

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

(3 Elm Grove, Hayling Island, PO11 9EA)

**Local Planning Authority Reference:
APP/13/00982**

**Planning Inspectorate Reference:
APP/X1735/A/14/2212109**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)



APPEAL BY MR SIMMONS REGARDING THE WORDING OF CONDITION 3 OF PLANNING PERMISSION APP/13/00982 FOR THE ERECTION OF A NEW BUILDING AND LICH GATE FOLLOWING DEMOLITION OF TIMBER BUILDING AND GARAGES AND CHANGE OF USE FROM PRINTERS TO MOT CENTRE AT 3 ELM GROVE, HAYLING ISLAND.

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LPA REF: APP/13/00982

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The appeal site is located to the rear of No.3 Elm Grove (a post office) and adjacent to and accessed through a public car park. The site currently comprises of a single storey wooden building occupied by Gridley's Printers. There is also a detached, double garage building. The site is enclosed by a 1.8m high fence. To the immediate south of the site lies the South Hayling United Reform Church. Elm Grove is mixed in character with commercial properties at ground floor level and residential properties above. Elm Close Estate is located to the east of the car park.

2.0 PLANNING HISTORY

- 2.1 90/52810/00
Replacement of existing single storey print works with a 2 storey building with offices over and associated car parking. Permission granted 01/11/90.
- 2.2 06/52810/004
Erection of a new two storey building to house existing print works with offices over and associated car parking. Permission granted 11/05/06.
- 2.3 09/52810/005
Erection of 1No. 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. Permission granted - 18/5/2009
- 2.4 APP/11/01191
Removal of Condition 8 of Planning Permission 09/52810/005 in order to allow for light industrial purposes (Class B1c) with ancillary office and storage space. Permission granted - 28/9/11.
- 2.5 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 by the Development Management Committee on 23/8/13.

3.0 THE APPEAL APPLICATION

- 3.1 The Planning Permission (APP/13/00982) subject of this appeal is for the erection of a new building and lich gate following demolition of timber building and garages and change of use from printers workshop to MOT test centre.

The building would be used for a MOT centre which would carry out minor repairs such as; changing light bulbs and windscreen wipers. It would operate between the hours of 0800-1800 Monday - Friday and 0800-1500 on Saturdays.

The lich gate comprises acoustic timber boarding extending across the width of the site and along the side elevations up to the proposed building. A pitched canopy roof would be placed over the front section of the site to form an enclosed space with a central courtyard (not covered) between this and the MOT centre. There would be a set of entrance gates within the front boundary which would open inwards. The ridge height of the canopy section would be 4m. The two car park spaces would be underneath the roof canopy of the lich gate.

- 3.2 The application was permitted under delegated authority on 25/11/13, subject to twelve conditions. The appeal application is appealing against the wording of Condition 3 of the planning approval. Condition 3 states:

'The building shall be used only for MOT tests and associated minor maintenance and not at any time for any other use including mechanical or body work repairs nor uses involving panel beating nor the use of any angle grinder, nor shall it be used as a tyre changing or exhaust repair or replacement premises'.

Reason: To protect the amenities of the area and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

More specifically, the appeal relates to the reading of the use of the word 'mechanical' and that this should be removed from the condition as the inclusion of it would make the business unsustainable. It is part of the business plan to have associated MOT servicing (described as 'associated minor maintenance' by the LPA) which entails mechanical repairs, a service normally offered by MOT Test Centres.

4.0 PLANNING POLICY

- 4.1 In relation to the consideration of this application, the following paragraphs of The National Planning Policy Framework (NPPF), March 2012 are considered to be of most relevance.

- 4.2 Paragraph 17 of the National Planning Policy Statement states that;

"Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking.

One of these principles are that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".

- 4.5 The current statutory Development Plan for the area comprises the Havant Borough Core Strategy (HBCS) and the Saved Policies of the Havant Borough District Wide

Local Plan 1996-2011 (HBDWLP) forming part of the Havant Borough Local Development Framework. These plans form the development plan framework by virtue of Section 38 of the Planning and Compulsory Purchase Act 2004. The determination of the appeals must be in accordance with the Development Plan unless material considerations indicate otherwise. The relevant policies of the Core Strategy include DM10 and CS16.

- 4.6 Policy DM10 relates to control of pollution regarding new development, including noise pollution. It advises in paragraph 10.29 that some forms of development which can result in pollutants are necessary to the economic and social needs of the borough. This would include some industrial uses which, although necessary, may be detrimental to the amenity. Only in instances where the risk is appropriately managed will development be permitted. Consideration will be given to any mitigating measures that could be implemented into the development schemes to ensure its effects are sufficiently alleviated.
- 4.7 Policy DM16 (High Quality Design), advises development proposals should avoid causing detrimental impact on the neighbouring properties.

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 35 neighbour notification letters were sent. A total of 3 letters of comment were received by the Planning Authority regarding the planning application. Copies of the representation 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, it is considered that the main issue for consideration in this appeal statement, regarding the wording of Condition 3 of Planning Permission APP/13/00982, is:

i. impact of the MOT centre on the immediate locality with regards to noise emissions

- 6.3 As part of the application, an acoustic report was submitted, which can be found at Appendix C. The Council's Environmental Health Officer was consulted on this and provided the following response:

'The acceptability of the proposed use from a noise point of view is likely to hinge on the extent of "associated works" which are carried out supplementary to carrying out MOT tests. Clearly if these works are restricted to topping up washer bottles and changing windscreen wiper blades and defective light bulbs, noise is most unlikely to be a problem. Changing tyres and servicing/replacing brakes would have more impact because it would necessitate the use of air tools and any body work would almost certainly lead to the use of an angle grinder and possibly hammering.

Overall the conclusion is that if an angle grinder isn't used and there is no need for hammering (i.e. there are no body work repairs), the "dominant" noise source would be the horn test but this would only add up to perhaps a second or two at most every hour. With such a short interval, and with the extra attenuation achieved by the lich gate/fence arrangement, this should not lead to complaints.

No doubt if you are of a mind to recommend consent, suitable conditions could be framed to ensure that the MOT test centre doesn't turn out to be a body workshop or tyre centre, and that the workshop radio isn't audible outside the premises'.

- 6.4 Based on the advice from Environmental Health, it was considered necessary and reasonable to restrict the works carried out at the MOT centre to 'associated minor maintenance', such as changing of wiper blades and light bulbs' only and to restrict other operations (mechanical or body work repairs, panel beating, angle grinders, tyre changing or exhaust repair / replacement premises) in order to safeguard the amenities of the immediate locality which includes residential properties and a church. This is also in line with the advice laid out in Policy DM10, which advises that some forms of development which can result in pollutants are necessary to the economic and social needs of the borough and only in instances where the risk is appropriately managed will development be permitted.
- 6.5 The Appellant is concerned that the wording of the condition would restrict them from carrying out the necessary 'associated minor maintenance' as term 'no mechanical' could be interpreted that such minor maintenance could not be carried out as it requires some degree of mechanical operation. However, the Council's interpretation of the term 'associated minor maintenance' is that it is expected that some degree of mechanical work on a vehicle would be required to facilitate the repair of light bulbs / window wipers). Whilst the Council has no wish to make the business unsustainable, based on advice given and local plan policies, what does need to be restricted is any *other* mechanical or body work repairs, or other operations such as those listed above. The reason being that the site is in fairly close proximity to residential properties and a church immediately to the south and mechanical works and repairs such as those mentioned above, could have an adverse impact on the local amenity in terms of unacceptable noise and disturbance and therefore being contrary to Policy DM10 and Policy CS16. It is therefore considered necessary to keep the word 'mechanical' within the condition.

7.0 COMMENTS ON THE GROUNDS OF APPEAL

- 7.1 The points raised in the appellants' grounds for appeal have largely been addressed under the 'Planning Considerations' section of this statement.
- 7.2 However in order to address the concerns raised by the Appellant with regards to the wording of the condition, the Council requests the Inspector to consider a suggested variation of the wording of the condition to read as follows:

'The building shall be used only for MOT tests and associated minor *mechanical* repairs e.g. changing window wipers and light bulbs and not at any time for any other use including *other* mechanical or body work repairs not associated with the MOT tests, nor uses/repairs involving panel beating nor the use of any angle grinder, nor shall it be used as a tyre changing or exhaust repair or replacement premises'.

This would allow them to carry out associated minor mechanical repairs without the concern that this is not within the limitations of the planning approval.

8.0 CONCLUSION

- 8.1 In conclusion, the Council are satisfied with the condition placed on the planning approval as this seeks to protect the amenities of the immediate locality and is in line with the relevant local plan policies and advice given by internal consultees.

However, the Council suggests the variation to the wording of the condition to address the concerns raised by the Appellant.

APPENDICES

- (A) Location, block and floor plans and elevations – Drwg No. 1 (received on 1/11/13)
- (B) Copy of the Decision Notice
- (C) Environmental Health Officer's response (received on 18/10/13)