

Date 5 April 2023
Our Reference OCLA1/DIT174/1
Please ask for Ollie Clawson
Mobile 07534030589
Email ollie.clawson@knightsplc.com

Tina Pickup
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
Hampshire
PO9 2AX

SENT ELECTRONICALLY ONLY

Dear Tina,

Objection to planning application reference APP/23/00102 – Retrospective use of barn as mixed use tea room and education/exhibition space, change of use of Agricultural Land to extend existing car park, amendment to existing seating arrangements with increase in covers from 80 to 100 and use of sound amplifying equipment 15 days per annum – Northney Farm, St Peters Road, Hayling Island

I write with regard to the above proposal (herein referred to as the **Application**) which has been submitted for Northney Farm, St Peters Road (**Site**). My clients, [REDACTED] reside [REDACTED] of the Site. [REDACTED] have significant concerns regarding the proposed form of development and, as a Chartered Member of the Royal Town Planning Institute, I make the following objection to the Application on their behalf.

The Site was granted planning permission in September 2010 (Ref: 09/74191/000) (**2010 permission**) for the:

“Part demolition, repair, rebuilding and extension of Stubbington Barn and Stables to form education centre and exhibition space, tearoom with ancillary kitchen and toilet facilities together with necessary repairs to Meadowsweet Garage and cycle store.”

The 2010 permission was granted subject to a total of 28 no. planning conditions pertaining to a number of different matters. Condition no. 12 of the 2010 permission was varied in March 2012 (Ref: APP/11/01388) to allow hours of opening to be 10am-5pm throughout the year and up to 3 evenings a week until 11pm.

Knights
Olympic House
Doddington Road
Lincoln
LN6 3SE

T 01522 888555
W knightsplc.com

Planning permission was also granted in February 2018 (Ref: APP/17/01071) (**2018 permission**) for the “*Single storey rear extension to Tea Rooms*”. The 2018 permission was approved by Havant Borough Council’s (**Council**) planning committee, subject to 16 no. planning conditions.

However, [REDACTED] have long observed the Site being utilised in a manner which is not consistent with the terms of both the 2010 and 2018 permissions, and this is borne out in the investigations by Council Planning Enforcement Officers during the summer of last year. Whilst it is understood that no formal enforcement action has as yet been taken by the Council, a letter provided by Amy Zelazik (then Senior Planning Enforcement Officer) ultimately confirmed that:

1. The Tearoom had been operating between the hours of 10am-5pm, 7 days a week, with approximately 2 events a month with the tearoom remaining opened until 11pm. **This is a breach of condition no. 4 of the 2018 permission.**
2. Officers reminded the owners of the Site that no amplified equipment could be utilised on site without the Council’s prior written consent.
3. The outdoor seating arrangements were **in breach of condition no. 7 and condition no. 9 of the 2018 permission.**
4. The erection of the marquee/tent within the grounds of the tearoom was considered to be a permanent structure amounting to operational development and, as such, would require full retrospective planning permission.

In light of the above, and given the retrospective nature of the Application, it is not unreasonable to conclude that the Site has long been operating in breach of the conditions imposed by the extant consents.

This Application seeks, in part, to address the ongoing breaches of planning permission whilst also seeking to secure consent for a much more intense use than that which is currently approved. Whilst it is appreciated that both the Havant Borough Local Plan Core Strategy (**HBCS**) and Havant Borough Local Plan Allocation (**HBA**) documents do promote opportunities to support agricultural and farming diversification, Policy CS17 of the HBCS does establish that “*Development in the non-urban areas will only be permitted if it is consistent with the policies for the countryside set out in national policy*”. Accordingly, it is necessary for any such development proposal to be consistent with the policies of the HBCS, HBA and the Revised National Planning Policy Framework (**Revised Framework**), when considered in the round, in order to be acceptable in principle. In this instance, however, the Application clearly conflicts with the overarching provisions of the Local Development Plan and, accordingly, it is respectfully urged that planning permission should not be granted.

Considering each aspect of the proposal in turn, it is noted that the Application seeks consent for both the retrospective change of use as a mixed-use tearoom and education/exhibition space. The Application also seeks permission for an increase in seating covers from 80 to 100, presumably to account for an increase in capacity due to the proposed change of use.

However, [REDACTED] have significant concerns that the Application would serve to further distance the function of the Site from the educational and exhibition use originally consented, such that the primary operation on Site is that of the tearoom. This is considered to fundamentally conflict with Policy CS1 of the HBCS, which at paragraph 12 seeks to support “*the improvement of existing cultural assets with regard to the arts, sport, heritage, museums, and creative activities*”. It is feared that any approval for the retrospective expansion of the tearoom would simply serve to establish the tearoom as a destination in its own right; to the detriment of the educational opportunities the Site could – and is

required to – provide, as per the terms of the extant consent. Indeed, the fact the Applicant had previously referred to the Site as ‘The Tearoom and The Barn’ albeit has more recently dropped the latter half of that description only indicates that this is a process which has already been set in motion.

Leading on from the above, the use of the tearoom itself is questioned. [REDACTED] have unfortunately long witnessed the use of the Site for purposes falling well outside of the educational and exhibition uses approved. Rather, it is not uncommon for the tearooms to be utilised for private functions – including wakes and birthday parties – which of course offer little benefit to the wider community. Once again, it is feared that an extension to the seating arrangement would simply enhance the Applicant’s ability to host such private functions which, as previously noted, has occurred irrespective of whether this could be considered to conflict with the terms of the extant planning permissions. Indeed, on this note it is relevant to highlight that the officer’s report associated with the 2018 permission highlighted that proposal would need to be supported by a:

“... sound business case for the development and that the development can be considered to represent sustainable development particularly in relation to the resulting impacts on the rural location an in relation to impacts on nearby residents”

However, it is not considered that any such business case has been submitted in this instance. Rather, the Design, Access and Heritage Statement submitted in support of the Application simply and sweepingly states that *“The Tea Rooms are an established and successful business. As such the site is considered to be entirely sustainable”*. That statement goes on to make some generic commentary relating to the proposals albeit it is not considered that this represents a ‘sound business case’. With regard to the proposed seating arrangements, the Design, Access and Heritage Statement simply states that:

“The reason for this is that during the summer months the seating is required outside but during the winter months the seating needs to be inside”.

The existing seating arrangement does already provide a mix of seating indoor (48 no. covers) and outdoor (32 no. covers), though the Application is devoid of any information to explain why this existing arrangement is inadequate. On that basis, it can only be concluded that the existing seating arrangement satisfies the requirement for indoor and outdoor seating and, therefore, no further expansion is necessary to support the business.

The Design, Access and Heritage Statement goes on to note that:

“The barn previously had Permission to be used as an exhibition and education space. This space has also been used as a seating area for the tea room for a period of more than 10 years. Please see evidence in Appendix 1. This application seeks retrospective permission for the use of the barn to formally be mixed use: tea room AND education/exhibition space.”

It is noted that the above appears to allude to the fact that the extant use of the Site is lawful under the provisions of Section 191 of the Town and County Planning Act 1990 (TCPA). However, and as is previously set out within this letter of objection, [REDACTED] have long witnessed the Site being used for purposes which fall outside of the wording of condition no. 11 of the 2010 permission. That condition is clear in setting out that:

“The buildings shall be used only for an education centre, exhibition space and tearoom with ancillary kitchen and toilet facilities, and for no other purpose whatsoever”.

The Design, Access and Heritage Statement provides just two photographs which were taken on 21st April 2012 to show the use of the space in question “as a seating area for the tea room for a period of more than 10 years”. However, Section 17c of the Planning Practice Guidance (PPG)¹ clearly states that:

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability”.

It is not considered that evidence from a single event held in April 2012 is “sufficiently precise and unambiguous” to prove that the extant use of that space for seating is lawful. There is no evidence to indicate that this was not a standalone event, nor that no alternative or intervening use occurred during this period. Notwithstanding that fact, it is considered that the experiences of [REDACTED] – and the private functions which have been held on-Site in the intervening period – indicate that the lawful use of the Site has not been proven by the Applicant. Accordingly, it is respectfully suggested that the Applicant’s assertion that the space has been used as seating for more than 10 years prior to the date of this Application is given no weight during the determination process. Rather, it should be recognised that any such instances have occurred in breach of planning control.

Furthermore, it is considered that the proposed increase in seating provision – particularly those located externally – is likely to have a significantly detrimental impact upon the amenity standards currently enjoyed by not only [REDACTED] but all other neighbouring properties. As I am sure you are aware, Policy DM10 of the HBCS sets out that (emphasis added):

“Development that may cause pollution of water, air or soil or pollution through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, heat, electromagnetic radiation and other pollutants will only be permitted where all of the following relevant criteria can be met:

- 1. The health and safety of existing and future users of the site, or nearby occupiers and residents is not put at risk.***
- 2. National air quality standards or objectives would not be breached.*
- 3. The water environment would not be detrimentally affected.*
- 4. It would not lead to an unacceptable deterioration in the quality or potential yield of coastal, surface and ground water resources.*
- 5. External lighting is of the minimum level of illumination and duration required for security and operational purposes.*
- 6. External lighting would not interfere with safe navigation in either Chichester or Langstone Harbours and other coastal locations.”*

¹ PPG, Paragraph: 009 Reference ID: 17c-009-20140306. Revision date: 06 03 2014.

Indeed, it is noted that the Council's Environmental Health officer held significant concern as to the potential noise impact associated with the 2018 permission. During which, the consultee response from the Environmental Health officer (dated 12th February 2018) stated that:

"Increasing the capacity only seems to show that an increase in patrons and noise associated with this will increase. Already complaints of patron noise (voices, engine, door/boot slam etc..) and increase in traffic will be directly linked to the increase capacity which may adversely affect local residents."

In that instance the submission of an Environmental Noise Survey (including Road Traffic Noise) was considered necessary in order to establish the likely extent of the harm which would be caused in this regard. However, the proposed increase in patrons seated externally (in close proximity to [REDACTED] private amenity area) would undoubtedly exacerbate the concerns previously cited by the Council's Environmental Health officer.

Unfortunately, it is not considered that the 'Noise Assessment' submitted on behalf of the Applicant is adequately robust, nor does it sufficiently assess the potential likely impact in this regard. Whilst [REDACTED] concerns with regard to that assessment are set out in full towards the latter stages of this letter, it is important to highlight that the Noise Assessment has not been prepared to British Standard BS 4142:2014.

Indeed, the Noise Assessment asserts that:

"The venue manager will monitor the noise levels during the course of the event. They do not allow people outside after 6pm but there will always be a little noise as people use the toilets (which have to be accessed from outside) and when they leave any evening event. This is deemed to be between 30-60 decibels which is between a whisper and normal conversation."

The Noise Assessment goes on to state that *"the staff always ask people to leave quietly and there are signs up asking people to respect the neighbours"*. The Applicant also proposes the installation of a sound limiter *"which will automatically limit the sound output"*. Any such limiter would however fail to mitigate the noise associated with up to 100 people enjoying the outdoor space associated with the Site.

However, with the Noise Assessment not being prepared to British Standard BS4142:2014, it is not considered that the conclusions *"deemed"* by that statement can be accurately relied upon in quantifying the potential noise impact of the Application. Rather, the submitted Noise Assessment is not thought to be fit for purpose and, as such, does not provide the necessary confidence that the Application would be compliant with the provisions of Policy DM10 of the HBCS.

Notwithstanding the above, and without prejudice to their submitted representations, [REDACTED] would request that a suitably worded model planning condition(s) is included within any permission the Council is minded to grant in order to clearly establish the permitted operating hours. However, given [REDACTED] past experiences – not least the Applicant's own admission that people do gather outside to use the toilets and smoke outside of the current 'curfew' – they have little confidence that any such condition would be adhered to. This further calls into question as to whether such a condition would reasonably dispel those concerns and, as such, whether the Application as submitted can be considered to be consistent with Policy DM10 of the HBCS.

Turning to the proposed extension of the car parking area, it is noted that the submitted Noise Assessment does not refer to the potential noise impact of the additional vehicles which would be entering and exiting the vehicle as a result of the proposals. The potential noise impact associated with vehicles accessing the Site was raised as a matter of concern by the Environmental Health officer when consulted as part of the decision-making process associated with the 2018 permission and, accordingly, the Application cannot currently be considered to have adequately assessed the likely impact of the scheme in this regard; contrary to Policy DM10.

Leading on from the above, it is also the opinion of [REDACTED] that the Application would result in a visually intrusive form of development which would urbanise what is currently undeveloped, greenfield land. That Site is also located adjacent to [REDACTED] property and, as a result, it is necessary for the Application to satisfy the Council's statutory duty to pay special regard to the desirability or preserving any features of special architectural or historic interest which it possesses under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Given the level of visual harm the proposed extension to the existing car park would cause, it is not considered that the Application satisfies this requirement.

Notwithstanding that fact, the proposals would result in a significant extension to the existing car park and it is unclear from the Application as to whether any detailed analysis has been undertaken in order to establish what likely impact this would have upon matters of highways safety. Indeed, when consulted in respect of the proposals which were subject to the 2018 permission, it is noted that the Highways Authority held significant concerns in this respect:

"I am concerned that this extension will create a destination in its own right. It will encourage additional car journeys and will need additional parking to ensure that indiscriminate parking does not take place in the surrounding area. However additional parking will change it from a small local tearoom to a small country restaurants."

Consistent with the position previously adopted by Highways officers, HBCS Policy DM12 establishes the requirement for a transport statement to accompany planning applications which would explain changes in travel demand. No such evidence has been submitted to quantify this impact. Accordingly, it is only reasonable to conclude that this Application, which would introduce a further 11 no. parking spaces on the Site, would further exacerbate the concerns previously raised by the Highways Authority and must therefore conflict with the provisions of Policy DM12.

It is also understood that the County Council's ecologist has advised that the area of grassland subject to the proposed car parking extension:

"... does feature in the Solent Waders & Brent Goose Strategy (SWBGS) as Site H59B, and Secondary Support Area. SWBGS sites provide critical terrestrial supporting habitat to bird species associated with the nearby Chichester & Langstone Harbours Special Protection Area (SPA). The published SWBGS Mitigation Guidance explains the expected level of compensation for the loss of SWBGS habitat: the application will need to address this issue."

The ecological consultee subsequently goes on to advise that a full ecological survey would be necessary to accompany the Application in order to establish the likely impact in this regard. [REDACTED] would like to reaffirm their support for this request and are of the opinion that without any such information,

the Application can only be considered to be contrary to the Revised Framework's desire to conserve and enhance the natural environment.

Finally, [REDACTED] have significant concern with regard to the proposed use of sound amplifying equipment for 15 days per annum. As previously noted within this representation, the submitted Noise Assessment has not been prepared to British Standard BS4142:2014 and, as a result, the current submission can only be considered to be contrary to paragraph 185 of the Revised Framework, which establishes the expectation that:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life"

The Noise Assessment simply states that:

"the Applicant is proposing to operate sound amplification and use a monitor to keep sound levels below 95dBA within the barn and 70 decibels taken from outside the barn."

It subsequently goes on to conclude that the external noise caused by the development will be *"lower than a vacuum cleaner and an alarm clock"*. As I am sure you will appreciate, [REDACTED] have significant concerns as to the accuracy of this assessment. Whilst those concerns are borne out of the fact that the Noise Assessment has not been prepared to a suitable standard, [REDACTED] have unfortunately experienced a great level of disruption and loss of privacy as a consequence of the events which have to date occurred on Site in breach of planning control. It is my understanding that the Applicant has previously reiterated to [REDACTED] that no amplified music would be played on Site, though as the Council's Enforcement Officers are all too aware, this is simply not the case. Whilst it is noted that those events occurred without any mitigatory measures in place, the potential for up to 100 people to attend 15 such events across the year – or indeed the more likely scenario of events being commonplace over the summer months whereby [REDACTED] would be likely to be outside or have their windows/doors open – is considered to be wholly unacceptable when considered against the provisions of HBCS Policy DM10.

Indeed, it is also of the utmost importance to recognise that part of [REDACTED] property [REDACTED] which is the subject of this Application. The Noise Assessment fundamentally fails to consider the likely impact of the amplified music (of up to 95dBA) on [REDACTED] property and as a consequence it is noted that no further mitigation measures have been proposed to suitably address the likely noise and vibration impact the Application would have upon that adjacent residential dwelling. This simply cannot be considered to be consistent with the requirements of paragraph 185 of the Revised Framework.

The Application as currently submitted fundamentally fails to accurately consider the potential impacts of the proposal upon the amenity standards currently enjoyed by all existing neighbouring residents, and it is considered that the proposed use of a Sound Limiter and Contact Breaker would not adequately address these concerns.

It is on the basis of the above that [REDACTED] object in the strongest possible terms to the Application as currently submitted, which is considered to be contrary to the provisions of the Havant Borough Local Plan Core Strategy, Havant Borough Local Plan Allocation and the Revised National Planning Policy Framework. Should you have any queries in relation to [REDACTED] representation then please do not hesitate to contact myself.

Yours sincerely

[REDACTED]

OLLIE CLAWSON MRTPI