
Site Address:	36-38 North Street, Emsworth, PO10 7DG		
Proposal:	Part single storey, part two storey rear extension; rear external stair with access to first floor terrace area; removal of chimneys; installation of air conditioning units and ventilation flue.		
Application No:	APP/15/00032	Expiry Date:	23/03/2015
Applicant:	Dr M Gupta	Team:	Team 2
Agent:		Case Officer:	Richard Nash
Ward:	Emsworth		

Recommendation: **GRANT PERMISSION**

1 Site Description

The application site comprises a two storey mid-terrace building of traditional character located on the west side of North Street, opposite and just north of its junction with Palmers Road. The site is currently vacant, but has most recently been used for Class A3 restaurant purposes, and sits at the northern end of a line of commercial premises on each side of the road. This line of premises is defined in the Local Plan as Secondary Frontage within Emsworth District Centre.

The property to the immediate south is also in A3 use. To the immediate north of the site is a residential dwelling, which adjoins an access to St James Church before a predominantly residential area begins. The rear of the application site adjoins the churchyard and boundary treatments mainly comprise walling (also forming part of outbuildings at some points).

2 Planning History

None relevant.

3 Proposal

The current application proposes a part single and part two storey rear extension, a rear external stair with access to a first floor terrace area, the removal of chimneys and the installation of air conditioning units and a ventilation flue.

During the application process, amended drawings were submitted showing a full hipped roof to the rear two storey extension, rather than the originally proposed half-hipped shape, and showing the proposed terraced area enclosed with glazing.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Local Plan (Core Strategy) March 2011

CS16	(High Quality Design)
CS4	()
DM10	(Pollution)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM5	(Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)

Havant Borough Local Plan (Allocations) July 2014

DM17 (Contaminated Land)

AL3 (Town, District and Local Centres)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control: No Comments.

Economic Development: No Objections.

Environmental Health Manager (Noise and Pollution): I object to the proposals for the following reasons: The development could lead to a detrimental loss of amenity if not nuisance, to nearby residential properties due to odour, noise and general disturbance. There is residential accommodation within a distance of 25 metres, so, from an Environmental Health perspective, I have to object to the use of this site for any use within Use Class A3, even though I believe this was a restaurant previously (NB: It is understood the premises have a longstanding A3 use).

There is a fair bit of detail provided, concerning the proposed extraction system, noise reduction, odour reduction and filtration; but insufficient information regarding anti-vibration measures, or predictions of noise impact on the nearest residential properties and the proposed opening and closing times.

I also have a query with regard to the 'Proposed kitchen extraction system' drawing. It would appear the drawing shows 'tandoori' ovens on ground and first floors with extraction hoods on both floors with the upper hood ducting dropping down to join up with the main extract system at its base. However there is no first floor kitchen depicted on the drawings.

Clearly this site is in a town centre location where residents could not reasonably expect the same freedom from the effects of nearby commercial premises that might be expected in a mostly residential area. Therefore, if the Committee were of a mind to approve this application I would ask that the following conditions be applied to any consent granted:

Condition 1 Equipment shall be installed to suppress and disperse fumes and/or smell 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 2 The extraction equipment installed in pursuance to Condition (No.1) 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 3 A scheme shall be agreed in writing with the Local Planning Authority, which specifies the provisions to be made for the control of noise emanating from the extraction system. The agreed measures shall be put in place, before the development hereby permitted commences.

Reason: To protect the amenities of occupiers of adjoining properties.

I would point out that the requirement to keep documentary evidence regarding maintenance of the extraction system in Condition 2 above, rather than merely adding it as a suggestion in a note, is included as a result of the outcome of Planning Appeal Ref: T/APP/X1735/A/99/1024801/P4 in respect of 341 Milton Road, Cowplain.

Condition 4: No works or ancillary operations associated with the construction of the development which is audible at the site boundary or at such other place as may be agreed with the Local Planning Authority, shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday – 8.00 a.m. – 6.00 p.m.; Saturday – 8.00 a.m. – 13.00 p.m. unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: To protect the occupants of nearby residential properties from noise disturbance.

Condition 5: Construction/demolition works. The commencement of the development shall not take place until a programme for the suppression of dust during the construction/demolition of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction/demolition unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

Condition 6: During the site demolition, clearance and construction phase of the development hereby permitted no bonfires shall be allowed on the site. Furthermore best practicable means shall be used to prevent dust emissions from demolition, clearance and construction works for example by the use of water to suppress dust where required.

Reason: To protect the amenity of adjoining residents and having due regard to policy CS16 of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and Planning Policy Statement 23. Please do not hesitate to contact me if you wish to discuss any of the above matters raised or would like further explanation.

Environmental Health Manager (Soil Contamination): The application property dates from <1866. There are no potentially contaminating land uses marked on available mapping throughout its history, or known to the Council, although several outbuildings of various scales are marked in various positions between map issues, predominantly pre-dating common/widespread use of asbestos. It is likely that the buildings were originally in residential property, but current commercial use means that previous commercial activity (cottage industry, or more formal) cannot be ruled out. Given the nature of traditional commercial activity within Emsworth being largely related to the marine industry, informal activity could potentially have resulted in a degree of contamination. Made ground likely to be present on site as a result of construction and subsequent demolition of outbuildings - if associated with prior commercial operation (not only construction/demolition wastes) may not be inert. It is considered unlikely that any fill / made ground would be of significant depth, or represent a significant risk of methane generation. The proposals are for low-sensitivity commercial premises. In absence of specific reason to suspect contamination, I see no justification for any requirement to confirm the absence (or degree) of contamination risk as a development pre-condition. The proposals do on the other hand involve ground works,

and the extension of the footprint of the existing building(s). In the event that any contamination (not specifically anticipated to be present) is discovered during ground works, it would be appropriate to require that the Council be notified, and that any significantly impacted material identified be dealt with in an appropriate manner. If development control is minded to grant consent for these proposals, I would recommend that the following condition be included on the decision notice: If, during development, soil or groundwater is identified that appears to be impacted by contamination is found to be present, no further development shall be undertaken until an appropriate assessment has been undertaken, and a report has been submitted to and approved by the Local Planning Authority that details how that contamination is to be dealt with. Unless otherwise agreed in writing with the Local Planning Authority, all works outlined in the submitted report shall be adhered to. Reason: Having due regard to policies and proposals E1 of the Hampshire County Structure plan 1996-2011 (Review), DM10 of the Havant Borough Adopted Core Strategy (2011), and DM17 of the Havant Borough Local Plan (Allocations) (2014); there is a low risk of the presence of Contamination at the site that could pose a risk to future site occupiers, resulting from historic uses of land or buildings. If no contamination is uncovered during ground works, a statement as such from the principal contractor or applicant would be sufficient to discharge this condition upon completion of all below ground works (installation of foundations, hardstanding and services), neither a specialist report, nor empirical sampling data would be necessary to confirm a lack of risk.

Environmental Health Manager (Air Quality): The proposed development is not considered to be sensitive in terms of exposure, and is of insufficient scale to be of material relevance to local air quality (as distinct from amenity). No adverse comment.

NB: Conditions and Informatives Recommended.

Development Engineer: No Adverse Comments.

Crime Prevention: None Received.

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: 1

Statutory advertisement: Not applicable.

Number of representations received: 2 objections to original submission (No comments received in response to revised proposals).

Summary:

North Street already has 5 takeaways within 80 metres of one another.

Traffic congestion, noise and pollution for local residents. Double lines may be necessary to eliminate difficulties, nuisance or danger but may cause problems for

residential homes.

A filter should be used in order to reduce/remove cooking smells to surrounding homes.

May cause an increased volume of undesirable food wastage such as fats adding to current sewage problems.

First floor extension will be clearly visible, and may dominate the skyline.

First floor rear windows can lead to light pollution, and additional noise especially in the summer months.

First floor balcony (presumably for smokers) will lead to additional noise, light pollution, fumes, and possible debris.

Steps to balcony will need to be well lit, which could also lead to light pollution and additional noise.

Access for public to rear of property from the side and balcony will lead to additional noise. This area has previously only been accessed by staff at ground level.

The new ventilation and air-conditioning could lead to additional noise if not properly maintained. This has been an issue in the past.

Comment:

Given that the A3 use of the property is already in existence, the number of restaurants in the vicinity is not a material consideration in this case.

The correct disposal of waste is a matter of good management and is controlled under other legislation, and is therefore not a material planning consideration.

The other issues raised are discussed in Section 7.

7 Planning Considerations

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 the development
- (ii) Impact on the application site and locality
- (iii) Impact on neighbouring amenities

(i) Principle of the development

The site lies within the urban area where development is normally considered acceptable, subject to Development Management criteria. Furthermore, the provision of extensions and alterations to commercial premises of this scale and character would also normally be acceptable in principle. In this case the proposal would contribute towards bringing a vacant premises back into use.

(ii) Impact on the application site and locality

A range of poor quality outbuildings and an unsightly flue have already been demolished in anticipation of accommodating the proposals. A reasonable degree of external space would be retained in the context of functional commercial premises where most activity is carried out indoors. The external works would be located to the rear of the building and therefore not visible in the street scene. However, there would be a clear view of the upper part of the proposal from the churchyard to the rear, where there is public access.

The line of commercial properties on this side of North Street has a variety of rear additions, of varying scale and quality. The proposal would be most prominent of these additions within this view, but the change of roof shape to a full hip would reduce its bulk in comparison to the original proposal. This would be further mitigated by the interest added through enclosure of the terraced area.

The building is not listed and the site is not located in a Conservation Area. Whilst the loss of traditional chimneys is regrettable, it would occur as a result of increased beneficial use of the premises in this case. The air conditioning units and ventilation flue are also a requirement for this type of premises. On balance, it is considered that the proposals would not result in a detrimental impact on the character and appearance of the application site or locality, provided that suitable materials are used in their construction.

(iii) Impact on neighbouring amenities

The proposals have the potential to impact on the amenities of number 40/42 North Street, to the north of the site. The amount of potential shadowing and overbearing effect on this property would be less as a result of the change of roof shape and this would be further mitigated by the presence of buildings adjoining the boundary within the neighbouring property.

The potential for overlooking would also be mitigated to some extent by these buildings and the enclosure of the terraced area. Furthermore, the screening of the end of the terraced area facing the adjoining property could be achieved by way of a planning condition. Given the existing unfettered use of the premises, it would be difficult to justify refusal of the application, or limitations on its approval, for reasons relating to noise and smoke nuisance emanating from use of external areas of the site.

On the advice of the Environmental Health Officer, conditions and informatives are recommended with a view to protecting neighbouring amenity. The proposal does not allow for the provision of any on-site parking. However, this would be a continuation of the existing situation and the site is in an easily accessible District Centre location.

8 Conclusion

The proposed extensions and alterations to the building would be acceptable in principle, and would not have a detrimental impact on the character and appearance of the application site or locality, the amenities of occupiers of neighbouring properties or the public highway network. The planning application should therefore be approved.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **GRANT PERMISSION** for application APP/15/00032, subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date on which this planning permission was granted.

Reason: To comply with 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:

Proposed Elevations (Rev 23/01/2014 and 18/03/14)

Proposed Floor Plans (Rev 18/03/14)

Proposed Roof and Block Plans (Rev 18/03/14)

Reason: - To ensure provision of a satisfactory development.

- 3 The external materials to be used shall match in type, colour and texture those on the existing building.

Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 4 Equipment shall be installed to suppress and disperse fumes and/or smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the A3 use of the premises 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 of the development hereby approved.

Reason: To ensure that unsatisfactory cooking odours outside the premises are minimised in the interests of the amenity of occupiers of nearby properties. To safeguard the amenities of the locality and/or occupiers of neighbouring property 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.

- 5 The extraction equipment installed in pursuance to Condition 4 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. To safeguard the amenities of the locality and/or occupiers of neighbouring property 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.

- 6 A scheme shall be agreed in writing with the Local Planning Authority, which specifies the provisions to be made for the control of noise emanating from the extraction system. The agreed measures shall be put in place, before use of the development hereby permitted commences.
Reason: To safeguard the amenities of the locality and/or occupiers of neighbouring property 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.
- 7 If, during development, soil or groundwater that appears to be impacted by contamination is found to be present, no further development shall be undertaken until an appropriate assessment has been undertaken, and a report has been submitted to and approved by the Local Planning Authority that details how that contamination is to be dealt with. Unless otherwise agreed in writing with the Local Planning Authority, all works outlined in the submitted report shall be adhered to.
Reason: To safeguard the amenities of the users of the development and having due regard to policies CS16 and DM10 of the Havant Borough Adopted Core Strategy (2011), and DM17 of the Havant Borough Local Plan (Allocations) (2014). There is a low risk of the presence of Contamination at the site that could pose a risk to future site occupiers, resulting from historic uses of land or buildings. If no contamination is uncovered during ground works, a statement as such from the principal contractor or applicant would be sufficient to discharge this condition upon completion of all below ground works (installation of foundations, hardstanding and services), a neither a specialist report, nor empirical sampling data would be necessary to confirm a lack of risk.
- 8 Notwithstanding the requirements of Condition 3, the northern side wall of the rear enclosed first floor terraced area shall at all times comprise of solid panels, with no translucent elements and a matt finish of a colour to be agreed in advance in writing by 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 2012.