

**TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

12 Creek Road, Hayling Island, PO11 9RD

**Local Planning Authority Reference:
APP/15/01058**

**Planning Inspectorate Reference:
APP/X1735/A/16/3144010**

HAVANT BOROUGH COUNCIL



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR COLLIER AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE CONVERSION OF EXISTING FIRST AND SECOND FLOORS FROM A NIGHTCLUB INTO 10 LETTING ROOMS 12 CREEK ROAD, HAYLING ISLAND, PO11 9RD

Planning Inspectorate Reference: APP/X1735/A/16/3144010

LPA REF: APP/15/01058

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The application site comprises a three storey flat roofed building of a predominantly brick finish, located at the south-eastern corner of the junction of Creek Road with Wheatlands Avenue. The building is occupied by Lily Sugars public house on the ground floor with the upper two floors (accessed separately from Creek Road) currently being vacant. It is understood that these upper floors were most recently used as a nightclub, but this use ceased several years ago.
- 1.2 There is very limited space around the building – an external canopied seating area for the public house to the north and west sides and a limited storage and servicing area, also containing an external fire escape, to the north east corner. The site is immediately adjoined by residential properties. There are a limited number of commercial properties and a community centre in the locality, but the area is predominantly characterised by high/medium density residential land use. The site is located within Flood Zone 2.

2.0 PLANNING HISTORY

2.1 APP/15/00566

Change of use of the first and second floors of the building from a nightclub to 10 letting rooms. The upper floors would each comprise 5 rentable rooms together with a shared kitchen, dining and laundry room with access via the existing self contained entrance from Creek Road - This application was refused on the grounds of insufficient car and cycle provision; insufficient bin provision and non payment of Solent Recreation Mitigation Partnership financial contribution

3.0 THE APPLICATION

- 3.1 The application the subject of this appeal seeks permission for the change of use of the first and second floors of the building from a nightclub to 10 letting rooms. The upper floors would each comprise 5 rentable rooms together with a shared kitchen, dining and laundry room with access via the existing self contained entrance from Creek Road. This application was been submitted in an attempt to overcome the previous reasons for refusal for application APP/15/00566.

- 3.5 The application was determined by delegated powers of the 18th November 2015 and was refused for the follow reasons;

Development of the site in the manner proposed would not provide adequate provision of car parking in accordance with the Local Planning Authority's adopted standards and would therefore have a detrimental impact on the amenities of occupiers of the building and the locality. The proposal is therefore contrary to policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

The proposal, without the completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Project, is contrary to the National Planning Policy Framework 2012 and the Council's Policy on mitigating the impacts of development which, in accordance with Policy DM24 of the Local Plan, seeks to mitigate the impact of new residential development on the Solent Special Protection Area.

4.0 PLANNING POLICY

- 4.1 The Development Plan comprises the Havant Borough Local Plan (Core Strategy) 2011 and the Havant Borough Local Plan (Allocations). In addition the National Planning Policy Framework sets the national framework for the consideration and determination of planning applications.
- 4.2 The following policies of the Havant Borough Local Plan (Core Strategy) 2011 (HBLP (CS) 2011) are considered to be particularly relevant to the determination of this appeal:

CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS21	(Developer Requirements)
CS6	(Regeneration of the Borough)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM2	(Protection of Existing Community Facilities and Shops)

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)

Supplementary Planning Guidance and Other Documents

Borough Design Guide SPD (2011)
Housing SPD (2011)
Residential Parking and Cycling Provision SPD (2010)
Developer Contributions Guide (2013)

More details in relation to the relevance of these policies will be provided in part 6 of this appeal statement.

5.0 REPRESENTATIONS

- 5.1 The application which is the subject of this appeal was published in accordance with the Council's adopted publicity procedures, and 41 neighbour notification letters were sent. In addition a site notice was posted. A total of 2 representations were received. A summary of the comments is provided below:

Summary:

Proposal is in Flood Zone; Over-intensive level of occupancy; Potential for anti-social behaviour connected with public house use on ground floor; Lack of parking and cycle facilities; Lack of amenity space for washing or refuse.

There is a great need for letting rooms on Hayling Island. Many caravan dwellers need to over-winter somewhere waiting for the season to restart. There is also a lack of affordable rented accommodation for young people or jobseekers. I have heard complaints that there are no parking facilities but there is a large public car park at the end of the road

- 5.2 Consultations were carried out and consultation replies were received from the following:

Planning Policy:

The application contradicts Policy DM13. If it were to be approved it would lead to several amenity problems and other issues relating to residents' quality of life. Therefore recommend refusal.

Environment Agency:

No objection to the application as submitted.

Development Engineer:

I would draw attention to the fact there is no car parking for this proposal, which is contrary to HBC Car Parking Guidance. This has not lead to a highway reason for refusal but the Planning Authority may be concerned with the amenity issue of no parking.

Environmental Health:

Development as proposed will be required to be licensed under House in Multiple Occupation (HMO) legislation. Applicant must contact HBC and submit appropriate documentation to obtain licence. Requires licensing because it is a three storey building and more than 5 people (not forming a single household) will share communal facilities. One suggested condition regard acoustic mitigation and 4 informatives.

Southern Water

Require a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent: 'A formal application for connection to the public sewerage system is required in order to service this development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk'.

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator

of the premises.

- 5.3 Copies of the consultation replies have previously been forwarded to The Planning Inspectorate.

6.0 PLANNING CONSIDERATIONS

- 6.1 Having regard to the relevant policies of the development plan, and the reason for refusal given in the Decision Notice dated 18 November 2015, it is considered that the main two issues for consideration are:

First Issue

Development of the site in the manner proposed would not provide adequate provision of car parking in accordance with the Local Planning Authority's adopted standards and would therefore have a detrimental impact on the amenities of occupiers of the building and the locality. The proposal is therefore contrary to policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

Second Issue

The proposal, without the completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Project, is contrary to the National Planning Policy Framework 2012 and the Council's Policy on mitigating the impacts of development which, in accordance with Policy DM24 of the Local Plan, seeks to mitigate the impact of new residential development on the Solent Special Protection Area.

First Issue

- 6.2 There is currently no on-site car parking available at the site and no provision is made in connection with the proposal. Indeed, there is no space available on site to make such provision. Policy DM13 requires residential proposals to comply with the standards contained in the Residential Parking and Cycling Provision SPD. In this location, the standards require 3 allocated or 2.4 unallocated spaces for each 4+ bedroom unit. Whilst, in terms of dwelling size, this is as high as the standards allow for, it is considered that the proposed intensity of residential use in this case is such that a higher number of spaces might reasonably be required. This provision remains unchanged from the previously refused application, the applicant has attempted to provide justification for the lack of parking within a supporting statement that considered that the potential occupants of the rooms are likely to be car free users and that visitors to the site could use the free public car park in Wheatlands Avenue.
- 6.3 The Applicant envisages that occupiers would use public transport or cycles, with an existing cycle store (as shown on the submitted drawings) being utilised. However, whilst the spaces in the Wheatlands car park are currently free of charge, this might change in the future and in any case parking is time restricted for a maximum stay of 24 hours. This is not considered to offer a realistic alternative to on-site parking on a daily basis.
- 6.4 Bus routes link Creek Road with other parts of Hayling Island and on to Havant. The Applicant also points out that public footpaths link the site with the beach, local shops and a nature reserve, whilst the road leads to convenience stores, cafes and

recreational facilities. This is acknowledged but nevertheless the site is not within a highly accessible location where some discretion might be exercised on parking standards.

- 6.5 The Applicant has commented that the previous use of the premises as a nightclub did not benefit from any parking. Whilst this was the case, it is considered that such use would normally have been by customers visiting over relatively short periods, rather than by full time residents, and so the use of public car parking would have been more practical. The issue is in any case more concerned with amenity impacts for future occupiers of the HMO having nowhere to park on site and no realistic alternatives.
- 6.6 Overall, the lack of dedicated parking provision is considered likely to result in amenity problems and a reduced quality of life for occupiers of the development. It would also make it difficult for occupiers to receive deliveries or visitors at the property and would be likely to lead to illegal parking and pressure on existing limited nearby on-street parking spaces, potentially causing neighbourhood tensions. It is not considered that this revised application addressed this previous reason for refusal in terms of car parking provision.

Second Issue

- 6.5 With regard to the proposed development's impact on the Solent's Chichester and Langstone Harbours Special Protection Area (SPA) and the Portsmouth Harbour SPA, this development would increase the number of dwellings within the 5.6km zone identified as resulting in a significant effect through increasing recreational pressure on the SPAs. Natural England's advice with regard to 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 local planning authority at the end of June 2014 requires a payment of £176 per dwelling (plus monitoring and administration fees) to the Solent Recreation Mitigation Partnership – this is to secure accordance with Policy DM24 of the Havant Borough Local Plan (Allocations) 2014.

- 6.6 The principle of securing developer contributions is set by policy CS21 of the Local Plan (Core Strategy) 2011 which states that:

Development will be permitted if on-site and/or off-site infrastructure requirements are met. Where new or improved infrastructure is essential for planning permission to be granted the council will require the on-site or off site provision and/or contributions through planning obligations, agreements or tariffs in accordance with the relevant legislation for off-site provision. The need for contributions will depend on information and advice from infrastructure providers on the expected impacts of the development on all the infrastructure types.

- 6.7 Policy DM24 of the Local Plan (Allocations) 2014 states that:

Planning permission will be granted for residential developments that avoid or mitigate a likely significant effect on the SPAs, caused by recreational disturbance through the in-combination effect of net additional dwellings. This mitigation can be provided through:

- a) A financial contribution...*

Where these measures cannot be provided development proposals will be refused, unless the applicant can show, subject to meeting the tests of the Habitats Regulations, that there would not be an adverse effect on the integrity of the SPAs.

- 6.8 The applicant has indicated that he is willing to pay this contribution during the course of the application. If an agreement is signed and the monies paid then this reason for refusal will have been overcome.
- 6.9 Should, the monies not be paid or a S106 agreement entered into to pay them, then the Council would contend that the failure to make any binding arrangements to secure mitigation measures to offset the impacts of additional recreational pressure on the SPA will be such that the scheme would be likely to lead to a significant effect on the SPA. As the development is not necessary for the management of the SPA it would not meet the provisions of the Conservation of Habitats and Species Regulations (2010 as amended), it must be refused.

7.0 COMMENTS ON THE GROUNDS OF APPEAL

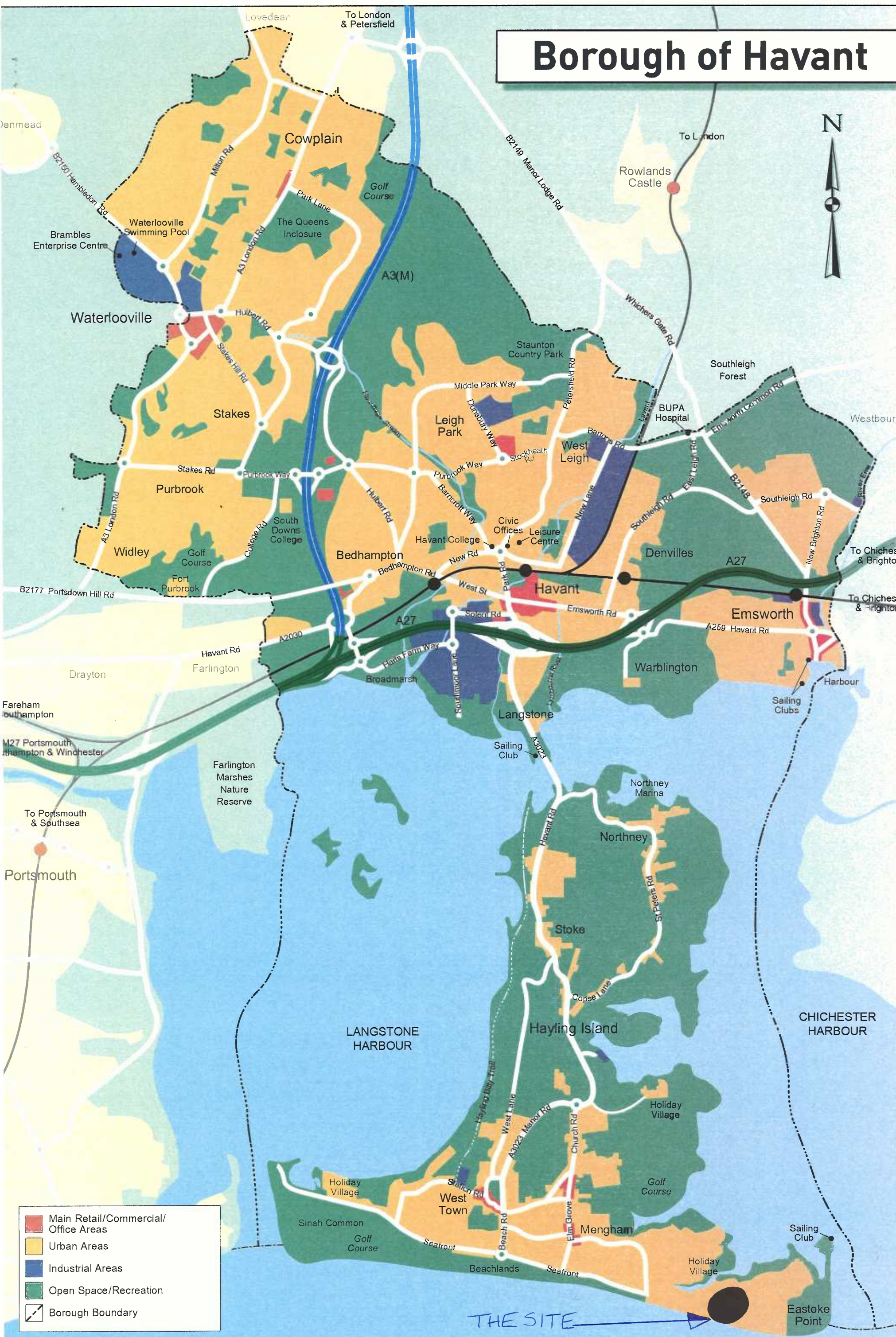
- 7.1 It is considered that the planning merits comments have already been addressed above.

8.0 CONCLUSION

- 8.1 In conclusion, The proposed change of use of the first and second floors of the building from a nightclub to 10 letting rooms would be acceptable in principle and, in itself, would not have a detrimental impact on the character and appearance of the application site or locality, or on the amenities of occupiers of neighbouring properties.

However, development of the site in the manner proposed would not provide adequate provision for car parking and would therefore have a detrimental impact on the amenities of occupiers of the building and the locality. Furthermore, the proposal does not make an appropriate contribution to mitigating the impact of new residential development on the Solent Special Protection Area. The planning application should therefore be refused.

Borough of Havant



- Main Retail/Commercial/Office Areas
- Urban Areas
- Industrial Areas
- Open Space/Recreation
- Borough Boundary

THE SITE



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Civic Centre Road
Havant
Hampshire PO9 2AX

tel 023 9247 4174 fax 023 9248 0263
www.havant.gov.uk



Title:

APP/X1735/W/16/3144010
APP/15/01058
12 CREEK ROAD
HAYLING ISLAND

Drawn By:

Scale:

1:1250

Drawing No:

Cleaner, Safer, More Prosperous