comprises an acceptable form of development that accords with the development plan and no other material considerations suggest otherwise.

Niall Tutton BSc (Hons), MA
Robert Tutton Town Planning Consultants Ltd
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