



24th November 2016

By email only

Rachael McMurray
Planning Development
Havant Borough Council
Public Service Plaza, Civic Centre Road
Havant
Hampshire
PO9 2AX

Dear Ms McMurray,

APP/14/00510 - Dolphin Quay, Queen Street, Emsworth

As the owner of One Dolphin Quay, a 3 storey property which directly faces the boatyard over Dolphin Cut, I wish to register my **objection** to the above planning application on the following grounds:

1. Change of use
2. Flooding
3. Design

1. Change of use

For a change of use from employment to residential to be permitted, Para 3.24 of the HBC Core Strategy 2011 requires the applicant to ***"provide robust and credible evidence on viability and marketing that the site is no longer fit for purpose as an employment site."***

It further states that

"All applications that would result in the loss of employment floorspace must comply with all aspects of this policy and thus prove through an active and exhaustive marketing exercise that the site is no longer fit for purpose as an employment site."

Para 3.25 sets out a sequential test for the process which must be undertaken to explore alternative uses;

"Once it has been established that an existing employment site is not fit for purpose other types of economic development should be considered. These uses must provide jobs, generate wealth or produce an economic output. Housing is not a type of economic development."

And marine based sites are given special consideration in Para 3.26;

"Existing marine-based businesses on suitable waterfront sites will be safeguarded from non marine-related employment and other uses."

The marketing report submitted in support of this planning application might on first reading give the impression that the site has been actively marketed, and this seems to have been accepted by the LPA in their pre-application advice. However, since issuing that advice, a number of relevant considerations have come to light, against which the marketing report should be evaluated:

1.1 It should be recalled that the site happens to be vacant only because the previous tenant, Tim Gilmore, who was running a successful and commercially viable boatyard on the site, was given notice to leave. I attach a copy of his letter dated 05/07/2014 which confirms this.

1.2 The site originally comprised of 2 separate planning units; the antiques centre and boat yard, and the office at 31a Queen Street. The office had been successfully refurbished in 2003 to a high standard and been the home to Cornish & Co Accountants. They were subsequently sold to another accounting firm, and in due course the business entities merged and rationalised leading to the sale of the property. At no point was it on the open market, instead Mr Still privately purchased it with a view to redevelopment of the wider site. In its own right, the property would be attractive to many small local businesses however it would appear from the marketing report submitted in support of the application that the agents were unwilling to countenance elements of the site being let or sold separately. This, along with the short lease that appeared to be on offer, would have severely restricted the level of interest in the site.

1.3 The policies quoted above are explicit that residential development on an existing marine use site should only be considered as a last resort, when all other options have been exhausted. This clearly has not been the case with Dolphin Quay. In the first instance, an established and successful business was given notice to leave, then, without the benefit of any meaningful marketing of the site, an application for residential development was submitted in May 2014. Subsequent to the refusal of the 2014 application, some limited marketing was undertaken. The marketing of the site was clearly prejudiced by the involvement of the developer and somewhat surprisingly this is confirmed by the applicant's planning consultant, Matthew Pickup, in his letter dated 31/10/16, wherein he states that

"Given that my clients have expended significant resources over the past 3 years in trying to obtain planning permission to redevelop this site, they considered that they, and the sites owners, were entitled to know something about the prospective purchasers intentions."

That the applicant has prematurely expended "significant resources" on multiple planning applications for residential use prior to exploring the viability of the site for other uses is entirely at their risk, and is no excuse for them to veto or influence the marketing exercise.

1.4 It is clear from the comments submitted to HBC by Mr B Mapley, Mr Mark Treagust, Mr B Stevenson, Mrs Carrie Foukles, Mr Charles Ashe, Mrs Lorraine Clode and Mrs Christine Pilkington-

Miksa, that the agents could not have been more disinterested or unenthusiastic in their response to genuine enquiries. Contrary to what might be asserted in the marketing report, the representations demonstrate that there were a number of parties genuinely interested in leasing part or all of the site, but whose attempts to progress enquiries were actively thwarted by the agents.

1.5 Further evidence is provided by John Pritchard, and confirmed by Martin Helyer, of an above market offer for the whole site with the purpose of retaining it as a mixed-use commercial employment/business site. HBC Policy DM3 - "Protection of Existing Employment and Tourism Sites" requires the applicant to provide an enquiry log, along with details of how each enquiry was followed up and why it was unsuccessful. The explanation on Page 9 of the marketing report regarding the offer by John Pritchard is misleading and amply demonstrates the gulf between the requirements of Policy DM3 and the actual marketing undertaken. I also note the comments of other enquirers who have either first or 2nd hand experience of the abject performance of the agents

1.6 The chain of correspondence that has now been submitted by Tom Holloway merely confirms the negative approach of the agents. It is simply not credible that an RICS agent, employed to market the site in an "active and exhaustive" manner should take over a year to even acknowledge in writing receipt of an above market offer for the site. Mr Holloway's email 07/07/16 states that he did discuss the offer over the phone at the time it was made, however this seems unlikely given that Mr Helyer then followed up the initial enquiry with further phone calls and emails culminating in his 25/08/15 questioning whether the site was actually for sale.

1.8 Mr Holloway is now belatedly trying to justify his inertia as professional due diligence and lists a number of preconditions before he appears willing to even discuss the offer. That it should take him over 12 months to even respond in writing to numerous emails and letters from Martin Helyer is quite simply indefensible, and not the conduct of an agent actively marketing the property. For reference, the guidance from the RICS UK Commercial Real Estate Agency Standards (Nov 2011), is replicated below:

4.6 Communicating with the buyer

G You should confirm to the potential buyer that you have notified your client of the offer as soon as reasonably possible. This should be confirmed in writing along with confirmation of the amount of the offer and any conditions attached. If another offer is made, you should advise the original potential buyer that an additional offer has been made without disclosing the amount or any other aspects of the offer, unless you have your client's consent and the consent of the person making the offer.

It can be seen that in the instance of Dolphin Quay, Holloway Iliffe & Mitchell have fallen well short of the professional standards required of a commercial real estate agent.

1.9 Para 14.0 of the Design & Access statement contains a large number of falsehoods, from the work necessary to reinstate commercial use of the site to its viability as a boatyard. I would again refer to Tim Gilmore's letter dated 05/07/2014 from Tim Gilmore, which confirms that he had found the premises and situation of Dolphin Quay Boatyard perfectly adequate for his purposes. He also confirms that flooding was not an issue in terms of the boatyard, and that the only reason for

his relocation to Birdham Pool Marina was that he was given notice to leave by Mr Still, the boatyard owner.

The forgoing more than demonstrates the inadequacy of the marketing exercise, and removes any credence of its subsequent conclusion that the site has no viable future other than as residential redevelopment. That a genuine offer at above market value was made and communicated to the agent has been treated as an inconvenience, with the agent showing no interest in opening negotiations with the potential buyer. The policy requirement for a change of use has not been met, and the application should therefore be refused.

2. Flooding

The Flood Risk Assessment (FRA) states that ***"whilst in an undefended condition the site is at an unacceptable risk of flooding"***.

This is not the case - flooding is not a risk but a cast iron certainty when a high spring tide coincides with exceptionally strong SW winds. This might happen anywhere between 2 to 3 times a year, and for most occupants of Queen Street represents a minor inconvenience (perhaps with the exception of the Lord Raglan PH), which with the benefit of tide tables and weather forecast, can be planned for, and lasts at most 90 minutes either side of high tide. Contrary to the marketing report, flooding was not an issue for the site when used as a boatyard, and I am informed by Mr Paul Simmonds, the previous owner of No 31a, that during his 10 year ownership only on one occasion was there some limited flooding which could have been avoided by either sandbags or flood boards. Mr Simmonds was always able to secure insurance for the building and contents at a competitive rate.

Para 8.10 of the FRA states that

"Partial implementation of the Queen Street coastal defence may expose the site to potential tidal flooding due to outflanking of the defences present at that time."

This is an astonishing statement as it's not a question of "may" but again a certainty that in the event of a suitably high tide, any gap in the defences will allow sea water to circumvent the defences and flood Queen Street just as it floods at present. This is recognised by both the Coastal Project Engineer for the Eastern Solent Coastal Partnership, and the Environment Agency who ask for a condition requiring that ***"The mitigation measures shall be fully implemented prior to occupation"***

In its response, The Environment Agency also warns that:

"The LPA should be aware that whilst this intended contribution (from the developer) is welcomed, detailed discussions are still required to confirm this and no legal agreements are currently in place. At this stage there is still a risk that despite the potential contribution it is not possible to unlock sufficient central government funding to guarantee the implementation of the wider flood defence scheme."

Given the extensive engineering which will be required to build residential on this site, there is every likelihood that in the event that the scheme is built, no funding is in place to complete the flood defences, the only public benefit that this scheme might possibly deliver.

There is also the issue of how the wider flood defences are to be secured. No approach has been made to the relevant landowners for permission to build on their land, and at least one, Ms S Wardle, has intimated that permission would not be forthcoming. Mr M Lillywhite of Lillywhites Garage has raised a number of practical issues as to the operation of the flood defences, and the negative impact they might have for his and other Emsworth businesses if Queen Street is closed for any period time. He also notes that flood waters rise up from beneath on account of the 2 culverts which run underneath Lillywhites garage and the Lord Raglan PH, and the proposed flood defences would not mitigate this.

Given the unresolved nature of the flood defence plan and its implementation, granting permission to this planning application would be premature as there is little prospect that the flood defences would be fully implemented. It should be noted that whilst the foot of Queen Street does flood from time to time, it is an accepted part of life and there is no public clamour for flood defences.

3. Design

In response to the 2014 application, the Council's then Conservation Officer, John Townsend wrote a comprehensive report which set out in some detail an analysis of the site context, followed by a critique of the proposed scheme and recommended refusal. The authorship of the report is clearly stated.

The Council's response to this application, by "John Heritage Team" repeats verbatim the analysis of the first report, but draws conclusions which are not supported by that analysis.

For instance, the 2014 report make the following comments in response to the street elevation:

Nos 31 & 31a have a neutral impact on the conservation area. They are of appropriate scale and form and sit comfortably within the street scene. Their loss could be justified with an exemplary set of replacement building's which preserve and enhance the conservation area, which does not apply to the proposed development. Although slightly modified I maintain my concerns regarding the scale, form and detail of development fronting Queen Street. It is a poor very compromised design.

whilst the 2016 report states:

The proposed houses fronting Queen Street have been designed in a traditional manner with a stepped ridge line that reflects the characteristics of the conservation area and nearby listed buildings. The scale of these buildings and their relationship to the immediate surroundings also appears appropriate which is essential in such a prominent site. Any impact on the setting of the listed Lord Raglan PH has also been minimised as the development has been pulled away creating more breathing space. Again the height/scale of the development has been reduced and will ensure this part of the development does not dominate the listed building.

Whilst the design of the street elevation is an improvement over the mediocre 2014 offering, it's overall massing and height are not dissimilar. The juxtaposition of the 2 elevations below shows that, contrary to what is described in the current report, the development has not been pulled away from the listed Lord Raglan PH, but has in fact halved the distance between the 2 buildings. It cannot therefore be said that this proposal minimises the impact of the development on the Lord Raglan.



Figure 1. Street elevation - 2014 application



Figure 2. Street elevation - 2016 application

The reports' other conclusions are similarly unsupported by, and in conflict with, the initial site analysis. Rather than undertake the radical revision that was advised in response to the 2014 application, the current proposal remains fundamentally flawed and harmful to the character of the conservation area. The "Jekyll and Hyde" approach to the period street frontage with a more modern expression to Dolphin Creek is unsuccessful and would create a very uncomfortable and jarring space between the two, best illustrated by the Quay side elevation below. This drawing also shows the step change in massing compared to the existing adjacent and opposite buildings.



Figure 3. Quay side elevation - 2016 application



Figure 4. South elevation to street block - 2016 application

Although this scheme is acknowledged to be an improvement on the 2014 application, that does not make it acceptable. The smorgasbord approach taken to the "period" detailing of the street elevations would result in an unconvincing Disney style pastiche further compromised by the wholly unsuccessful south elevation (adjacent).

Conclusion

For the public to have confidence in the planning system it is vital that the Council's adopted planning policies are upheld. With regard to this application for a change of use, the developer wishes to drive a coach and horses through the policy requirements pertaining to this site. Yet despite the agents best efforts, a genuine offer to purchase the site and redevelop it as a mixed-use commercial, employment/business in support of a charitable youth purpose has been made, and was recently reiterated. In contrast to housing, such a use would be completely in accordance with Havant Borough Council policies, including CS3 Skills and Employability. The application site previously had an entirely viable existence as a boat yard, and clearly has the potential to be viable again with the appropriate ownership and input. The applicant has failed to prove that there is no viable alternative to housing, and on these grounds alone, the application should be refused.

Secondly , any notion that a possible public benefit of the proposed flood defence measures might override policy objections to the change of use are misleading. There is no guarantee that this development would provide any funding whatsoever to the wider flood defence measures, without which the foot of Queen Street will continue to flood. Granting planning permission for new dwellings in an area prone to flooding is against established planning policy and again, is a reason in its own right for refusal.

Finally, this application, on account of its unsympathetic design and discordant massing, will cause demonstrable harm to the character of the conservation area, the setting of 3 listed buildings and views of the adjoining AONB.

For any or all of the above reasons I urge you to refuse this application.

Yours sincerely

Jim Garland RIBA

enc Tim Gilmore letter dated 05/07/2014