

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

Dolphin Quay, Queen Street, Emsworth

**Local Planning Authority Reference:
APP/14/00510**

**Planning Inspectorate Reference:
APP/X1735/A/14/2223750**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)



APPEAL BY MR PICKUP – WILSON HOUSE DEVELOPMENTS LTD AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR DEMOLITION OF THE SINGLE STOREY SHOP, TWO STOREY OFFICE BUILDING AND ASSOCIATED OUTBUILDING AND THE BOATYARD. ERECTION OF 4NO. HOUSES (3x3NO. BEDROOMS AND 1x2NO. BEDROOMS) FRONTING ONTO QUEEN STREET AND ASSOCIATED PARKING AND ERECTION OF AN APARTMENT BUILDING (4x2NO. BEDROOMS AND 1x3NO. BEDROOMS) FRONTING ONTO THE MILL POND WITH ASSOCIATED PARKING.

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LPA REF: APP/14/00510

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The appeal site is shown in Appendix 1. It comprises a boatyard of approximately 0.13ha which lies between the south side of Queen Street and one of a series of sea ponds which form the coastline of the small historic town of Emsworth. It is within a Conservation Area designated in 1970, and is at the edge of the Chichester Harbour Area of Outstanding Natural Beauty (AONB). The harbour is also protected under European Directive and UK Regulation for its habitat: Special Area of Conservation (SAC) and for its ornithological value: Special Protection Area (SPA). It is also in an area of high flood risk Flood Zone 3.
- 1.2 The Queen Street frontage comprises a principal two storey office/workshop building, probably mid C19th and a single storey shop, probably early C20th. Both have pitched roofs of plain clay tile. To the south of this, facing toward the water is a C20th single storey workshop with corrugated sheet and felt roofing and immediately to the south is a concrete boat hard. The rest of the site (approximately half of the site area) is an open yard, largely surfaced, providing pedestrian access to a series of boat pontoons/jetties. The yard contains a few small boats and is bounded to the west by a narrow water channel with public footpath on its western bank. The road frontage is enclosed by slender railings allowing a view between Queen Street, the water and the distant shore of the harbour to the south east. The masts and cabins of the assorted boats are prominent within this view.
- 1.3 Queen Street is a principal street within the town centre. To the west of the site the street is defined by a mixture of two storey Georgian & early Victorian terraced houses, (many of which are listed including the prominent, white rendered, three-storey Dolphin House). These descend the gentle gradient along the street towards the shallow valley within which the appeal site is situated. Opposite the boatyard is prominent three storey late listed Victorian Mill building, to the west of which is a terrace of slightly later houses and a commercial garage with a 1960s façade and associated workshop.

- 1.4 Immediately to the east of the site is the Lord Raglan public house, a flint-faced two storey listed building beyond which is a complex of houses, Chequers Quay, built approximately 16 years ago around a small courtyard. A public footpath through Chequers Quay links Queen Street to a narrow pedestrian causeway which separates the pond, known as Slipper pond, from a narrow stretch of open water. The causeway affords prominent views of the site and the cluster of buildings which form the eastern edge of the historic town. Other vantages of the site are from the footpath immediately to the west of the boatyard and Slipper Road (in the adjoining Chichester District) on the east side of Slipper Pond.

2.0 PLANNING HISTORY

- 2.1 There is little history in the Council's planning records. In 1991 permission was granted for use of the shop for use as a private car hire office and then in 1992 for use of the site as a yacht brokers. Temporary permissions for use of the site for retail purposes were granted three times between 1996 and 2005, beyond which it was not renewed. In the years preceding the current planning application, the site has been used mainly as a boatyard with associated jetties and workshop, and an antiques shop; the letter received from a previous occupier of the site, Mr T Gilmore in response to the current proposal describes this and is referred to at section 6.5.6 of this statement.

3.0 THE APPLICATION

- 3.1 The current proposal is to demolish all buildings on the site and erect a replacement two and three storey building of traditional design at the Queen Street frontage comprising four terraced houses. These would have an elevated ground floor and basement parking accessed by a proposed new driveway along the eastern boundary of the site.
- 3.2 To the rear (south) waterfront of the site, the existing boat hard would be replaced by a three storey apartment block of modern design, also with basement parking and elevated ground floor. This would comprise five apartments. A new sea wall is shown on the layout plans, to be constructed along the south and western boundaries of the site.
- 3.3 The area between the two proposed buildings would be largely a hard-surfaced driveway, with two small areas of grass adjoining the proposed apartment block. A public seating area with two trees is proposed at the western end of the queen street frontage, immediately above the narrow water channel.

4.0 PLANNING POLICY

- 4.1 The adopted Local Plan comprises the Havant Borough Core Strategy , approved in 2011 and the Havant Borough Allocations Document approved in July 2014. Other local documents include the Adopted Emsworth Conservation Area & Character Appraisal 2010 and the Havant Borough Design Guide 2011.

4.2 Relevant local plan policies include the following referred to in the decision notice, copies of which have been supplied:

CS11	Protecting and Enhancing the Special Environment and Heritage of Havant Borough
CS16	High Quality Design
CS15	Flood and Coastal Erosion
DM2	Protection of Existing Community Facilities and Shops
DM3	Protection of Existing Employment and Tourism Sites
CS9	Housing
DM24	Recreational Disturbance to Special Protection Areas (SPAs) from Development.

The following policies are also relevant but other than CS12, CS21 and DM25, do not inform the reasons for refusal in this appeal:

CS14	Efficient Use of Resources
CS12	Chichester Harbour AONB
CS20	Transport and Access Strategy
CS21	Developer Requirements
DM12	Mitigating the Impacts of Travel
DM13	Car and Cycle Parking on Residential Development
DM25	Managing Flood Risk in Emsworth

4.3 Policies CS11 (4) and CS16 combined to guide the quality of development, which should be of a high quality in all cases, which draws inspiration from and respects its local context, identifying and responding positively to existing features and landscape features, for instance by heights, massing, existing building lines, materials and proportions of doors and windows (CS16). Heritage assets are covered by NPPF, in particular paragraphs 126 - 128, which require that new development in a conservation area will contribute positively to its distinctiveness. This is reaffirmed in Practice Guidance to PPS.5 and recently published national Planning Practice Guidance. These policies are supplemented at national and local level by supplementary guidance. Most pertinent to the current application are: 'The Setting of Heritage Assets (English Heritage) 2011' and 'Seeing the History in the View (English Heritage) 2011'. At the local level the Emsworth Conservation Area & Character Appraisal 2010 considers the character of the area and future management, which is referred to in the section 6.1 of this statement.

4.4 Policies DM2 & 3 and CS12 seeks to safeguard places of employment and local shops (the site is immediately outside the identified town centre, where other retail development management policies apply). Market tests apply, which require proof of marketing by a number of specific means for at least 12 months for the employment uses (the workshop, office and yard) and 6 months for the shop. Policy CS12 supports these policies, adding weight to the safeguarding of marine related business in the Chichester Harbour AONB, which the site is at the edge of.

- 4.5 Policy CS15 seeks to manage flood risk by the management train of sequential and exception tests applicable to areas of high flood risk, such as the site, as contained in the NPPF paras 99 – 108 and the associated Technical Guidance document March 2012, which explains the vulnerability of different uses (housing is ‘more vulnerable’) and the compatibility matrix at Table 3 thereof. Wider flood alleviation measures in the Emsworth Area are encouraged by DM25, which provides that development may contribute to off-site schemes.
- 4.6 Policy CS9 sets out the Authority's approach to affordable housing, in accordance with paragraph 50 of the NPPF, allowing for off-site contribution for developments comprising between 4 and 14 units, such as the appeal scheme.
- 4.7 Policy DM24 seeks to reconcile development pressures with the statutory need to avoid harm to Special Areas of Conservation (SPA), such as Chichester Harbour and much of the Solent coast. It recommends that mitigation can be provided by payment of £172 per dwelling towards the Solent Disturbance Mitigation Project, which is co-ordinated by Natural England.
- 4.8 Policies DM12, DM13 and CS20 refer to transport implications and the provision of parking, (parking requirements are also contained in the Borough Council's Residential Parking SPD 2010), but these are not in dispute in relation to the appeal scheme, nor is CS14, the ‘Efficient use of Resources’.
- 4.9 Policy CS21 underpins the need for infrastructure needs of development, such as flood defence and affordable housing to be secured as part of a planning approval.

5.0 REPRESENTATIONS

- 5.1 The Planning application APP/14/00510 was accompanied by a design and access statement, flood risk assessment, heritage statement, marketing report and ecological assessment. It received numerous objections from residents, sixty five of which are referred to in the officer's report along with comments of various consultees. It was received on 22nd July 2014 for five reasons. The decision notice has been supplied previously.

6.0 PLANNING CONSIDERATIONS

6.1 Emsworth Conservation Area

- 6.1.1 An extensive area of the small coastal town of Emsworth has been a designated Conservation Area since 1970. Its extent is shown in the map at Appendix 2. The character appraisal for the area was last updated in March 2010 and refers to its medieval street plan, predominantly Georgian architecture with some later infill development, and its historic role as a fishing, and trade port with some boat-building, based on the two principal creeks around and between which the town grew up. Although trade has largely ceased, some fishing and boat-building uses remain and sailing, tourism and recreation are now a feature of the waterside

atmosphere of Emsworth and dependent on its connection to Chichester Harbour and the sea.

- 6.1.2 Queen Street, in which the appeal site is located, links Emsworth town centre to the eastern of the two creeks, Slipper Pond and its historic eastern suburbs. There is a recognisable difference in levels along the street as it descends from the higher ground of the town centre, to the river valley and historic bridging point, which formed the principal eastern access to the town prior to the construction of the new A259 in the post-war era. The following is an extract from para (3.8.1) the appraisal:

“Queen Street: Turning left at the eastern end of High Street, into Queen Street which presents a fine collection of Georgian houses, both large and small which frame the first half of the street.

The street slopes down eastwards towards the river valley and the bypass. On the north side Newnham House stands out, three storeys, red brick and which, as Pevsner points out, has several pleasing quirks in its design. At the end of this block, the back-land development of Frankland Terrace and Pelham Terrace joins the street, with the imposing landmark of Leigh’s Mill of 1897 (now called the Old Flour Mill) just beyond the entrance. This is an honest, small town industrial building, in plain red brick with cast iron windows and a wooden gantry in the gable. Opposite, is the three storey, stuccoed Dolphin House, which forms the end of the row of pleasant two storey Georgian brick houses on the south-side in brick, either all in red or grey dressed in red. Notable is No 23 with its Venetian upper windows and shallow ground floor bays. Continuing on the south-side, past a footpath known as Dolphin Cut and over the River Ems and a boatyard (Dolphin Quay), is the Lord Raglan public house, which is the most obvious building in the town to be constructed of flint. With the garage opposite and the modern flats at the road bridge, the street fades into the bypass and the view of the open expanse of the Slipper Mill Pond to the south”.

- 6.1.3 Of interest to the appeal case, the appraisal identifies the scale of development formed by the row of listed two storey houses in brick on the south side of the street and the presence of the taller three storey building, Dolphin House, also listed, denoting an end to the row some 20m to the west of the appeal site. It draws attention to the landmark quality of the imposing listed Victorian Flour Mill on the north side of the street, almost opposite the site, and that the beyond this and the modern buildings to the east, the street ‘fades’ as built frontages give way to views of the open expanse of water. The importance of these views of the water are also highlighted in para 3.22. The listed public house immediately to the east of the site is mentioned for the interest of its flint construction.
- 6.1.4 The appraisal also refers (at para 2.5) to the views of Emsworth from the water and that this is ‘equally important in its own right’. From the water, the ...”visual containment of the town can be fully appreciated” Para 5.8 states: “preservation of the setting of the waterside character is fundamental to Emsworth, including other features such as trees throughout the Conservation Area. Such features are important for the historical context, as well as a valuable asset to the town’s

continuing environmental attractiveness”.

- 6.1.5 The contribution of trees in providing a ‘natural foil to the buildings’ softening the appearance of the urban scene is referred to in para 3.24. They provide background and skyline features between and above buildings and may be attractive features in their own right.
- 6.1.6 More generally, the appraisal (at para 3.19) refers to the vernacular style and domestic scale of the majority of buildings in the Conservation Area and that even the exceptions represented by industrial buildings reflect the smaller dimension and local materials found in the locality. In the appeal case, the Old Flour Mill is such an example. The general use of red stock brick in the Area, sometimes painted, and the predominance of plain clay tiles and some slate, in concert with these elements, traditional sliding sash windows and small pane casements gives Emsworth a degree of special quality which makes it distinct. In maintaining the character and quality of the Conservation Area these attributes of individuality are to be preserved wherever possible.
- 6.1.7 Finally, in relation to the design of new buildings, para 5.6 states that these “need to be sensitive to the scale and character of the site and the area and show imagination – building upon the existing urban form, details and materials. It is important to respect and maintain the building lines particularly within the medieval street pattern and elsewhere within the Conservation Area”.

6.2 Chichester Harbour Area of Outstanding Natural Beauty (AONB)

- 6.2.1 The appeal site lies at the edge of the AONB, and the pond system is focused around inlets which connect the wider harbour to the historic town. The role of the Chichester Harbour Conservancy (CHC) is pivotal in the management of the Harbour. Its management plans include reviews of existing sites which contribute to the economic, social and environmental wellbeing of the harbour. The Conservancy has prepared a Marine Business Evaluation Report 2013, which is referred to in Section 6.5 of this statement, and assesses the importance of marine related employment sites. In consideration of visual impact, para 7.15 of the Borough’s Core Strategy states: “*development affecting the AONB should be of the highest design quality*”.

6.3 Impact of proposed development on surrounding character

- 6.3.1 The proposal comprises two distinct buildings; the terrace of four houses at the Queens Road frontage and the apartment building facing the Slipper Pond to the rear, along with a proposed sea/flood defence wall. The following sections of this statement will consider the impact of these developments and their relationship with their surroundings from several locations. The over-arching argument of the Local Planning Authority is that the proposed development causes significant harm due to the excessive scale and mass of both buildings by comparison with its surroundings when considered in its full context. Furthermore, the design is incongruous, strident

and unrelated to its surroundings, most notably, but not only, the apartment building. The Authority considers that the conflict between the buildings and their setting is so substantially harmful that permission was rightly refused.

Queen Street frontage

- 6.3.2 The approach to the site from the west along Queen Street is characterised by tight knit development stepping down the shallow hill from the town centre. The character on the south side of the street is formed predominantly by two storey rows of houses, some with attic rooms. These are terminated or book-ended by the three storey Dolphin House some 20m from the appeal site. On the north side, three storey Georgian housing gives way to two storeys at Frankland Terrace, some 80m to the west of the site but is punctuated by the Victorian landmark building, the Old Flour Mill.
- 6.3.3 To the west of Dolphin Quay the view of the Slipper Pond, boat hard and the masts of boats moored in the inlet denotes a sudden loosening of the tight knit character and a view across the water onto the eastern bank. This is an example of the visual connection between Emsworth and the waterside environment which is a feature of acknowledged importance in paras 2.5, 3.3 and 5.8 of the Conservation Area Appraisal. The buildings currently on the appeal site and the Lord Raglan public house immediately beyond it, are generally lower than the buildings to the west. Accordingly the skyline is wider and more visible, adding to the sense of openness which contributes to the fading of Queen Street noted in the appraisal, as it reaches the river valley.
- 6.3.4 The concern of the Authority is that the stepping-up in the building height, proposed for both the houses and apartment building, will jar with the lower building heights which predominate and the sense of transition which currently exists from town centre to waterside edge. At the Queen Street frontage, this will create a significantly greater massing, eroding the openness and visible skyline on which the looser knit character depends. It is accepted that some raising of ground floor level is needed for reasons of flood risk in this residential development, but this factor in addition to the introduction of a three storey building across a substantial part of the site frontage and a tall flank wall would be out of character with the scale of development at the eastern end of the street.
- 6.3.5 To the rear, the three storey apartment building would occupy approximately 90 percent of the width of the site, twice the width of the existing workshops and almost twice as high. The three storey houses would also extend 6m further westward along the site frontage than the exiting. The consequence of this is to create a heavily built-up appearance, obstructing views between Queen Street and the Pond, and a significant reduction in the visible horizon, particularly when seen from the south side of the street in front of the Old Floor Mill. The loss of visual interest associated with marine activity and the range of vessels and related paraphernalia on view would be a significant strike at the heart of the relationship between the town and the water. In

these ways important characteristics of the Conservation Area would be greatly eroded.

- 6.3.6 Furthermore, the design of the apartment building, from this vantage would bear almost no resemblance to any of the prevailing designs in the area; its wide, horizontal proportions, extensive glazing, uncompromising rectilinear lines and projected wings, the expanse of aluminium and light painted render, metallic fenestration and railings, would be both eye-catching and alien. Surrounding development uses traditional forms and materials, pitched roofs, window and door proportions and predominantly brick and tile. This design lacks the sensitivity sought in para 5.6 of the Conservation Area Appraisal, which seeks to build upon the existing urban forms, details and materials. The sheer size of the apartment building would dominate the outlook from Queen Street.
- 6.3.7 Moving eastward along Queen Street and viewing the site from the east, the proposed two storey houses would be partially successful in integrating with the existing fabric. They propose materials and detailed designs which borrow from existing buildings in the local area. However the height of the three storey houses is at variance with frontage development in the valley and is more closely related to the tightly-knit row of townhouses on the north of the street, some 80m to the west of the site than the two storey domestic scale of development which follows eastward after Dolphin House and the landmark Old Flour Mill. The roof design of this part of the building, with its large crown-top is likely to be discernible from the street, indicates that the architectural challenge of reconciling a large plan form with traditional designs, has not been solved. The Conservation officer's response considers that the design overall, is not of the high quality needed. Finally, although the proposal introduces a gap on the west side of the building, this does not compensate for the loss of openness on the west (described in para 6.3.5), as any views of the water and maritime activities would be substantially blocked by the apartment building, the foreground would be dominated by hard surfacing and the modern cube-like architecture of the apartment building. The openness of the street and the interest of the informal character of the existing boatyard and its uses would be lost.

Footpath & causeway to the south

- 6.3.8 To the south of Queen Street are two public footpaths leading southward. The western of these passes in front of Dolphin House and gives a clear view of the side of the site. From here the side and rear of proposed apartments would be prominent. It would block views of other buildings, roofs and some trees beyond and would dominate the foreground with its large, singular mass.
- 6.3.9 There is public causeway to the south of the site. It skirts the edges of Slipper Pond and emerges onto Queen Street via Chequers Quay to the east of the site. From this vantage, looking north towards the site, the position of the proposed apartment block can be clearly seen, with the masts of moored vessels in the mud dock in the

foreground. The current view is characterised by a variety of pitched roofs and a consistency of scale which has been repeated in the Chequers Quay development some 50m, to the east of the site constructed within the past 20 years. The most prominent dominant building here is the Old Flour Mill, which is brick built, pitched-roofed and uses traditional window proportions, which serve to give vertical emphasis in much the same way as the windows, gables, flint panels broken rooflines and chimneys of the more recent Chequers Quay. The horizontal proportions of the existing white -painted workshop building on the site, its wide central window and broad roof-span, do not disrupt the overall character of development due to the dominance of other taller buildings.

- 6.3.10 Another notable component of this view is the presence of trees which frame the buildings and water, they provide a backdrop and undulating skyline, adding to the harmony of the overall view, which compliments the AONB of the pond and wider Harbour. This sense of an harmonious composition can be appreciated from both the causeway and Slipper Road to the east, which is discussed below.
- 6.3.11 By contrast, the proposed apartment building would be a wide cube-like form, its principal lines being horizontal at the base and at the roof, with wide expanses of glazing, railings and a balcony in between, emphasising its width. The singular mass of this building would be of a markedly larger scale to other development, with the possible exception of the Old Flour Mill. The proposed projected rendered frontages on either side are unrelated to any of the forms on view. The extensive plated glass would be particularly eye-catching. The effect of this building would be to disrupt the consistency of scale and the visual and historic connection between the Old Flour Mill and the water. It would largely block views of the Mill and affect its function as a landmark. It would obscure the historic roofscape of several buildings and the tree-lined undulating horizon. In summary it would interrupt the visual harmony of the existing composition, with a discordant, unrelated massive and dominant form.
- 6.3.12 Further north along the causeway, immediately behind Chequers Quay, the side wall of the proposed apartments would be visible, rising above the pub garden of the listed pub building. From here the large scale of the building would dominate the setting of the pub and its garden, and to an extent, the courtyard gardens at Chequers Quay, at variance to the intimate scale of existing development which characterises the Conservation Area.

Slipper Road

- 6.3.13 Slipper Road runs along the eastern side of Slipper Pond. Although it is immediately outside the Borough boundary, and lies within West Sussex/Chichester District, it provides important views of Emsworth which should be considered in this appeal. These are quite similar views to those from the causeway described 6.3.9 – 6.3.11 above but with the greater predominance of water in the foreground. From this

vantage the Georgian form of Dolphin House to the west of the appeal site assumes greater significance and is prominent due to its white painted stucco and three storey height. However, despite its size and finish, its design is consistent with the range of traditional forms on view and vegetation to the south provides a foil. Indeed the trees help to compartmentalise or frame the view of the Conservation Area, it also serves to screen the example of a 1970s flatted block to the south and the later barrel-roofed building adjacent to it.

- 6.3.14 The Council's concerns regarding the impact of the proposed apartment building from this vantage are much the same as stated in 6.3.11 above. It would obscure the view of older, historic buildings and roofscape, its detailed design would be at variance with its surrounds and whilst it may not obscure the backdrop of trees from this vantage, they do not offer the possibility of screening in the way that the 1970s block to the west is screened. The proposal would erode the informal character of the Conservation Area and the AONB.
- 6.3.15 The impact of the extensive glazing would be particularly pronounced from here; a point of concern which has been included in the responses of Chichester District Council and Chichester Harbour Conservancy. Both the rear and side walls would be clearly seen, and with them, the large plate windows, picking up the glare and glint of sunlight and light reflected from the water. This would increase the visual prominence of the building to viewers onshore and in vessels on the water, the latter perhaps experiencing irritation in the navigation of their vessels.

Summary

- 6.3.16 In summary the Authority is concerned that both the houses and apartment building are too large. The modern and uncompromising design and scale of the latter is particularly out of keeping with the Conservation Area and the harmonious relationship between the edge of the historic town and the waterside of the AONB which forms the setting of the Conservation Area. The height of the three storey houses at the frontage do not reflect the loose knit and openness of this part of the street, but the denser forms of the town centre to the west and some aspects of architectural detailing do not reflect the high quality needed in order to preserve and enhance the Conservation Area. The design of the scheme is not sufficiently informed by its historic context. The loss of marine related activity would dilute the historic relationship of the street to the water.

6.4 Flood Risk

- 6.4.1 The appeal site lies entirely within flood zone 3 (FZ3). It is around 2.90m AOD +/- 40cm, with the lowest ground to the rear (south). Floors of the existing buildings and concrete yard are around 3.15AOD. This is an area of high tidal flood risk, which has a 1 in 200 or greater annual probability of flooding from the sea (>0.5%). This is confirmed in the Environment Agency letter of 7th July 2014 in response to the

application, with the advice that no habitable accommodation should be below 4.80AOD, i.e. approximately 1.9m above existing ground level. This is needed to withstand floodwater of 4.5m AOD (the additional 0.3m being a 'freeboard' height, taking account of the effect of water lapping) during a flood event of 0.5% probability up to 2114AD. This includes allowance for climate change.

- 6.4.2 The approach of the NPPF is to direct development away from the areas of highest flood risk (para 100). Flood Zone 3 is regarded in the NPPF and associated national Technical Guidance (2012) as:

a) an area of 'high probability', within which 'more vulnerable' development, can be accepted, this includes residential development, but subject to an exception test.

- 6.4.3 It is noted that the national guidance also refers to flood zone FZ3 b), which comprises areas of 'functional floodplain' at risk from river based *aka* fluvial flooding. According to the guidance and NPPF only 'water-compatible' uses may be allowed in FZ3b, this excludes residential uses other than for sleeping accommodation ancillary to another use. The Council's drainage engineer has confirmed that a culvert under Queen Street has limited capacity (see Appendix 3) albeit it is apparent from his comments, that this would be managed as part of a coastal defence scheme for Queen Street (see 6.4.4 below). In summary, the relevant approach to the determination of the proposal is that pertaining to tidal flood risk under FZ3a, i.e. the use of an exception test.

- 6.4.4 A relevant consideration is the management plan for the coastal zone (NPPF para 105); the Porchester Castle to Emsworth Coastal Flood and Erosion Management Strategy (PERMS) of 2012. A summary of this is given in section 4 of the appellant's FRA, with particular reference to the arising coastal defence scheme for Queen Street. The concept is supported by policy DM25. In simple terms, the scheme aims to provide defended compartment of land containing the appeal site and other sites at the eastern end of Queen Street. This would be achieved by series of new sea walls along the banks of the site, at an initial height of 4.05m AOD, then increasing these to 4.8m AOD in forty years time, in step with predicted sea level change. Barriers would also be constructed along the water front of other sites to the east, across the lower part of Queen Street and along the southern edge of the A259, partly using an existing length of wall.

- 6.4.5 According to the comments of the Council's Coastal defence engineer (Appendix 3), unless the full range of coastal defence works in the scheme for Queen Street are provided, the proposed sea wall on the appeal site would be ineffectual. The risk would remain of outflanking tidal floodwaters entering the area and appeal site via the undefended area to the east. The current six year spending plan of the EA makes no provision for these off-site works.

- 6.4.6 In terms of the depth of floodwater affecting the site and access to it, the engineer notes that road levels near to the site entrance show around 3.0m AOD. Given the present day floodwater height of 3.4m AOD in a 0.5% probability (1 in 200 year event) this gives a current floodwater height at the access of 0.4m. This would increase to 1.5m by 2114/15, given the predicted increase in floodwater to 4.5mAOD. He notes that occupants could remain within the building, given that the proposed habitable floorspace would be above the predicted floodwater height in 2114/15, but the site would be difficult to access. The likely duration of such a flood event is not stated.

Consideration of the Exception Test

- 6.4.7 The exception test requires that two things be demonstrated:

“i) that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and

ii) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the test will have to be passed for development to be allocated or permitted”

(NPPF para 102. Council’s emphasis)

Beyond the exception test, It must also be demonstrated that:

“within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.” (NPPF para 103).

- 6.4.8 In consideration of the first arm of the exception test, the wider benefits in the appeal proposal are described in sections 11 & 12 of the FRA. In particular: *“the developer will contribute to and facilitate as far as he is reasonably able to, the construction and delivery of off-site elements of the Queen Street coastal defence scheme”*. In response the Authority would comments as follows:

- i) There is no binding means to deliver these off-site elements of the scheme. There is no planned public sector funding for the works and no evidence has been provided of arrangements between the other landowner or the highway

authority to deliver them.

ii) If the compartmentalisation scheme is not completed, or is only partially completed, the ingress of tidal water is not prevented, due to outflanking waters. Accordingly the risks to the site in terms of access and escape during times of flood, would remain and the benefits to the wider community would not accrue.

iii) If the sea wall is constructed to a height of 4.05m AOD, it is unlikely that a planning condition or legal agreement can be used to secure the raising of height proposed in 2054.

iv) There is no detailed design for these off-site works (nor of the on-site sea wall), by which an assessment could be made of their visual impact and the need (or not) for planning permission. A negative visual impact on the conservation area may lessen the benefits.

In summary, the proposal does not provide overriding benefits which are required to meet the first arm of the exception test, the degree of flood risk is not mitigated.

6.4.9 In consideration of the second arm of the test, the proposal is partially successful. It would incorporate a series of resilience measures consistent with the NPPF and para 18 of the guidance; the proposed habitable accommodation is above the predicted 2114 flood level and water resistant materials would be used. In terms of personal safety, the drainage engineer notes that water is likely to be slow moving and the risk of hazards such as blown or missing manhole and drain covers, is low. However, the water would be deep, up to 1.5m, cutting off access in all directions for a distance of 100m. It is likely to place an additional burden on services during a flood event, for example, if there is need for medical attendance or rescue.

6.4.10 In conclusion, the proposal does not satisfy both arms of the exception test. It delivers part of the requirements of the second arm but not the wider, outweighing benefits required by the first arm. Accordingly the proposal is contrary to the NPPF and policy CS15 of the Local Plan Core Strategy. It is of interest to note that 'less vulnerable' uses of the site, such as shops, services, industry and other non residential buildings and uses, including the existing on-site, are regarded as 'appropriate' in FZ3 (Technical Guidance, Table 3). Unlike residential development, new development for the less vulnerable purposes would not require the provision of the wider and outweighing sustainability benefits to the community.

6.5 Loss of Commercial & Employment Site

6.5.1 The adopted Local Plan seeks to protect employment and tourism sites (policy DM3) and local shops (DM2). Permission may only be granted once the Authority is satisfied that it is no longer suitable, not fit for purpose or financially unviable for its class B employment use and that no other types of economic development (as

opposed to residential), can be found. Policy DM3 is explicit in its requirements for marketing over a period of at least 12 month period for a site of this size (a minor development site of less than 1000sqm or 1ha) and policy DM2 requires marketing over at least 6 months. Marketing is intended to test the applicant's claims. The explicit minimum requirements are:

- i) Confirmation by the marketing agent on headed company paper that the premises were appropriately and extensively marketed for the required length of time as set out by the council.
- ii) Dated photographs of marketing board/s of an appropriate quality, size, scale, location and number, during this time, on the premises.
- iii) An enquiry log, how it was followed up and why it was unsuccessful.
- iv) A copy of all advertisements in the local press and trade journals (should be at least four weeks' worth of advertisements spread across a six month period).
- v) Evidence of marketing via the internet.

6.5.2 The Authority's concerns about the appellant's marketing report are set out in the planning officer's report, but it is worth highlighting the following:

- a) There is no confirmation on headed company paper regarding the extent and duration of marketing, nor mention of internet. Section 5 states that wider marketing would have been futile and that in section 4 developers (as opposed to potential occupiers), were approached selectively. Page 1 of the marketing report refers to "*a period of marketing*", but does not state how long.
- b) There are no photographs of marketing board, although the particulars drawn up by Borland and Borland are supplied. It is stated that the pontoons with which the yard was historically connected are not offered for sale, the report does not consider the implications of this severance in terms of the attractiveness of the site to potential occupiers or its impact on viability.
- c) There is no log of enquiries received or followed-up.
- d) There is no copy of advertisements in the local press and trade journals or internet.
- e) There is little information regarding the marketing of the shop.

Furthermore there is no explicit consideration of viability, costs of renovations or

rental returns. Nor is there a consideration of the appellant's decision to sever the jetties from the use of the rest of the boatyard. In summary, the proposal fails the marketing requirements of the policies on several counts and does not explore the question of viability or impact of site severance.

- 6.5.3 In section 3 of the report 'Market Commentary', mention is made of the flooding of the site; three times in one year, and the insurance implications of this. However, it is unclear whether this refers to the insurance of the antique centre or the boat yard buildings. The Authority suggests that the insurance implications these are likely to be considerably different, and that the risk of water damage to the boat related business is probably less than the risk to delicate antiques.
- 6.5.4 Mention is also made of the departure of the previous occupier of the boatyard, partly due to the attraction of another premises with a crane. However, it is not explained why the crane is significant, whether for example, there has been a change in the needs of boat users or size of vessels such that a crane is now an essential attribute for such a business. By contrast, the yard appears to have operated for many years without a crane.
- 6.5.5 The officer report refers to the questions arising from the public responses and those of the Chichester Harbour Conservancy (CHC), an expert body which has jurisdiction over the wider Chichester Harbour area, including the licensing of boats and moorings. CHC refers to its own Marine Business Evaluation Report 2013, the latter of which concludes that the site has continued value for marine use. This is referred to in the CHC planning committee report regarding the appeal application at Appendix 4
- 6.5.6 The letter from the previous occupier Tim Gilmore (supplied) is of particular interest. He operated a boatyard business from the site for sixteen years up to 2012 and undertook boat renovations. He concludes that the marketing report is misleading for the following reasons:
- i. He left the premises for reasons separate from the financial running of the company
 - ii. He had wished to remain in occupation but had no formal lease. The owner's intention to apply for change of use of the site in 2012 created significant uncertainty for his business.
 - iii. He was interested in expanding into the vacant antiques shop
 - iv. He had paid rent in a timely manner over his 16 years occupation of the site prior to receiving notice to leave from the owner
 - v. Trading was not difficult at the site
 - vi. The lack of a permanent crane did not hinder the business
 - vii. A longer slipway would have been useful.
 - viii. Flooding was not an issue during his years in occupation, he was able to plan for high tides

- 6.5.7 Mr Gilpin's account suggests that the site is still fit for its existing use and that flooding did not pose an unacceptable risk for his business. This is consistent with the evaluation report of CHC. In light of this and the substantial inadequacies of the marketing report, the proposal clearly fails to meet the requirements of policies DM2 & DM3 and would result in the unacceptable loss of marine employment premises and a shop.
- 6.5.8 Mindful of the advice of the CHC, its Business Evaluation Report and policy CS12, the Council is concerned that where there is no evidence to justify this loss, there is harm to economic wellbeing of the wider Chichester Harbour AONB.

6.6 Impact on Designated Areas for Nature Conservation

- 6.6.1 Policy DM24 of the adopted Local Plan Allocations document 2014 acknowledges the collective impact which all new dwellings in the Borough have on the ecology of areas designated within the Solent area under European Species and Habitat Directives and the derived UK Regulations. It adopts the approach recommended by Natural England that a contribution is made on a per-dwelling basis towards a mitigation project 'Solent Disturbance Mitigation Project'. For all new dwellings a sum of £172 and small administrative/monitoring fee is collected prior to or at the point of approval via a simplified undertaking under S106 or at the point of commencement of development via a less simplified S106 unilateral undertaking or bi-lateral agreement. One of these methods would need to be secured if the appeal scheme were to be approved.

6.7 Affordable housing

- 6.7.1 Policy CS9 requires the provision of a proportion of affordable housing, between 30-40% unless a lesser requirement has been justified by a transparent viability assessment processes. The policy allows for developments of up to 14 dwellings to provide this either on-site or by off-site provision. The application acknowledges the policy but includes no proposal for on site provision or the making of a contribution.
- 6.7.2 The Borough housing officer advises:

Core Strategy Policy CS9 states that Planning Permission will be granted for housing proposals that will: *'Deliver on average 30-40% affordable housing on sites of 15 dwellings (gross) or more, and secure a suitable contribution or on-site provision, equivalent to on average 30-40% on smaller housing developments between 5 and 14 dwellings (gross), under a lesser requirement has been transparently justified on viability grounds'* To my knowledge no viability assessment has been received during the planning application process so therefore I would expect the full affordable obligation to be met.

This proposal comprises of family-sized accommodation however it does not

provide private outside space, is next to a public house and is close to open water plus the proposal includes the retention of the moorings. For these reasons I would be willing to accept a financial contribution in lieu of on-site provision.

The application includes floor-plans and details of the floor area for the different sizes of unit. I have used these, together with estimated sales values of each type of dwelling, to calculate a financial contribution payable. Further guidance as to the calculation method are contained in the Appendix 5.

7.0 CONCLUSIONS

- 7.1 In design terms the development is poorly related to the surrounding conservation area due to the height and massing of the three storey element at the street frontage and the height, mass and design of the building to the rear, which is unrelated to the distinctive character of the area and the scale and historic forms of development found there. It also obstructs views from Queen Street to the water and would dominate views from across the water by its large and uncompromising cube-like form and use of eye-catching materials, contrary to policies CS11 & CS16.
- 7.2 In terms of flood risk, the proposal is partially successful, by providing an elevated floor, but it provides only a small part of the flood defences necessary to reduce the degree of flood risk, no other elements of flood defence are assured but remain as aspirations. This does not meet the exceptions test required by the NPPF and policy CS15.
- 7.3 Loss of the employment use has not been adequately tested by marketing. It falls well short on several counts of the requirements of policy DM2 & 3. This is of particular concern given the loss of the marine related use (policy CS12), the concerns of Chichester Harbour Conservancy and the account given by the previous occupier, which suggest that the site has a useful future for its original purpose; and it is noted that such a purpose would not require the degree of flood defence expected of residential development under national and local policies.
- 7.4 In terms of the requirement for affordable housing (policy CS9) a legal agreement/obligation would be required to make provision. The advice of the Housing officer points to the costs of this an important point for the appellant to consider.
- 7.5 In terms of the requirement for the Solent Disturbance Mitigation Project, the contribution is relatively modest and could be collected via a simple legal agreement/ obligation.

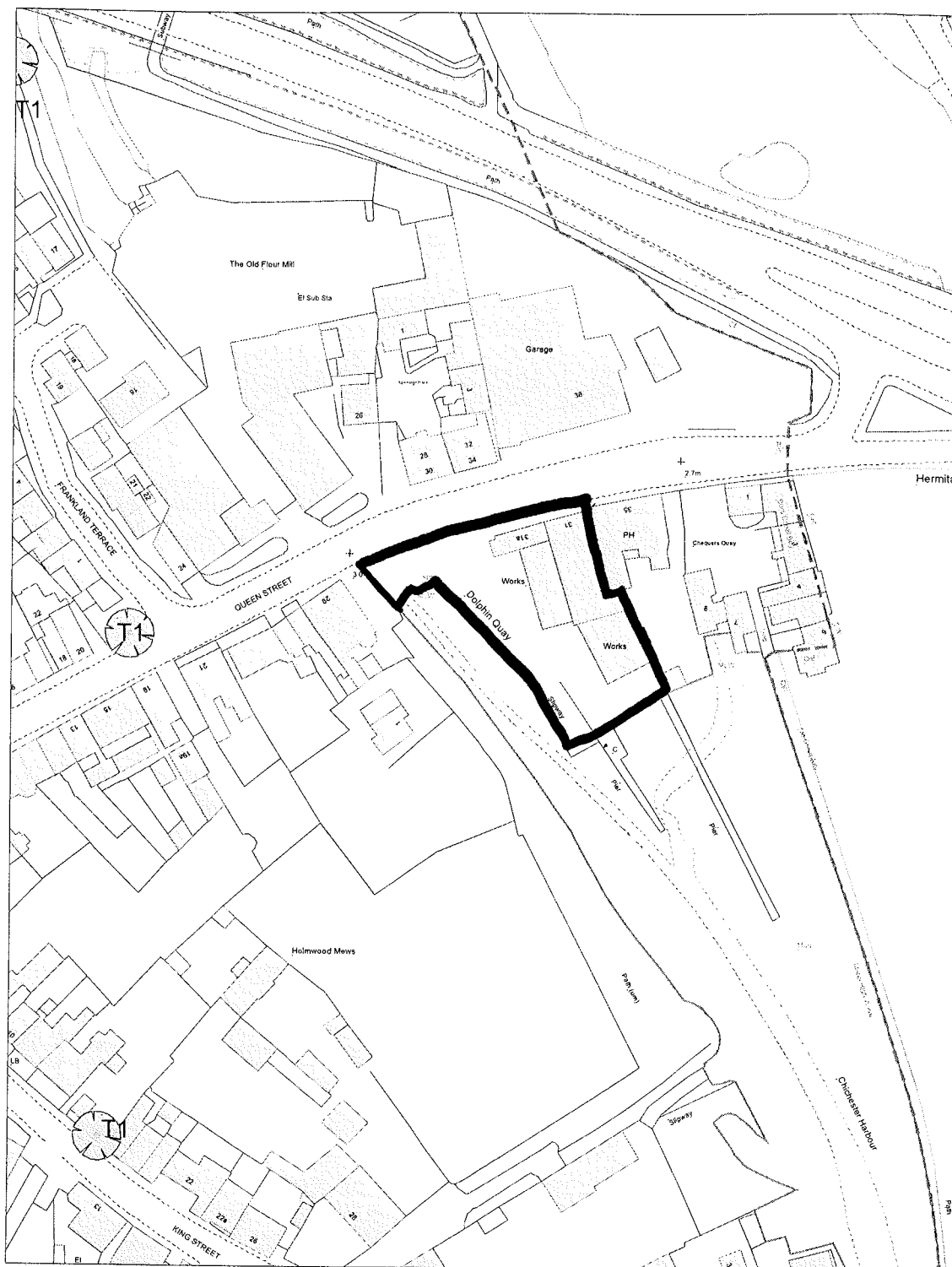
- 7.6 **For the reasons explained in this statement and summarised in these conclusions, the Local Planning Authority considers that the application was rightly refused and requests that the appeal be DISMISSED.**
- 7.7 If however, the Inspector were minded to allow the appeal and to grant planning permission, the Authority would request that the WITHOUT PREJUDICE suggested conditions in Appendix 6 are attached and that permission is only granted after the completion of satisfactory agreements or obligations under S106, to secure affordable housing and the Solent Disturbance Mitigation contribution.

APPENDICES

- (1) Location of Appeal Site
- (2) Emsworth Conservation Area – extract
- (3) Comments of HBC Coastal Engineer and drainage officers
- (4) Chichester Harbour Conservancy - Planning application report
- (5) Comments of HBC Housing officer
- (6) Without prejudice conditions

APPENDIX 1

Location Plan



Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

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



Havant
BOROUGH COUNCIL

Title:

Dolphin Quay, Emsworth

Drawn By:

Scale:

1:1250

Drawing No:

Cleaner, Safer, More Prosperous

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APPENDIX 2

Emsworth Conservation Area - Extract



Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

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



Title:

The site shown within Emsworth
Conservation Area

Drawn By:

Scale:

Drawing No:

Cleaner, Safer, More Prosperous

APPENDIX 3

Comments of HBC Coastal and Drainage Engineers

Comments of Havant Borough Coastal Project Engineer (October 2014 *in italics*)

- 1) The extent of flood defences needed to make this development acceptable – is it enough to build the sea wall at the application site only?

Without the offsite defences the site will be at risk of flooding from the road and through outflanking around the back. This could cut the site off during an extreme tidal flood.

The whole package of measures (including onsite, offsite and building design mitigation) would only make this site safe with a dry access if all were delivered together.

There is also an issue that the height of the defence proposed on the development will only

If only the onsite defences were delivered with the building design mitigation residents would be able to remain within the buildings with refuge above flood level but they are likely to be surrounded by flood water during an extreme tidal flood event.

The site is identified as being at a moderate to high undefended flood hazard in accordance with the PUSH SFRA mapping layers

- a. Is there a risk of tidal flooding or surface water ingress if only the sea wall on site is built

Yes there is a risk of tidal flooding up Queen Street outflanking the development site from the east

- b. If there is such a risk does it make the development unacceptable in flood risk terms?

It would make the site difficult to access during a tidal flood event however the design means that occupants could remain within the building. Over the lifetime of the development both the depth of water during an extreme tidal flood event will increase and the duration of which also increase

Road levels near to the site entrance show around 3.0m AODN. The present day 0.5% probability (1 in 200 year) extreme tide level for Chichester Harbour is 3.4m AODN and the 0.5% probability (1 in 200 year) extreme tide level for this area in the year 2115 is 4.5 m AODN. This could see a flooded depth of water of 0.4m present day and up to 1.5m in the year 2115.

- 2) Your suggested condition 1 refers to obtaining funds from the developer – can you say how much and for what?

It is likely to need to fund the defences both onsite and offsite in whole. At the time of the response a bid had been submitted for grant funds from government for a scheme at this location. It has since been published in the

Environment Agency's draft allocation for grant aid investment that this scheme does not feature in the 6year spending period.

In respect of paying for a contribution towards the cost of delivering flood defences offsite, this would include work including a raised floodwall and raised road level and flood gate.

Comment of Environment Agency: The wider flood defence scheme proposed by the applicant in the FRA is a somewhat hypothetical example of a community wide scheme which could be in place. It does not currently sit on the Environment Agency's nor the Local Authority's proposed programme of works. Therefore we are not in a position to suggest what the appropriate contribution should be. It is also worth noting that the applicant states in the FRA that the detailed design of the scheme is dependent on the outcome of the planning application. It is likely that the scheme will need to be led by other private contributors/developers and so these parties will need to determine the costs of the proposed scheme and what a reasonable contribution from the applicant would be.

- a. How this should tie into other defences, as mentioned in your condition 2.

Onsite defences would need to tie into offsite defences or higher ground in respect of design heights.

- 3) Re the basement parking space, (your final 2 paras), are you looking for some means to prevent water ingress; some alternative parking arrangement?

The principle of below ground basement parking is accepted in respect of flood risk. Our advice is that basement parking should be flood proofed in some way with a warning and evacuation plan to allow residents to move cars to higher ground in the event of a warning. Measures that could be used to make the basement more flood resilient include flood gates over the entrance to the parking area, pumped drainage, waterproof tanking to the car park walls.

- 4) What attributes/actions should we look for in a flood warning and evacuation plan for this site? (I need to be sure that these are achievable.

- Means of receiving a flood alert / warning*
- What to do in the event of a flood alert / warning*
- Actions and operators – who is expected to do what*
- Access and egress routes;*
- Opportunity for safe refuge within the buildings – ability to move to higher levels*

Comments of Havant Borough Drainage Engineer (October 2014 *in italics*)

Fluvial flow will only play a small part in this site. The most common cause of flooding is overtopping from the tidal harbour.

That being said there is a mechanism whereby if the River Ems is in spate the fluvial flow can overwhelm the culverts that run under Queen Street, or can fill the adjacent Mill Pond. In both of these cases however the effect is less than the tidal flooding, and what usually happens is that any fluvial flow is held back by the high tide which

then gives rise to the flows out of road gullies etc. The 'lie of the land' will tend to direct fluvial flow eastwards to the bridge and hence out to the Mill Pond; in fact the overtopping from the river bank occurs north of the A259 and crosses Brook Meadow into Peter Pond.

The wider scheme deals with the fluvial risk by diverting and managing flows in the Ems, but there is a fundamental limitation regarding the culvert capacity under Queen street so the 'compartmentalisation' is needed to keep fluvial out as well as tidal. The wider schedule of works proposed by the site's developer implements this important part of the overall.

Tidal flow and depth will vary. Speed will tend to be low anyway, the tide coming in slowly since it is at the top of its gradient, with depth a function of whatever the tide height is; the issue with submerged obstructions is more the 'blowing' of gully and manhole covers leaving a hole which cannot be seen by anyone walking along. Having said that I cannot recall any instances where this has happened at this location.

APPENDIX 4

Conservancy report

Local Planning Authority planning application reference: APP/14/00510

Site: Dolphin Quay, Queen Street, Emsworth

Proposals: Demolition of the single storey shop, two-storey office building and associated outbuilding and the boatyard. Erection of 4no. houses (3x 3no. bedrooms and 1x 2no. bedrooms) fronting onto Queen Street and associated parking and erection of an apartment building (4 x 2no bedrooms and 1 x 3no. bedrooms) fronting onto to the Mill Pond with associated parking.

Recommendation:

That Havant Borough Council be informed that Chichester Harbour Conservancy objects to the application, as it considers insufficient efforts have been made to retain, or even partially retain the site in marine employment use, this being the remaining boatbuilding infrastructure in Emsworth with direct access to water and use of a slipway. Also that the scale mass and appearance of the rear, flatted block is considered out of keeping with its surroundings and detrimental to the historic views of adjoining Listed Buildings, particularly the 'Old Flour Mill'. Furthermore, the rear jetted roof balcony/terraces to the front block of town houses are considered to be an alien feature detracting from the character and appearance of the Emsworth Conservation Area. In combination, these design flaws are considered to be symptomatic of an inappropriate overdevelopment of the site.

Conservancy Officers' comments and reasoned justification

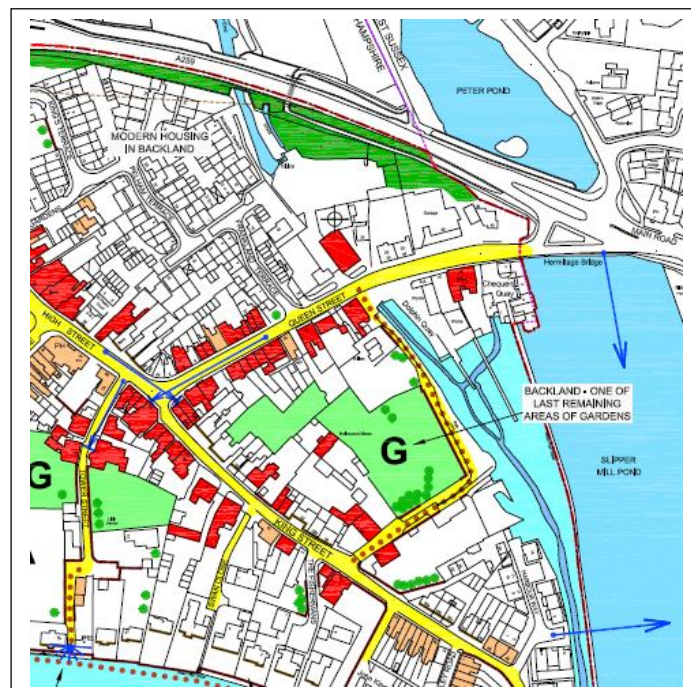


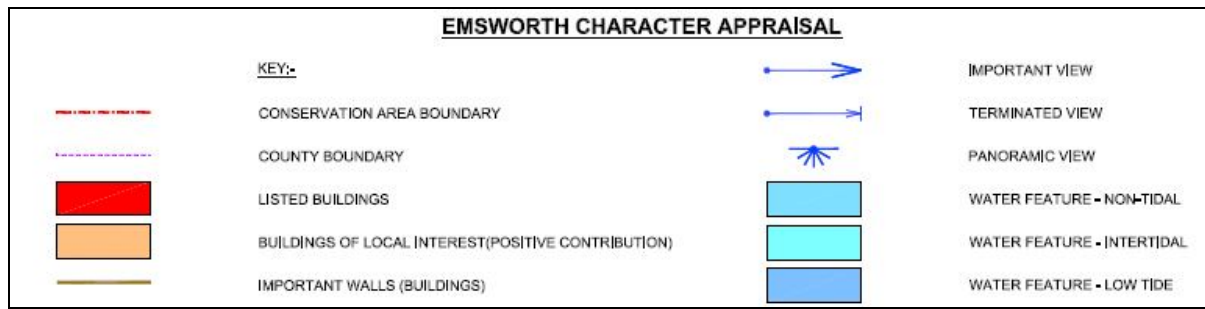
1.0 Site and its context

- 1.1 The site lies within the Old Town and Harbour character sub-area 'A' of the Conservation Area. This forms part of the H1 Havant to Chichester Coastal Plain Landscape Character area, in a study of the AONB commissioned by the Conservancy in 2005, whose relevant key characteristics are listed as:-
- *"Linear historic settlements follow, or are located in close proximity to the Roman Road line of the A259.*
 - *Dense urban development of Havant, Chichester, Emsworth and Southbourne.*
 - *Occasional views from south of the A259 to the harbour".*

The site itself lies outside of the SPA, SSSI and Ramsar designations, but within 200m of them. There is no boat lift crane at the site.

- 1.2 It comprises 3 non-listed buildings, but abuts the Lord Raglan pub and lies to the south and east of/opposite 'The Old Flour Mill' and 29 Queen Street (Dolphin House), which are all Grade II Listed. There is an open pub garden to the rear of the pub. A more recent two storey housing development known as Chequers Quay lies east of the Lord Raglan pub and one public footpath passes through it to reach Queen Street.
- 1.3 Whilst not visible from the outer Harbour, these buildings occupy a prominent position in the street and from adjacent public footpaths and the Slipper mill pond. In overall terms the existing buildings and open yard do not make a positive contribution toward the cultural heritage of the AONB, but do allow long views and vista north of the prominent, Listed, 'Old Flour Mill' in Queen Street.
- 1.4 A jetty and various moorings project from the site into what is known as Dolphin Cut, where the River Ems flows into Chichester Harbour, they are owned by the applicant but do not form part of the application site. Access to them would be maintained.
- 1.5 There is a solitary tree on the site, but this is not considered to have either good amenity or ecological value. Surveys of the site have not revealed any protected species to be present and the overall conclusion is that the site has very limited ecological value.
- 1.6 An extract of the Emsworth Conservation Area Character Appraisal Map is shown below. It identifies prominent views down and across the Slipper mill pond.





2.0 Proposed development

- 2.1 The moorings south of the site are to remain and pedestrian access to them is to be provided through the application site, albeit not with wholly level access, there being a set of steps proposed over the proposed flood defence sea wall.
- 2.2 A residential development of the site is proposed following the removal of all existing buildings. Other than a marketing report, no viability assessment has been submitted by the applicant.
- 2.3 Served by a single point of vehicular access alongside the Lord Raglan pub, the applicant proposes to erect 2 new blocks of housing: one on the street frontage, the other behind it. A yard would separate the two new blocks. Each block would be raised up and a new flood defence wall would flank the southern and western sides of the site. The development would be served by a total of 25/18 car/bicycle parking spaces respectively arranged underneath each block. As stated, pedestrian access to the existing moorings would be provided through the site. The proposed layout is shown below.

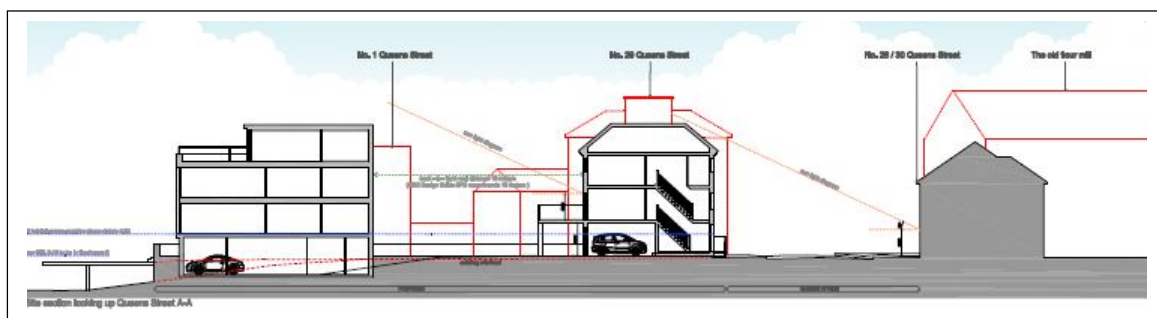


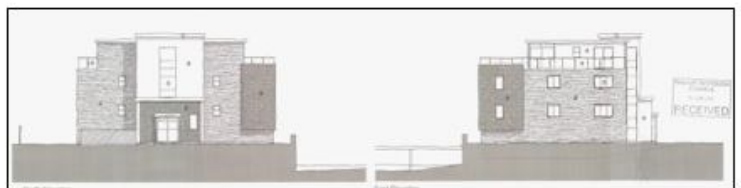
- 2.4 The front block would be more traditional and simple in its elevational composition, built from red stock brick and whose cropped roof sections would be clad with plain clay tiles. The block would be 2 storeys high adjoining the Lord

Raglan pub 5.2 & 7.6m above pavement level to eaves and roof ridge respectively) and step up to 3 storeys in height 7.6 & 10m above pavement level to eaves and roof ridge respectively). This block would contain 4 houses (3 x 3 bed and 1 x 2 bed). A cantilevered/supported terrace/balcony would project from the rear of the block, providing each dwelling with some amenity space. The front block would take an outlook to the rear block, but there would be no interlooking, owing to the way the accommodation has been laid out in that block. Stepped stoop access, which is a distinctive feature elsewhere in Queen Street, would be provided off the street frontage and is consciously part of the flood defences. Details of the front block are shown in the images below.



- 2.5 The rear block would be more modern in appearance with a flat roof and projecting balcony elements providing amenity space for each apartment and arranged on 4 levels, the semi-basement level providing car parking off the central manoeuvring courtyard. This block would provide 5 apartments (4 x 2 bed and 1 x 3 bed). The topmost part of the building would be 10.2m above pavement/courtyard level. A contextual section and images of the proposed rear block are shown below.





2.6 Space would be left to the west of the front block and laid out to provide public realm improvements including an area of seating/new tree planting.

2.7 The application has been supported by a number of reports including:-

- Design and Access Statement
- Planning Statement
- Marketing report
- Flood risk assessment
- Context analysis
- Heritage Statement
- Ecological assessment.

3.0 Relevant planning history

- 3.1 The site was principally used to manufacture and repair timber boats and part was used as a shop to sell antiques. The premises are currently vacant (the boat repairer having left in 2012) and in recent years the site has been badly flooded. This and the limited usefulness of the accommodation has hampered marketing of the site as a boat building yard.
- 3.2 There have been previous proposals to re-develop the site on a mixed residential/smaller boatyard basis. These were presented to a local design review panel but did not find unanimous favour. No planning application was therefore submitted.
- 3.3 A pre-enquiry application was made to the Borough Council in respect of the current proposals (originally for 13 dwellings). However, no overtures were made to the Conservancy, despite. Revisions were made reducing the scheme to 11 dwellings and a public exhibition held 14.4.2014. As a result of views expressed, further revisions were made and the current planning application submitted for a

quantum of 9 dwellings. Significant amendments were made to the elevational treatment of the rear block and the materials with which it was to be faced, reducing the overall amount of glazing previously designed. A western 'wing' with undercroft providing access to the site was also deleted, to open views of the 'Old Flour Mill' and place the vehicular access to the east side of the site, pulling development away from the Listed Lord Raglan pub.

4.0 Planning considerations

4.1 The main issues to be considered relate to –

- (1) Efforts made to perpetuate marine boat building and repair at the site.
- (2) Whether the development is appropriate in terms of its scale/massing/appearance, especially having regard to the desirability of preserving or enhancing the character and appearance of the Emsworth Conservation area and preserving or enhancing the setting of adjacent listed buildings within the Chichester Harbour AONB.
- (3) The public benefits of improving flood defences to safeguard the well-being of those living and working in this part of the AONB.

4.2 The applicant has commissioned a report which sets out that the site has been marketed for 3 years to attract marine related business to the site. The only interest expressed during that time has been from a restrator, who lost interest when being told about recent flooding episodes. It is claimed that investors have been put off by this aspect and that the expense of constructing flood defences did not justify their industrial/commercial investment in the redevelopment of the site for its existing authorised purposes. What is not clear though is whether any mixed use of the site to partially retain some marine employment activity at the site has been market tested by the applicant. The Conservancy's own commissioned report by Marine SouthEast into Marine related Business Evaluation (2013) states the following about Dolphin Quay –

"Although there are tidal restrictions on access, large boats can be accommodated.

In addition to the are occupied by the boatyard, the Dolphin Quay site has two buildings fronting Queen Street and to the rear of them a boatshed. One of the buildings was formerly used as office accommodation by an accountancy firm. The other building and boatshed were leased to an antiques business for use as a shop and warehouse facility. Although the boatshed was used for antiques storage, it still retains overhead gantries for boat handling. Pontoon moorings at the rear also belong to the site providing tidal berths for approximately 40 vessels.

In 1996 Tim Gilmore leased part of the site to commence a business restoring and repairing wooden boats. As the level of work increased the company grew to become a team of 6 shipwrights and during this period in invested in equipment and facilities to improve is efficiency.

Due to leasing arrangements Dolphin Quay Boatyard lacked a permanent boatshed. To overcome this the company designed and constructed three steel framed shelters".

4.3 The former boat repair business left the site in 2012 and relocated to Birdham Pool marina, where it continues to trade.

4.4 The operator of that business has written to the council to object to the current proposals.

4.5 Whilst the applicant has not referenced the Conservancy's Planning Guideline

D1b, they have referred to Havant Borough Council's statutory planning policy DM3, which broadly seeks to retain employment floorspace in the Borough.

- 4.6 On strict application of Policy, the applicant has produced a marketing report and persuasive argument as to why it is not possible to retain employment use and specifically employment related to marine industry at the site.
- 4.7 By the same token the former operator on the site says that it would have been possible for them to have continued to trade at the site.
- 4.8 As to appearance and visual impact, the front block has a very simple elevational treatment and thus blends well with other buildings in the street. Its scale steps up from that of the Lord Raglan pub to 29 Queen Street (Dolphin House). The rear supported terracing/balconies are not a common feature of the area, but do represent an attempt to provide private amenity space on what is a very constrained site, which is difficult to develop.
- 4.9 The rear block is modern in appearance, but to my mind, not inappropriate, being proposed of high quality materials and having an appropriate scale. The elevational composition has become better detailed throughout the process of consultation and now has a greater symmetry to its rear elevation, when viewed from the water/across/down the mill pond. As one approaches the site from the harbour, modern housing development obscures and provides a serial vision before the application site comes into view. There are examples of very architecturally modern new housing and the area is not so homogenous in its appearance that contemporary design could not be entertained at the rear of the site.
- 4.10 In overall terms, I consider re-development could provide an enhancement of the character and appearance of the Emsworth Conservation area. However, 3.19 from the Conservation Area Appraisal reminds us that: -

"The overwhelming townscape image of the Conservation Area's built form is that of the 18th century, both in terms of period buildings mostly abutting the pavements and the use of materials. The majority of buildings are built in a vernacular style, on a domestic scale with the exception of the industrial buildings. But even these reflect the smaller dimension associated with the locality and local materials. Elevations are generally in red stock brick, but sometimes this is painted, together with examples of painted smooth rendering (stucco) roofs of the early 19th century. Plain clay tiles predominate for roofs and Welsh slate appears with the Regency Period at a shallower pitch".

- 4.11 Whilst others say that it may still be possible to introduce further improvements to the architecture, the test really is whether the tabled proposals are of sufficient merit and positive impact to the Conservation Area and wider AONB to allow support for this element of the planning considerations.
- 4.12 The front block appropriately steps up from the Lord Raglan pub to the greater distant scale of 29 Queen Street, whilst remaining subservient to the scale of the 'Old Flour Mill'. Its materials and detailing fronting the street are considered appropriate. However, the jettied terracing providing first floor balconies to the rear are considered alien.
- 4.13 Whereas the applicant has made some efforts to reclad the rear block, its overall scale, massing and appearance are not considered appropriate and would interfere with the vista of the 'Old Flour Mill' when walking north along the public footpath towards Chequers Quay. Paragraph 3.22 of the Conservation Area Character Appraisal reminds us that:-

“Views: The history of Emsworth is inextricably linked with the harbour, although the association between the town and the waterfront has changed from its earlier commercial base to one largely related to tourism and recreational sailing. This waterside activity and related services are still an important part of Emsworth’s character”.

- and paragraph 56 stating –

“5.6 The design of any new buildings will also need to be sensitive to the scale and character of the site and the area and show imagination – building upon the existing urban form, details and materials. It is important to respect and maintain the building lines particularly within the medieval street pattern and elsewhere within the Conservation Area”.

The Emsworth Village Design Statement offers similar advice and planning guidelines, especially ‘Built environment’ design considerations 4 and 7.

The remodelling of the sea wall at this part of the site would also cause the loss of the existing slipway, which allows others to launch small boats.

5.0 Conclusions

- 5.1 Officers consider that insufficient efforts have been made to establish whether a viable mixed use development could be provided on the site, which could retain part of the site for marine related employment purposes. Thus, it is asserted that the full requirements of Conservancy Planning Guideline D1b have not been met. Notwithstanding the public safety benefits that may accrue from the new flood defence works, acknowledged by the Environment Agency, there are also certain aspects of the development which are symptomatic of the proposals being an overdevelopment of the site, which have been set out above. An objection should therefore be raised to this application.

SRL for 21/7/14 CHC Planning Committee

Comments requested by: 15 July 2014, with extension of time granted by HBC for CHC to comment from today’s meeting.

PLANNING POLICY FRAMEWORK*

NPPF – 7, 9, 11, 14, 17-23, 47-50, 56-58, 60-61, 64, 66, 69, 74, 93-94, 99-101, 103, 109, 111, 115, 118, 126, 128-129, 131-134, 137, 188; **NPPG** – ID 2b, ID 6, ID 7, ID 8, ID10, ID 18a, ID20, ID21a, ID 23b, ID 26, ID 30, ID 33, ID 34, ID 36, ID 37; **HBLP** – CS8-CS9, CS11-CS12, CS14-CS17, CS19-CS21, DM3, DM8-DM9, DM11, DM17-DM18, DM20, DM24-DM25; **SHBSA** – AL1-AL2, DM12-DM14; **CHMP & PG** - LS1-LS2, LS4, HE1, BD1, BD3, NC1, NC5, CD1, CD3, WQ1, WQ4, EW1, EW4, EL3, EG1-EG4 & Guidelines B1a-B3, B8, E8b, I1; **SPG/D**.

*Abbreviations used:-

NPPF – National Planning Policy Framework (2012)

NPPG – National Planning Practice Guidelines (2012)

HBLP– Policies from Havant Borough Local Plan (Core Strategy)(2012).

SHBSA - Submission version of Havant Borough site Allocations DPD (2014)

CHMP & PG – Chichester Harbour Management Plan (2014-2019) & Planning Guidelines (as amended 2011-2013)

SPG / D – Supplementary Planning Guidance/Documents/Evidence:-

- Chichester Harbour AONB Design Guidelines for New Dwellings and Extensions (2010)
- Interim planning policy statement approved 2.10.13
- Havant Borough Council - Borough Design Guide - Supplementary Planning Document (December 2011)
- Emsworth Village Design Statement (2008)
- Emsworth Conservation Area Character Appraisal/Management Plan (2010)
- HBC Residential parking and cycle provision SPD – March 2010
- Marine related business evaluation Phase 1 – Marine SouthEast (March 2013)

For ease of reference CHC Planning Guideline D1b reads:-

***"POLICY D1b:** The Conservancy is likely to raise an objection to the redevelopment of marine-related sites for non-marine business uses, unless it can be demonstrated that the site is not fit for purpose and that a predominantly marine-related business use is not viable. In all cases, proposals should not have an adverse impact on the landscape and nature conservation interests of the AONB. Applicants should take the following sequential approach and refer to 'Requirements of Marketing' below:*

- 1. In the first instance, the site should be marketed for marine-related business use (for large and/or small units);*
- 2. If this fails, the site should be marketed for a mix of marine-related business use and/or other appropriate commercial/employment uses which are capable of reversion to marine-related use in the future;*
- 3. Only if both of the above steps have failed, will other uses such as housing be considered. In these instances, an appropriate mix of housing and marine-related or other appropriate commercial/employment use(s) may be acceptable, provided:*
 - it can be clearly demonstrated with evidence that the residential element would be necessary to make the scheme viable in financial terms;*
 - any proposed non-marine-related employment use is capable of reversion to marine-related use in the future;*
 - the marine-related or other appropriate commercial/employment use(s) are of a scale and type that would be viable and sustainable in the long-term (a sufficiently detailed Business Plan should be provided to help demonstrate this);*
 - it can be demonstrated that the proposed uses are compatible with each other and the site.*

4. *Redevelopment of an existing or historic marine-related site with an entirely residential use is unlikely to be acceptable, unless and until the previous three steps have been taken and evidence provided that the site is no longer fit for purpose for marine-related or other appropriate commercial/employment uses”.*

APPENDIX 5

Comments of HBC Housing officer

Advice of HBC Housing Officer regarding calculation of commuted payment

In October 2013 The Council adopted the Havant Borough Local Plan Viability Assessment produced by BNP Parisbas Real Estate. Within this report residential sales values are stated for areas of the Borough. Table 5 page 19 shows these values for Hayling Island & Emsworth as £3,067 per sq metre. I have assumed that a new build would probably attract a premium of 10% and values have increased in the last 12 months by approx. 7%.

So therefore the formula for calculating expected sales values is: $\text{Sqm} \times 3067 + 10\% + 7\%$

Please see the two spreadsheets (supplied to the appellant), one for the flats and one for the houses, which illustrate this worked into the Financial Contribution Calculator which appears as Appendix A of the Havant Borough Council Housing SPD. The estimated financial contribution would be £255,595.00 in this case

The values that I have used are as stated only estimates so I feel it would be useful to ask the developer what values he has used when working out his own site viability, this area of Emsworth could attract higher sales values given its waterside location.

APPENDIX 6

Without prejudice conditions