



APPEAL BY:
Mr Keith Leaves

AGAINST HAVANT BOROUGH COUNCIL'S REFUSAL TO GRANT PLANNING PERMISSION FOR:

"A single storey extension to garage for recreational and personal use (gym, steam room, WC and bar)"

AT

205 Havant Road, Hayling Island, PO11 0LG

Havant Borough Council Reference: APP/24/00175

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

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1. Introduction

1.1 This appeal is made on behalf of Mr Keith Leaves in relation to development at 205 Havant Road, Hampshire, Hayling Island, PO11 0LG.

1.2 The planning application was submitted on 05 March 2024. It was given reference APP/24/00175 and sought permission for a single storey extension to garage for recreational and personal use (gym, steam room, WC and bar).

1.3 The development was refused on 24 July 2024 for the following reason:

1. The scale of the proposed outbuilding is not considered to be appropriately subordinate or subservient to the host dwelling. The site is close to the edge of the built up area in a sensitive location close to open fields. The appearance of such a significant outbuilding in the rear garden of the host property would be entirely unexpected and conflict with the established pattern of development. This would result in the development failing to respect the local context or to provide a positive subordinate relationship between the outbuilding and the host dwelling, resulting in a visual harm to the setting of the application site and the character of the area and wider landscape. The proposal would therefore be contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

1.4 This Statement addresses this reason for refusal. It concludes that the appeal proposal would be acceptable in planning terms and accords with the Council's Development Plan. In essence, the scheme would not cause harm to the character and appearance of the area. It would therefore accord with the provisions of the National Planning Policy Framework (henceforth referred to as 'the Framework'). It is sustainable development for which the Framework advocates a presumption in favour.

2. The Site

- 2.1 The appeal site is located on the western side of Havant Road, in a residential part of Hayling Island. It accommodates No. 205, a detached, one and a half storey, dwelling constructed of facing red brickwork and render under a pitched tiled roof. The appeal property is shown at Figure 1 below.



Figure 1: No. 205 Havant Road (the appeal property).

- 2.2 The property is set in a generous plot at the end of a row of dwellings positioned along this side of the carriageway. The architectural style and materials palette of these properties varies. Indeed, the immediate area includes dwellings that are fully rendered in a light colour.
- 2.3 Given the size of the plot, the rear garden at the No. 205 is extensive and accommodates an existing detached garage. This is constructed of facing red brickwork and light coloured render under a pitched roof and is located adjacent to another outbuilding at the adjacent plot to the south. As a result of the size of the rear garden, there is ample space between the outbuilding at No. 205 and the appeal site's rear and northern boundaries. The garage is depicted at Figures 2 and 3 below.



Figure 2: Side and rear elevations of garage at appeal site.



Figure 3: Front elevation of garage at appeal site.

- 2.4 Beyond the site, to the north, are open field systems. However, there are no nearby Public Rights of Way and the appeal site is separated from the countryside by an access track and by a dwelling to the rear. Views across field systems towards the appeal site are at long distance only. When seen from such vantage points, or closer to the appeal site, the plot at No. 205 is experienced in conjunction with surrounding dwellings, their boundary treatments, gardens, parked cars and other residential paraphernalia.

- 2.5 As a consequence, although relatively close to an open field to the north, the site is clearly experienced in a developed, sub-urban, setting. It has a closer affiliation with the development in this settlement compared to the open countryside and it is read in this context. This is not a sensitive location and the garage at the appeal site is certainly not a prominent feature in any isolated countryside location. The site makes no contribution whatsoever to any rural setting.

3. The Proposed Development

- 3.1 The appeal proposal is simple in that it seeks permission for a single storey extension to the existing outbuilding (garage) for recreational and personal use (gym, steam room, WC and bar). As described by the Council, the extension to the outbuilding would have an approximate eaves height of 2.4 metres an approximate ridge height of around 3.4 metres. Its width would be to a maximum of around 10.2 metres and its depth would be around 9.2 metres.
- 3.2 The roof would comprise hip bonnet tiles to accommodate a 15° pitch and Flanders tile 20/20; interlocking tile with natural alluvial Humber clay. External walls would be rendered in a light colour. For ease of reference, the proposed elevations are shown at Figure 4 below.

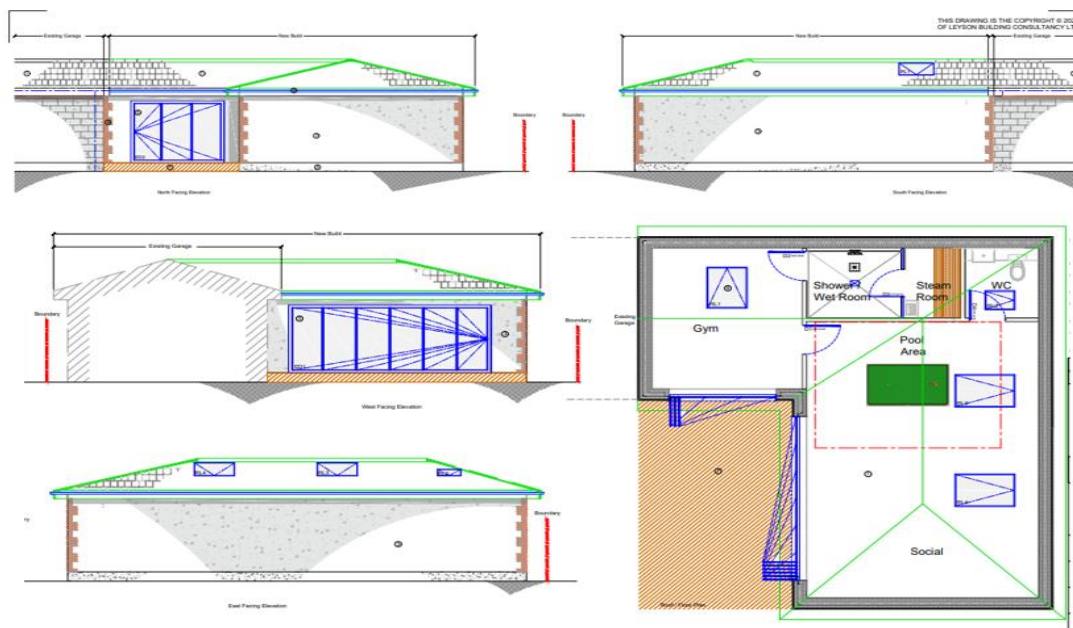


Figure 4: Proposed elevations.

4. Relevant Planning Policy

- 4.1 To the extent that development plan policies are material to an application for planning permission, the decision must be taken in accordance with the plan unless there are material considerations that indicate otherwise as directed by Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 4.2 For the purposes of this appeal, the relevant part of the Council's development plan is the Havant Borough Council Core Strategy 2011 ('the CS'). Other material planning policy considerations include the Framework and Planning Practice Guidance (PPG).
- 4.3 The policies referred to in the Council's decision notice, together with relevant national guidance, are outlined below.

Havant Borough Council Core Strategy

- 4.4 **Policy CS16: High Quality Design** – Planning permission will be granted for development that is designed to a high standard. Amongst other things, developments should respond to local context and produce positive relationships between buildings.

Relevant National Planning Policy Framework

Approach to Sustainable Development

- 4.5 **Paragraph 7** of the Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 4.6 **Paragraph 8** states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

4.7 **Paragraph 9** states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

4.8 **Paragraph 10** states that, so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. This is then detailed at **Paragraph 11**.

4.9 **Paragraph 38** makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.

Design

4.10 **Paragraph 131** states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

- 4.11 **Paragraph 135** seeks to ensure that developments add to the overall quality of the area.
- 4.12 **Paragraph 139** states that development that is not well designed should be refused.

5. The Appellant's Case

5.1 This section of the Statement addresses the Council's reason for refusal. This will be done by consideration of one main issue which is the effect of the proposal on:

- The character and appearance of the area.

1) Character and Appearance

5.2 The proposal seeks permission for a single storey extension to the existing outbuilding (garage) for recreational and personal use (gym, steam room, WC and bar). The proposal also seeks to install patio/decking next to the outbuilding. However, the Council has already confirmed that this would feature a modest footprint, could be built under permitted development rights and is considered acceptable. There is no reason to conclude otherwise for this feature and this Statement concerns the garage extension.

Size and Spacing

5.3 The proposed extension would enlarge the existing garage. Nevertheless, it would still remain smaller than the host property in terms of footprint and would be a notable distance away from it. The outbuilding as a whole would be set away from the site's rear boundary and northern side boundary.

5.4 Overall, given the width and depth of the sizeable rear garden at No. 205, sufficient space would remain around the extended outbuilding. A suitable ratio of built form to open space would remain at the plot and the garage would not be cramped (even when considered in conjunction with the host property and dwellings at surrounding plots). Indeed, a significant proportion of the rear garden would remain undeveloped. In this context, the proposal cannot be seen as an 'overdevelopment' of the site by virtue of the combined physical presence of built form.

5.5 The Council has referred to the Technical housing standards – nationally described space standards (NDSS). However, this should not be used to assess the visual

effects of a development. It is purely a matrix used to assess the living conditions for future occupants of dwellings in terms of floor space provision. As such, and given that a new dwelling would not be formed (see discussion below), the NDSS is wholly irrelevant to this assessment which concerns an ancillary outbuilding. It should have no bearing on this determination.

Visual Streetscene and Countryside Effects

- 5.6 Contrary to the Council's assertion, the proposal would not be readily apparent from the streetscene. Rather, it would be set deep into the large plot and could only be glimpsed through a narrow gap between No. 205 and the adjacent dwelling to the south. When viewed, its single storey scale would be neither dominant nor intrusive. Moreover, one can already experience built residential form through this gap between dwellings given the positioning of the property beyond the rear boundary of the appeal site.
- 5.7 As such, the proposal would be entirely unobtrusive in the immediate area. In any event, it would not matter if this development was more 'readily apparent' from the streetscene (which it is not). The plot is domestic in nature and the area is suburban in character. It is not uncommon to view outbuildings to the rear of properties and this would not draw the eye. There would be no construction of built form on undeveloped land and no obscuring of views to the countryside beyond.
- 5.8 The Council also raise concern that the proposal would be prominent in wider views across nearby open fields. This is a flawed assessment. Given the absence of any nearby Public Right of Way network close to the site, views across adjacent field systems to the north would be long distance only. Views would also be fleeting and at speed from within passing vehicles.
- 5.9 Consequently, given that the appeal site does not fall within any open countryside and is seen in conjunction with existing development in the settlement, even when seen from long distance the extended garage would not be unduly apparent or

discordant. Rather, it would be seen in context with this domestic plot, against a backdrop of built residential form. Its domestic nature in a large residential garden, together with its overall limited scale and set-back positioning, would not draw the eye or harm any rural setting.

Spatial Pattern and Ancillary Relationship with Host Dwelling

- 5.10 The Council raise concern that proposal's size would result in garage being read as a separate dwellinghouse which would harm the relationship the outbuilding shares with the host unit and the spatial pattern of development in the wider area.
- 5.11 The proposal is clearly for ancillary use and has been applied for under a householder planning application. It must be assessed as such. Although not the intention of the appellant, the Council would retain full control of any change of use to a dwellinghouse as this would be a *material* change representing development under s55 of the Town and Country Planning Act 1990 and requiring regularisation.
- 5.12 Moreover, although the proposal would provide space for a social activity and a shower room, it would not provide other habitable floor space such as a kitchen or bedroom. These facilities would be provided at the host dwelling. Additionally, the garden and utilities (power and water) would be shared between the outbuilding and host property. Accordingly, the extended property lacks the facilities required for independent day-to-day living and simply cannot be considered as a dwellinghouse with regard to the Court's findings in *Gravesham BC v SSE & O'Brien [1983] JPL 306*.
- 5.13 Furthermore, although the rear garden is large, there would be no significant physical separation between the extended outbuilding and the host dwelling. They would not be divided by any means of enclosure. Both remain in the same legal ownership and the part of the site at which the outbuilding falls is within the curtilage of the host building (with particular regard to case law; *Sinclair-Lockhart's Trustees v Central Land Board [1950] 1 P&CR 195*, *Methuen-Campbell v Walters*

[1979] 1 QB 525 and HM Attorney-General ex rel Sutcliffe & Rouse & Hughes v Calderdale BC [1983] JPL 310).

- 5.14 Taking this, together with the functional dependence between the outbuilding and the host property outlined above, into account a new planning unit would not be created with regard to the Court's findings in *Burdle v SSE [1972] 3 All E.R. 240*. This simply reinforces the assertion that the Council is wholly misguided in considering this proposal as tantamount to the construction of a new dwelling.
- 5.15 On the contrary, the dwelling would be positioned away from the rear elevation of the host property and would be single storey only. It would not inappropriately compete with the host property in terms of overall size. It would clearly appear as an ancillary, subordinate, feature at the site with a low-level use typical of such a relationship. Indeed, it is not uncommon to find larger outbuildings in the curtilages of larger properties. This proposal would not introduce a discordant feature and the outbuilding would not take visual or functional primacy over the host property.
- 5.16 Overall, the garage would still be 'in addition' to the main residential property, but not as important, and would make no material change to the character of the planning unit; it would be complimentary. Consequently, it can only be described as an 'incidental' or 'ancillary' use within the same planning unit. Although unnecessary for reasons given, the applicant would accept a condition managing this.
- 5.17 It follows that there would be no severing of any subordinate relationship that the garage shares with the main dwelling (even in a visual sense) and the spatial pattern of the area, which features properties with detached outbuildings, would remain unchanged.

Materials

- 5.18 Lastly, the Council state that, in terms of materials used, *"...these proposed colours would not appear out of place with the streetscene or the existing dwelling on site*

which primarily feature brickwork and light rendered (white and cream coloured) properties.” This is wholly at odds with its assertion that the lighter render used would draw the eye in the wider landscape.

5.19 The Council’s assessment is confused. It cannot be simultaneously true that materials would integrate with built form locally, but on the other hand harmfully draw the eye from further afield.

5.20 As discussed, the site is within a sub-urban setting that is comprised of dwellings constructed using a mixed materials palette. This includes light coloured render that is present at both nearby properties and No. 205. Accordingly, the materials proposed would simply harmonise with those used in the area. They would not ‘stand out’ or visually jar with existing development and would not unduly urbanise the garage (which is seen in a domestic setting in any event). Rather, light coloured render is a material typically used in sub-urban settings such as this.

5.21 That said, although the proposed materials palette is acceptable for reasons given, the appellant would accept a condition requiring details of materials to be submitted and approved by the Council. Materials used could be managed under this mechanism, wholly alleviating this particular concern of the Council.

Overall Conclusion – Character and Appearance

5.22 Taking everything together, the proposal would not be excessive in terms of size and would not occupy a disproportionate amount of the large rear garden. This domestic plot would not appear cramped or ‘overdeveloped’ by virtue of the modest increase in built physical permanence.

5.23 The proposed garage would not appear intrusive or dominant in the immediate or wider surrounding area and would not compete with the host property in terms of size. A new dwelling would not be created in legal terms, nor would this appear to be the case in a visual sense. The garage would remain as an incidental/ancillary feature at the plot and would have no effect on the overall spatial pattern of surrounding development in this sub-urban area. Lastly, materials proposed are

entirely typical of residential development and are present at several buildings in the immediate area. They would harmonise with the existing rhythm of built form.

- 5.24 For these reasons, the proposal would not harm the character or appearance of the area. It would accord with Policy CS16 of the CS.

Other Material Consideration – Permitted Development Fall-back Position

- 5.25 One would typically expect the site to accommodate ancillary buildings of a size proposed. These are not unusual features at plots in the built-up limits of settlements such as this. Indeed, it should be noted that, as the site constitutes residential curtilage, an incidental outbuilding would be lawful under Schedule 2, Part 1, Class E of the permitted development regulations. This is a material fall-back position.
- 5.26 Various court cases have considered the concept of a ‘fall-back’ development as a material consideration. It is described in *Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314* as “familiar”. Paragraph 27 of that judgment by the Court of Appeal confirms that there should be a “real prospect” of a ‘fall-back’ development being implemented and that the decision-maker should exercise their planning judgment as to whether that would be the case depending on the particular circumstances.
- 5.27 Additionally, in *Gambone v Secretary of State for Communities and Local Government [2014] EWHC 952 (Admin)* a two stage approach was set out, where a determination must first be made concerning whether the ‘fall-back’ position is a material consideration, before weight is ascribed. The following two questions should therefore be considered: 1) Is there greater than a theoretical possibility that the development might take place (the “real prospect” test)? 2) If there is a greater than theoretical possibility, what weight should be ascribed?
- 5.28 An extended garage is clearly required at this site and it is not uncommon for outbuildings at large plots to be of the size and use proposed. As such, the permitted development ‘fall-back’ of another outbuilding is not just a mere

theoretical possibility. On the contrary, it would likely be pursued in the absence of planning permission for this current scheme.

- 5.29 Having established that the 'fall-back' schemes are more than a theoretical possibility, the decision maker must turn to consider the weight that it attracts. The extended garage would be commensurate in size with an outbuilding that could be achieved under the provisions of the permitted development regulations. Indeed, outbuildings could cover 50% of the total area of the curtilage of this plot in line with restriction E.1 (b) to Class E. Furthermore, the Courts have confirmed in *Burge v SSE [1988] JPL 487* that permitted development rights under the GPDO are material to planning merits.
- 5.30 It follows that the realistic 'fall-back' scheme (the lawful construction of a number of outbuildings that could be in a similar use, but of greater physical presence compared to the proposal) should attract significant weight in the determination of this application.
- 5.31 Moreover, this is a clear indication that the Government considers outbuildings of the size proposed to be acceptable at residential plots of this nature in peripheral settlement locations. It has given deemed consent for them.

6. Conclusion

6.1 In conclusion, the proposal would not result in any harm to the character of the area. This would not be altered in any sense.

6.2 As such, the proposal should be approved without delay as it is in accordance with the development plan as a whole and there are no other considerations which outweigh this finding. Indeed, there is a material consideration in the form of a permitted development fall-back position that should attract significant weight in favour of this proposal.

Overall Conclusion

6.3 It is concluded that the proposal would represent sustainable development for which the Framework advocates a presumption in favour. It is therefore respectfully requested that the appeal be allowed.