

**TOWN & COUNTRY
PLANNING ACT 1990
SECTION 78
“HOUSEHOLDER”
APPEAL**

**Local planning Authority
Reference:**

APP/23/00450

**Appeal Against the Decision
of Havant Borough Council**

**To Refuse a Grant of
Householder Planning
Permission For:**

First floor side extension

At

**Spindrift, Ferry Road, Hayling
Island, Hampshire, PO11 0DG**

Grounds of Appeal Statement



Figure 1

Appeal Site Viewed from the South

**Appellant:
Mr Bruce Battersby**

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- I Appeal decision Letter for APP/X1735/D/19/3230346
- II Officers Report in Relation to APP/23/00450

1.0 Introduction & Background

1.1 This householder planning appeal is made to the Planning Inspectorate following the decision of Havant Borough Council, as Local Planning Authority (LPA), to refuse a grant of planning permission for a first-floor side extension to the existing dwellinghouse Spindrift, Ferry Road, Hayling Island.

1.2 The planning application, that is now the subject of this appeal, was submitted to and validated by the LPA on 14th June 2023. The decision notice issued by the LPA on 10th October 2023 stated that the application was refused for the following reason: -

- "1 The proximity to the neighbouring property at Sinah House of the proposed first floor element of the extension on the eastern side of the dwelling would adversely affect the outlook from, and light available to and be detrimental to the amenities of the occupier of the adjacent residential property. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework.*
- 2 The proposal would by reason of its size, design and prominent siting appear cramped and be harmful to the existing character and appearance of the area conflicting with the established pattern of development and spatial characteristics and setting of the streetscene. The proposal therefore conflicts with policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011 and the National Planning Policy Framework."*

1.3 This written statement of case seeks to demonstrate that the decision of the LPA to refuse planning permission was unreasonable. This decision does not recognise the significant changes to the design of the proposed first floor extension that have been made by the appellant since an earlier planning application to construct a first-floor extension to the east side of the dwelling (LPA Ref: APP/19/00129) was refused by the LPA.

1.4 The scheme determined by the LPA under APP/23/00450 is materially different from the proposals which formed part an earlier planning application (LPA Ref: APP/19/00129), which was later dismissed at appeal under Planning Inspectorate Reference APP/X1735/D/19/3230346. The extension

proposed by application APP/23/00450 would not be as wide, long or high as the first-floor extension proposed under APP/19/00129. It is argued that the revisions to the scheme, previously dismissed by the Planning Inspector, would now ensure that the occupiers of the adjacent bedroom at Sinah House would both (i) be afforded an improved outlook and also (ii) receive increased levels of daylight through the secondary porthole windows.

1.5 Furthermore, it is also contended that the proposed development would not “*by reason of its size, design and prominent siting appear cramped and be harmful to the existing character and appearance of the area conflicting with the established pattern of development and spatial characteristics and setting of the streetscene*” as is alleged by the LPA. The appellant simply does not understand how the owners of the other dwellings in this row have been allowed by the LPA to build very close to their boundaries with adjacent dwellings, yet he is continuously refused permission to develop his home in a manner which would reflect the prevailing tightknit and compact character of residential development in this part of Ferry Road (see Fig. 2 below).



Figure 2 *Spindrift in Context with Existing Row of Dwellings on Ferry Road*

1.6 Section 38(6) of the Planning and Compulsory Purchase Act, 2004 states “*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*” It is considered by the appellant that the appeal proposal is not in conflict with the policies of the development plan. It is the contention of the appellant that the appeal proposal would not cause demonstrable harm to interests of acknowledged importance.

2.0 Appeal Site Description

2.1 The appeal property comprises a part single, part two-storey detached dwellinghouse located at the western end of Ferry Road. The existing dwelling, which is constructed with light painted, smooth rendered cement elevations, sits beneath a gently sloping “gull-wing” style roof. This is highest at its two first-floor side eaves and lowest in the middle where a gulley is formed. This roof has a height of 8.2m at its western eaves, 7.2m at its eastern first-floor eaves and a central gulley of some 6.9m above ground level. Much of the eastern half of the dwelling is currently single storey in height, with the flat roof having a height of approximately 4.5m. A small first floor extension was added to this flat roof (under application APP/20/00412) providing the existing eastern half of the “gull wing”.

2.2 The dwelling sits in a roughly rectangular plot. It is centrally located within a tight-knit row of five detached houses on the north-east side of the road which vary in terms of their scale, design and appearance. The property’s southern boundary, onto Ferry Road, comprises two, 2.0m high metal gates (one pedestrian; one vehicular). Behind the boundary gates is a paved forecourt area which is used for vehicle parking. The forecourt allows access to a boat store, which is on the west side of the dwelling, and the residential element of the house, which is served by both stepped and ramped pathways. The ground floor of the building is in an elevated position above the level of the forecourt.

To the rear of the dwelling the property accommodates a private yard and slipway onto Langstone Harbour.



Figure 3 *Appeal Site and Surrounding Area*

2.3 The interior of the ground floor of the dwelling is divided into two parts. The western half accommodates a boat store which extends for the full depth of the dwelling, front to back, being secured by metal gates at both ends. The eastern half of the ground floor comprises a kitchen, an en-suite bedroom, and office (with w.c.) and a workroom at the rear. Stairs allow access to a smaller first floor area which accommodates a living room and balcony, facing towards Ferry Road, together with a further large en-suite bedroom, with balcony, oriented to the rear towards the shore.

2.4 The original dwelling was extended at first floor level to the front and rear on its western side following the grant of planning application APP/21/00093. The dwelling was further extended with the addition of front and rear balconies permitted under APP/21/01131 (rear balcony) and APP/22/00397 (front balcony). A small first floor extension was added over the eastern flat roof (under application APP/20/00412) providing a lift shaft.

2.5 Spindrift, and the adjacent dwelling to the east, Sinah House are built at a slight angle to one another. As such, the width of the appeal property's plot is narrower at the front than it is at the back. Consequently, the east elevation of the single storey flat roofed addition is built at an angle; the extension is narrower at the front than it is at the rear (the extension has a width of between 3.9m and 5.2m if measured from the east façade of the dwellings original first floor elevations). The eastern elevation of the first-floor lift shaft addition extends for some 1.7m from the building's main east, first floor, elevation. This leaves a gap of between 3.1m and 3.9m between the east elevation of the lift shaft extension and eastern edge of the dwellings ground floor eastern elevation.

2.6 Sinah House is a 'second home' being occupied by its owners mainly during school holiday times. As can be seen from the photographs at Figs. 5 to 7 immediately adjacent the appeal property is the gabled western elevation of Sinah House. Within this elevation are two "porthole" windows either side of a chimney stack. These are secondary windows serving a bedroom which also has primary windows to the front and rear. To the east of Sinah House is the three-storey high "Windsong". This is constructed with buff brickwork at ground floor level, horizontal cladding at first floor and a slate faced mansard extension at second floor. To the east of Windsong is residential

development within “The Kinch”.

2.7 Immediately west of the appeal site is the two storey dwelling “The Deck House” (built with buff brick elevations beneath a hipped slate roof) and then Ferry House (previously called Tamarisk, which is the last dwelling in the row of houses) which is a flat roofed, two storey, contemporary replacement dwelling, allowed on appeal under Planning Inspectorate reference APP/X1735/W/16/3158213. Beyond Ferry House is the Langstone Harbour Board. The Langstone Harbour Board site accommodates secure compound for the storage of boards and yachts as well as a large two storey portal framed building and a smaller timber storage building. The Hayling Island Ferry landing is to the west of the Harbour Board site with a slipway to the west of this allowing access to the sea. Immediately opposite the appeal site on the south side of Ferry Road is a single storey public convenience beyond which is a pay and display carpark. To the west of the public convenience is the Ferry Boat Public House. Each dwelling within the row of 5 also has its own private slipway.



Figure 4 View of Existing Development along Ferry Road taken from Car Park Access to the South



Figure 5 View Looking North between First Floor ‘Lift Addition’ & Sinah House



Figure 6 **View of West, First Floor, Elevation of Sinah House**

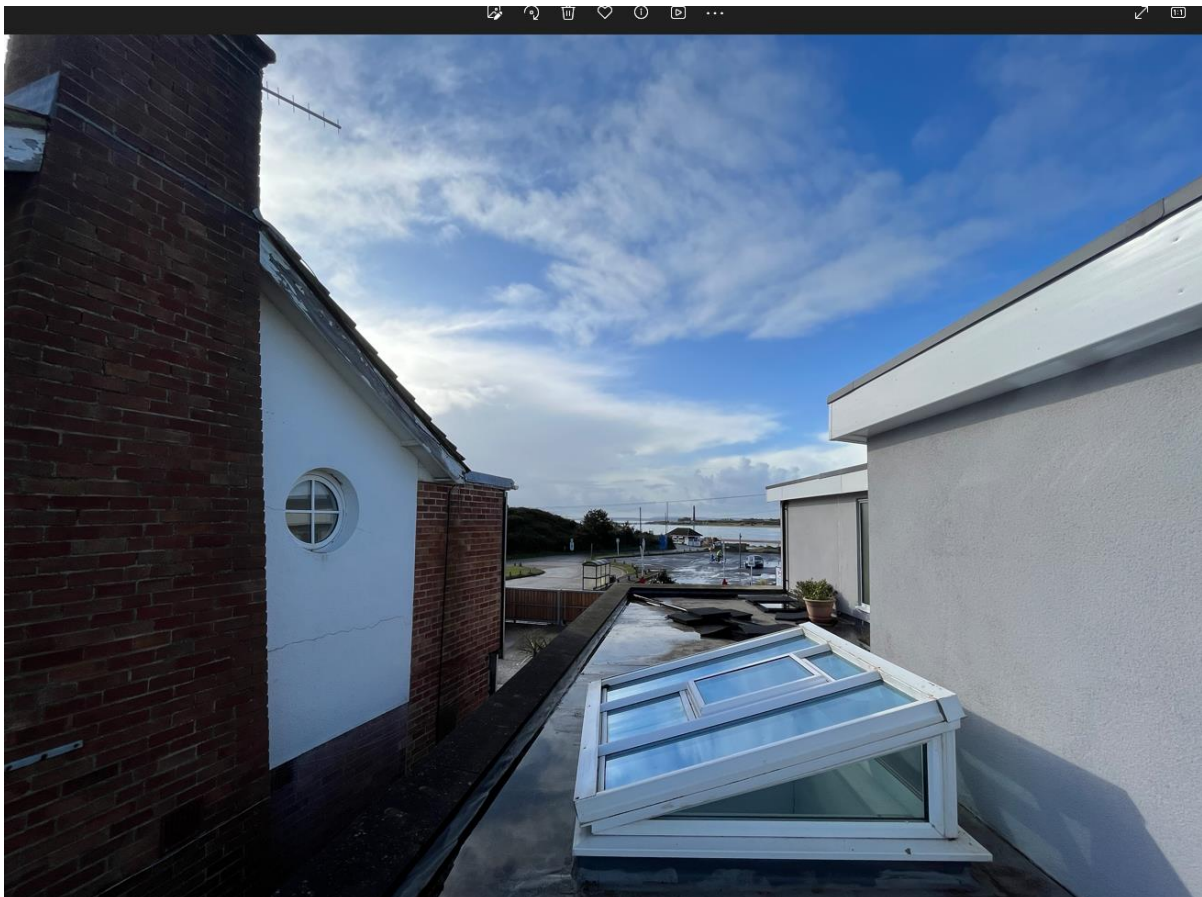


Figure 7 **View Looking South between First Floor 'Lift Addition' & Sinah House**



Figure 8 *View from Rear First floor Balcony towards West Elevation of Sinah House*



Figure 9 *View from Front First floor Balcony towards front of Sinah House*



Figure 10 View from Rear Yard of appeal Property looking South towards Sinah House

3.0 Recent Planning History

3.1 The following planning history relates to the appeal property.

APP/19/00129

First floor front, rear and side extensions

Refused 4th April 2019

Appeal Dismissed 30th August 2019

Appeal Decision Letter attached at **Appendix I**

APP/20/00412

Proposed first floor front and rear extensions to include Juliet balconies; proposed lift.

Conditional planning Permission 16th July 2020

APP/21/00093

Proposed first floor front and rear extensions to include Juliet balconies; proposed lift.
Revision relating to amendment to loft shaft as approved under APP/20/00412

Conditional Planning Permission 16th March 2021

APP/21/01131

Variation of condition 2 of Planning Permission APP/21/00093 relating to revised balcony style to north elevation.

Conditional Planning Permission 25th November 2021

APP/22/00397

Conditional Planning Permission 17th June 2022

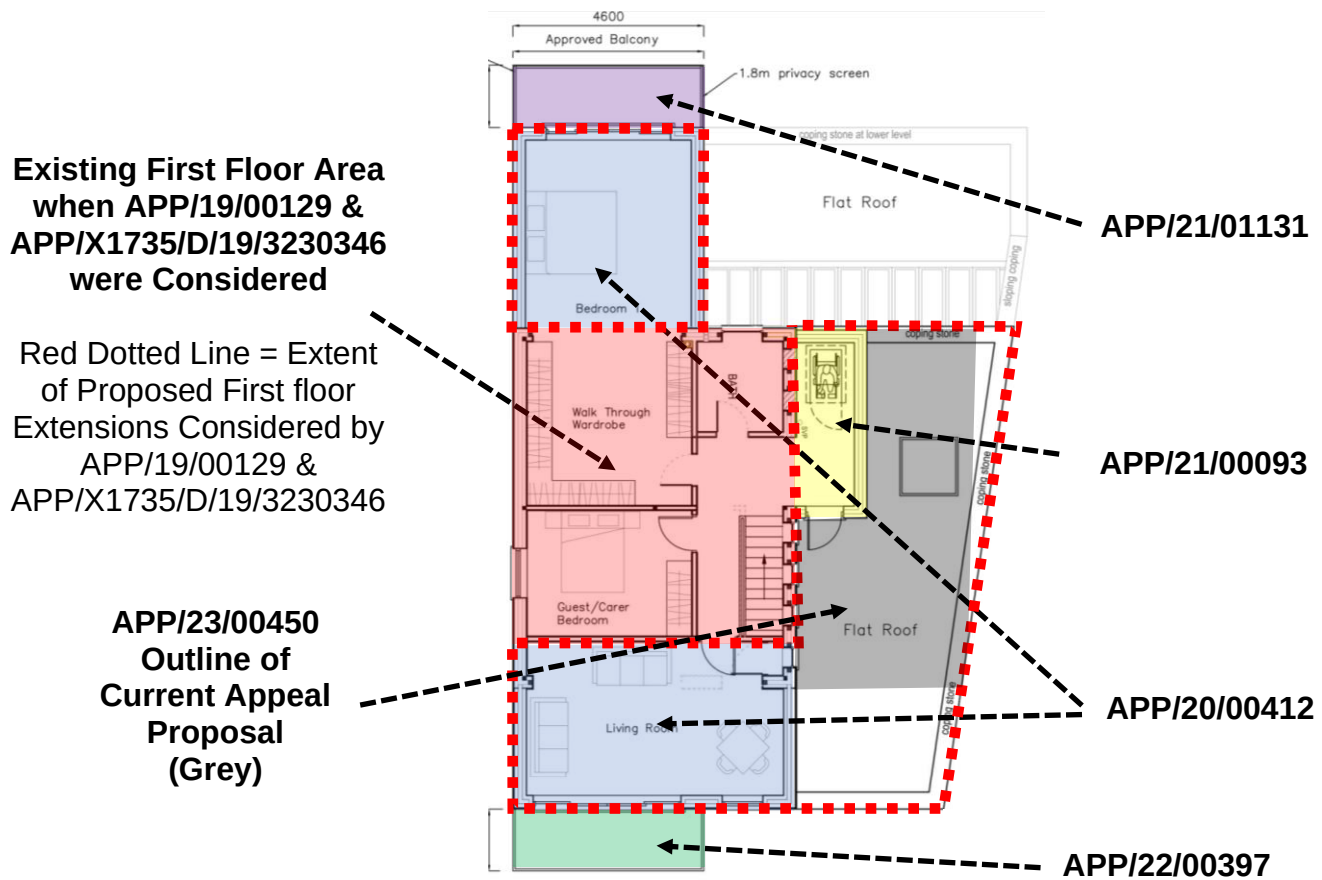


Figure 11 *Diagram Showing Appeal Proposal in Relation to Permitted First Floor Additions to Spindrift*

First floor side extension.

Application refused 10th October 2023 now the subject of this appeal

3.2 The diagram at Fig.11 shows the recent planning history relating to development of Spindrift's first floor. Much of what was refused and then dismissed at appeal (under APP/19/00129 & APP/X1735/D/19/3230346 respectively) have now been permitted by the LPA and added to the appeal property. The area that would be covered first floor by current appeal proposal (LPA Ref: APP/23/00450) is shown shaded grey.

4.0 Appeal Proposal

4.1 The appeal application seeks the addition of a modest first floor extension above the existing single storey ground floor extension on the east side of the dwelling. The proposed extension would have a width of between 4.0m (front part) and 4.4m (rear part) and a maximum depth of some 8.725m. The front elevation of this extension would be set back from the south elevation of the

dwelling's existing single storey extension by 2.9m. The north elevation would be set back from the line of the dwelling's ground floor north elevation by some 4.8m.

4.2 The southern elevation of the proposed extension would be built west-east across the roof of the ground floor extension, terminating on top of the existing east parapet wall. A section of the proposed east elevation would then follow the line of the ground floor extension's existing east elevation (for a length of 2.5m) before 'straightening up' for approximately 6.4m. As such, the north-east corner of the proposed first floor addition would be some 1.0m inside the line of existing ground floor extension's eastern elevation. This design solution would increase the separation distance between the proposed first floor addition and the west elevation of the adjacent Sinah House. It would also enable the interior of the proposed first floor bedroom to be 'squared off'.

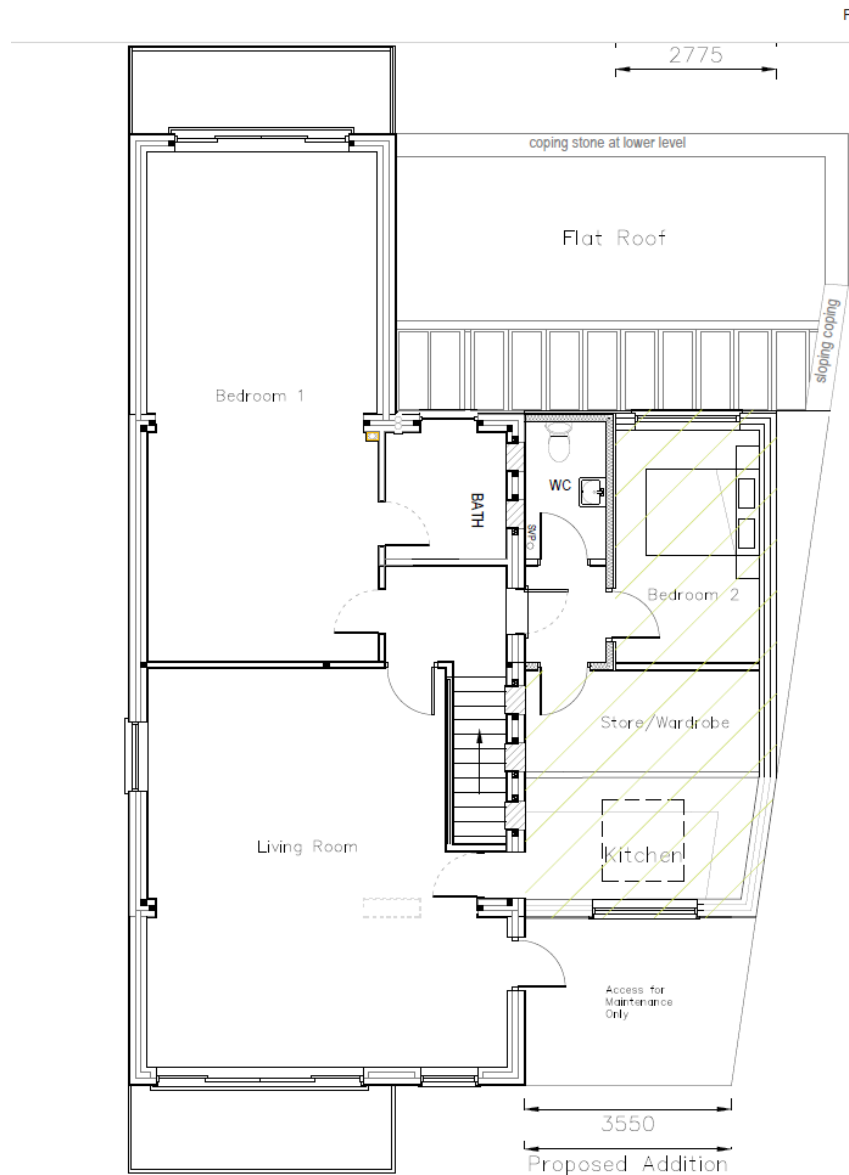


Figure 12 **Appeal Proposal's First Floor Layout**

4.2 The proposed extension would be built with a flat roof (not a 'gull-wing' design) with a height of 6.8m above ground level. This would be an increase in the building's height of some 2.35m on its eastern side. The proposed flat roof would be approximately 0.4m lower than the existing 'gull-wing' roof of the 'lift shaft' addition permitted under application APP/21/00093.

4.3 Externally the extension would be constructed with light painted, smooth rendered cement elevations to match the appearance of the existing building. Internally, the proposed extension would accommodate a bedroom with wardrobe/storage together with a kitchen (which would be accessed from the lounge).

5.0 Planning Policy

5.1 The relevant planning policy documents in respect of this application are the National Planning Policy Framework, revised September 2023, (NPPF), and Havant Borough Core Strategy, March 2011 and the Havant Borough Design Guide Supplementary Planning Document, December 2011.

National Planning Policy Framework (NPPF)

5.2 Paragraph 7 of the Framework states that *“...The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs...”* The document promotes planning principles which include making effective use of land.

5.3 The NPPF states (at para.8) 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...”* The third of these objectives is the environmental objective. This relates to the protection and enhancement of *“...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...”*

5.4 Paragraph 10 of the NPPF states *“So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development...”*

5.5 Paragraph 38 of the NPPF encourages Local Planning Authorities to *“...approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available ... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible...”* Additionally, para. 47 opines *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise...”*

5.6 Section 12 of the NPPF relates to ‘Achieving well-designed places’. Paragraph 126 states *“...Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this...”* Para. 130 requires LPAs, when making decisions, to ensure that developments:

- “a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

Local Plan Policy Context

Havant Borough Local Development Framework

5.7 The Havant Borough Core Strategy was formerly adopted on 1st March 2011. It is the principal document in the Council's Development Plan and sets out the spatial planning strategy for the area up to 2026. The LPAs decision stated that the appeal proposal was contrary to policy CS16. This policy states:

"CS16 High Quality Design

Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

1. Responds to, draws inspiration from and respects local context and:
 - a) Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site;
 - b) Integrates with existing local landscape features, promotes wildlife and biodiversity and/or applies characteristics of the local area into the design of a scheme wherever possible to create variety and interest;
 - c) Uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors;
 - d) Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible; and
 - e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.
2. Produces a positive relationship between buildings, street and spaces both existing and proposed, where:
 - a) The layout of the development reduces opportunities for crime and antisocial behaviour; contributes to improving community safety; and makes provision for the management and maintenance of the development;
 - b) New streets are not dominated by vehicular traffic;
 - c) The layout of the development is legible, meaning it is easy to orientate oneself and move through.
3. Contributes to the improvement of the public realm close to the

development, particularly sites close to town, district and local centres and other priority regeneration areas by using high quality hard and soft landscape material and street furniture; and where development is of a significant scale or prominence makes provision for public art.

4. Is inclusive by considering the needs of those with disabilities, ensuring safe and convenient access for all; and integrating affordable and supported housing with market housing through tenure blind design to minimise social exclusion and promote social integration.
5. Maximises opportunities for mixed use developments, particularly in town and district centres; and encourage higher densities (50+ dwellings per hectare) where appropriate.
6. Mitigates negative environmental impacts through sustainable design and construction methods, resource efficiencies, particularly water and the provision of facilities for waste recycling.
7. Adapts to the changing needs of the users and the changing climate over the lifespan of the building."

5.8 Havant Borough Council has also produced a number of Supplementary Planning Documents. The SPD quoted by the LPA in its decision is the Borough Design Guide – Adopted 14th December 2011. This provides guidance on building design. Whilst referred to in the decision notice the Officers Report does not specifically state how the proposed extension is actually contrary to the guidance.

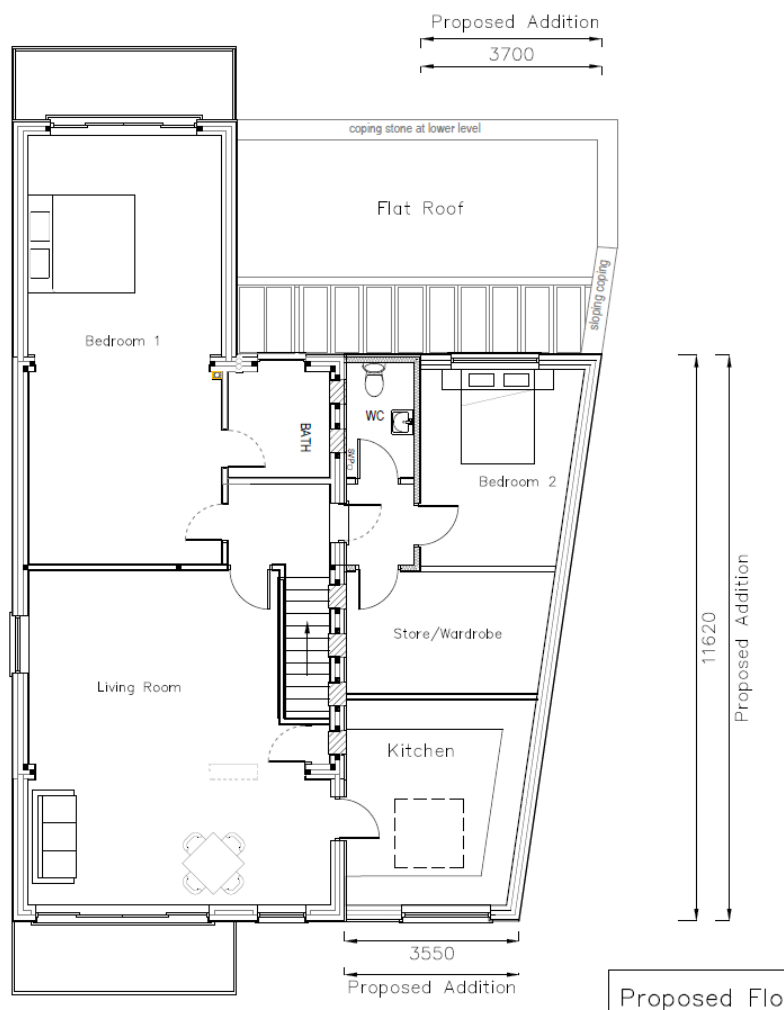


Figure 13 **Layout of First Floor Plan as Originally Submitted under Appeal application APP/23/00450**

6.0 Planning Considerations - Case for the Appellant

6.1 In summary, full planning permission is sought, via this appeal, for the construction of first floor, flat roofed, extension to the east side of the existing dwelling. As has been described this extension would be built over the existing ground floor addition and mimic that appearance of the host dwelling Spindrift.

6.2 The appellant's original planning application was submitted with a layout that would have resulted in proposed first floor extension having the same 'footprint' as the existing single storey, ground floor extension (see fig.13). The LPA's case Planning Officer objected to this given that it replicated the footprint of the eastern, first floor, addition that had been previously dismissed by the Planning Inspector at appeal (PINS reference APP/X1735/D/19/3230346). The proposed first floor extension was modified by the scheme's architects by setting back the proposed south elevation (by 2.9m) and the narrowing of the rear part of extension (by a maximum 1.0m). The appellant felt, very strongly, that these revisions addressed the LPAs concerns.

6.3 However, notwithstanding the proposed revisions, the LPA refused the appeal application for exactly the same reasons as the scheme which was dismissed at appeal (ref: APP/X1735/D/19/3230346) in 2019. The LPA, firstly, considers that *"The proximity to the neighbouring property at Sinah House of the proposed first floor element of the extension on the eastern side of the dwelling would adversely affect the outlook from, and light available to and be detrimental to the amenities of the occupier of the adjacent residential property..."* Secondly, the LPA states that *"The proposal would by reason of its size, design and prominent siting would appear cramped and be harmful to the existing character and appearance of the area conflicting with the established pattern of development and spatial characteristics and setting of the streetscene..."*

6.4 The appellant contends that the proposed development is entirely different to the scheme considered by both the LPA and the Planning Inspector in 2019. Firstly, the proposed first floor addition to the east side of the house would be lower at its eaves, narrower (west to east) and not as deep (front to back) as the extension considered in 2019. This would, it is argued, reduce significantly, the impact of the proposed extension on the amenities of the occupiers of Sinah House. The revised, smaller, appeal proposal would allow for both a greater outlook from, and allow more natural daylight to be received, by the two 'secondary' porthole windows in the west elevation of Sinah House, than would the development that was considered at appeal in 2019.

6.5 The LPA also alleges, that the proposed development would *"...be harmful to the existing character and appearance of the area conflicting with the established pattern of development and spatial characteristics and setting of the streetscene..."* The appellant completely disagrees with this assessment. He just cannot understand, when looking at his property from the south side of Ferry Road, how the LPA can reasonably consider the appeal proposal would be *"...harmful to the existing character and appearance of the area conflicting with the established pattern of development and spatial characteristics and setting of the streetscene..."* It is quite clear that the existing row of houses comprises a very close-knit residential development. All other dwellings along the row have been allowed to be built to a height of two storeys, within a few centimetres of their side site boundaries – except for Spindrift. Furthermore, it is quite apparent that in granting planning permission for applications APP/20/00412, APP/21/00093, APP/21/01131 and APP/22/00397 between 2020 and 2022 (please see Fig 11 on page 8) the LPA has accepted this to be the case in relation to development on the west side of Spindrift in particular. It is also apparent that, having been extended under these grants of planning permission, the appeal property is now materially different in terms of its profile and size from the dwelling that was viewed by the Planning Inspector in 2019. The appellant believes that the proposals which are now the subject of this appeal would not result in the level of harm

alleged by the LPA, either to the amenities to the occupiers of Sinah House, or to the general character and appearance of the Ferry Road streetscene.

Loss of Outlook

6.6 Reason for refusal 1 indicates that the LPA is concerned that the proposed first floor extension to the eastern side of Spindrift “...*would adversely affect the outlook from, and light available to and be detrimental to the amenities of the occupier of the adjacent residential property ...*” The Officers report (attached as **Appendix II**) provides a more detailed explanation of what the LPA considers to be unacceptable about the proposed development.

6.7 The Planning Officer has explained in detail the planning history of the site and quoted from previous appeal decisions letters in 2004 and 2019. It is clear that the Planning Inspectors who previously considered these past schemes were of the view that there would be harm caused by the ground and first floor extensions. However, it is argued that it is not reasonable to place a great deal of weight on what a Planning Inspector considered to be the case in 2004, as the particular ‘material considerations’ (i.e. the existing dwelling Spindrift itself and other wider development on Ferry Road) have changed markedly.

6.8 At the time of the Inspector’s site visit in 2004 Spindrift was a single storey, pre-fabricated building allowing for the occupiers of Sinah House to enjoy mainly unobstructed views from the porthole windows, at first floor level, across the appeal site. The site, at this time, was dominated by its boat related use and activity. This is no longer the case. Planning permission was granted in 2009 for the replacement of Spindrift with a part single part two storey dwelling. This was constructed with a first floor of accommodation which is on the western side of the dwelling. The first-floor part of Spindrift, which has been extended considerably between 2020 and 2022, now reduces the outlook from these porthole windows across the Spindrift plot.

6.9 When the Inspector dismissed the two appeals in 2004 she noted that the first floor room with the porthole windows in Sinah House was in use as a living room. This, again, is no longer the case as this room is now used as a bedroom. If viewing application [APP/18/00149](#) (which was granted permission by the LPA in 2018) it will be noted that the “Amended Proposed Floor Plans” (drawing number 1513 412C) show the first floor as a bedroom (with the porthole windows). The chimney breast is shown as being removed with a bed being placed against the western wall under the windows. Whilst these windows might, in the past, have allowed for the rooms occupiers to enjoy relatively unobstructed views to the west, they no longer do, due to the physical obstruction of the substantially extended two storey dwelling at Spindrift. Furthermore, the change in purpose of the room itself to a bedroom (from a living room) would also reduce both the frequency of the use and level of value afforded by these windows. Additionally, given that Sinah House is occupied as a second home (mainly during school holiday times), the appellant contends that the alleged impacts are further reduced. It is argued, therefore, that these windows now have the character and amenity value, of secondary room windows, with the room’s primary windows being located in the north and south elevations of the dwelling which allow for views over the harbour and Ferry Road respectively.

6.10 The Inspector, when commenting on the two appeals in 2004, was of the view that the two porthole windows were an integral part of the dwellings design, and were not “secondary windows”. The appellant argues that the physical environment of Sinah House has changed since the appeal decisions in 2004 and that the function of the porthole windows as primary windows has now diminished significantly. When considering whether windows are primary or secondary room windows the appellants consider that the following factors should be taken into account:

- Location of window within the room;
- Design of window;
- Size of the window;
- Method of glazing (Clear/obscured);

- Cill height of window – views possible from sitting/standing position.

6.11 All of the above factors should be combined to determine the importance of a window. The **location** of a window within a room is usually determined by the outlook available from that window and the amount of light that it would let into a room. In the case of Sinah House, the principal outlook would be expected to be out of the dwelling's windows to the north and south, towards the harbour and Ferry Road. The outlook from the porthole windows would be towards the other dwellings in Ferry Road to the west. It is argued, therefore, that the outlook from the windows to the front and rear of the dwelling offer more amenity value to the rooms occupiers than would allow an outlook towards the flank elevation of adjacent dwellings. Furthermore, whilst it is recognised that the porthole windows would allow some afternoon and evening sunlight in to the room it is considered, due to their size, that this would be secondary to the amount of light let in by the room's other windows.

6.12 The appellants would describe the porthole windows to be "feature" windows that are **designed** to be interesting to look at, from either inside or outside the dwelling, that reflect the character of the sites coastal, and boat related, location. However, the window within the rooms north elevation is a bay window which has been designed to allow the rooms occupiers to enjoy expansive views of the harbour beyond. Whilst the porthole windows are designed to be visually interesting it is considered that the bay window in the rooms north elevation is designed specifically to allow the occupiers of the room the best possible views towards the harbour.

6.13 It is also considered that the **size** of a window would reflect its functional importance to a room. In the case of the porthole windows it is considered that these are relatively small reflecting their main function which is as decorative, feature windows. The larger windows are to the north and south which allow more light into the room and offer the occupier a more expansive outlook towards the harbour and Ferry Road than do the porthole windows.

6.14 Secondary room windows can be either clear or obscure **glazed**. Given that the porthole windows are clear glazed it is considered that one of their functions is to allow the rooms occupiers to look out of them. However, the windows to the north and south are also clear glazed offering the rooms occupiers more expansive outlooks.

6.15 Finally, it is considered that the **cill** level of a window is also a determining factor as to whether a window is a primary or secondary opening. Due to the cill height of the porthole windows being set at approximately 1.4m above internal finished floor level an occupier of the room would only be able to enjoy the outlook from the porthole windows if they were standing up (i.e. not sitting down). As such, it is considered that they offer lesser levels of amenity value than the windows to the north and south of the room.

6.16 It is apparent that one of the main reasons the LPA refused the planning application, now the subject of this appeal, was because of the two appeal decisions from 2004. However, the appellant argues that the LPA has failed to recognise, or give any weight to, the level of change that has occurred since 2004 both with the replacement and substantial extension of the original, single storey, dwelling at Spindrift and the change in function of the first-floor room, to a bedroom, on the west side of Sinah House, and the occupancy of this dwelling as a second home. Consequently, it is contended that the amenity value afforded to the two porthole windows within the west elevation of Sinah House has reduced to the extent that they can no longer be considered primary windows.

6.17 The inspector who considered the planning appeal in 2019 was of the opinion that the two porthole windows in the west elevation of the first-floor bedroom at Sinah House "*provide a meaningful outlook, including a significant amount of visible areas of sky, and provision of light into the room.*" (Paragraph 12 – Appeal Decision Letter attached as **Appendix I**). The appellant has provided two sectional diagrams overpage at Fig.14). These indicate that the northern porthole window would be separated by a gap of some 2.65m from the proposed extension. Light would be received by this window above the angle of 25 degrees measured from the centre point of the window's cill. The

diagram also shows that the southern porthole window would be separated by a gap of some 1.95m and would receive light above the angle of 30 degrees measured from the centre point of the windows cill. It is contended, therefore, that these windows would still allow the occupiers of this bedroom a sufficient amount of received light as well as an outlook of sky if standing next to the windows.

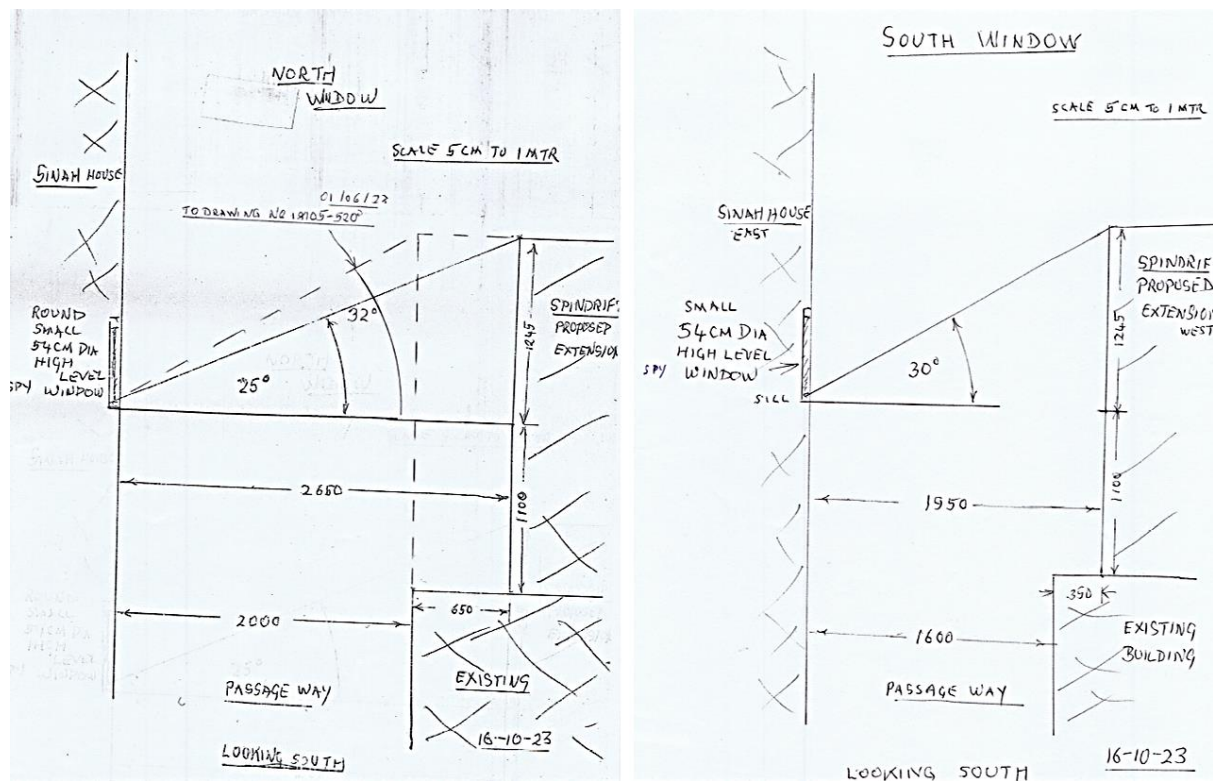


Figure 14 Impact on Porthole windows

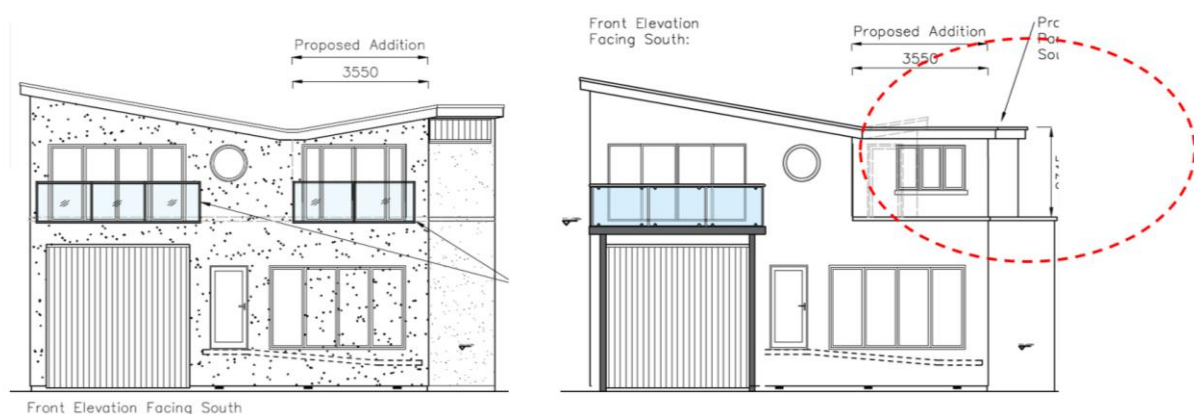


Figure 15 Comparison of South Elevations Proposed by 2019 Appeal Scheme (left) & Current Appeal (Right)

6.18 Furthermore, Fig.15 shows a comparison of the proposed south elevations of the 2019 and 2023 schemes. The Inspector will see that the current proposal would have a significantly lower eaves height on the boundary (i.e. 0.58m) than the scheme considered by the Inspector in 2019. It is contended that the detrimental impacts of the current appeal proposal would be substantially reduced by the reduction in eaves height, length and width (see Fig 16).

6.19 It is true to say that circumstances have changed since the Inspector visited the appeal site in 2019. Planning permissions granted by the LPA under references APP/20/00412, APP/21/00093,

APP/21/01131 and APP/22/00397 between 2020 and 2022 have now resulted in the construction of several first-floor extensions to Spindrift including a lift shaft extension which closes the gap between the west elevation of Sinah House and Spindrift. It is considered, therefore, that there would, in effect, be only a very limited impact upon both the outlook from and the light received by the porthole windows should the appeal extension be constructed.

6.20 It is argued, therefore, that the two 'porthole' windows are secondary windows. As secondary windows serving a bedroom (and not a lounge) of a 'second home' the appellant contends that the outlook from these windows, together with the light received by them, should be considered to be less critical factors, than if they were primary windows. The proposed development would have very little impact upon either the outlook from the adjacent property's primary front and rear bedroom windows or upon the amount of light received by these windows.

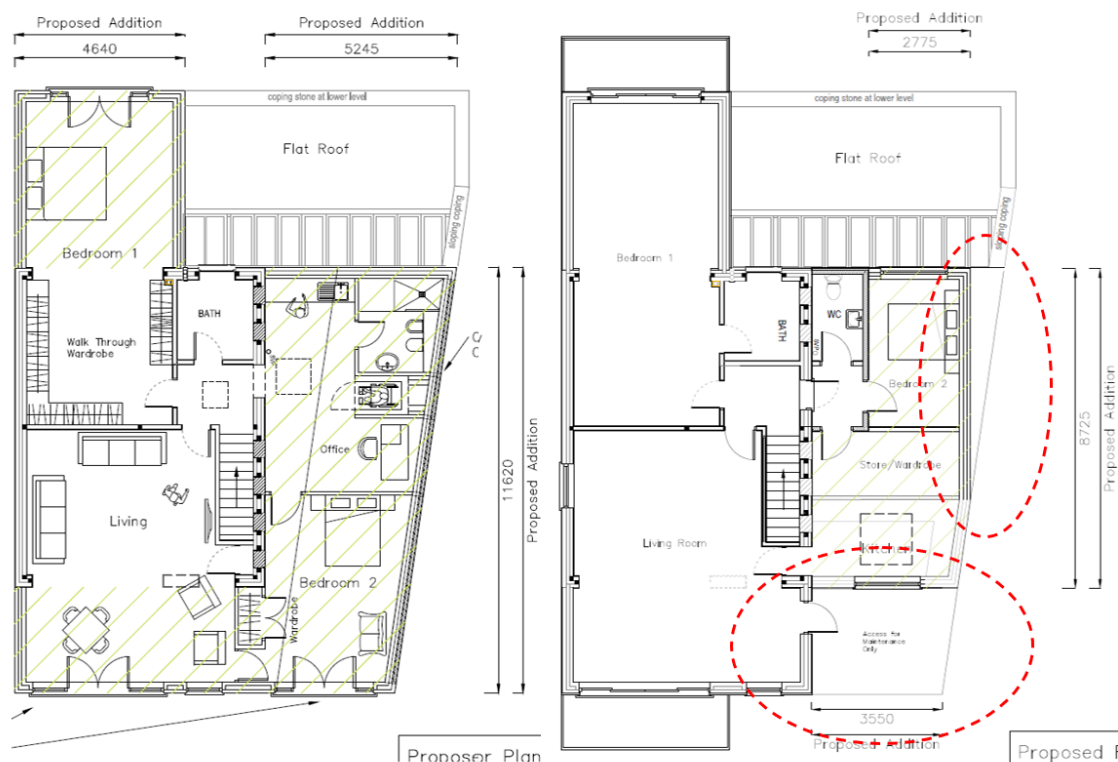


Figure 16 Comparison of First Floor Layouts Proposed by 2019 Appeal Scheme (left) & Current Appeal (Right)

Established Pattern of Development and Spatial Characteristics and Setting of the Streetscene

6.21 The LPAs second reason for refusal states that *"The proposal would by reason of its size, design and prominent siting appear cramped and be harmful to the existing character and appearance of the area conflicting with the established pattern of development and spatial characteristics and setting of the streetscene..."*

6.22 The appellant simply does not understand the LPAs second reason for refusal. Figure 17 below (page 18) shows the row of 5 dwellings located on the northern side of Ferry Road at its western extremity. Spindrift is the property in the centre of this row. The Inspector will note that Spindrift is the only dwelling within this row that is not developed almost entirely across the width of its plot at first floor level.

6.23 Contrary to the assertion of the LPA, the appellant argues that the construction of the first floor extensions would reflect *"...the existing character and appearance of the area..."* and rather than conflict *"...with the established pattern of development and spatial characteristics and setting of the*

streetscene...” the appeal proposals would complement the context of development in the immediate area.

6.24 It is apparent that the gap that would be left between Spindrift and Sinah House would be similar to the gaps separating all of the other dwellings within the road. This tight knit urban grain represents the established pattern of development in the area; the appeal proposal, if allowed, would replicate the spatial characteristics and setting of the streetscene.



Figure 17 **Ferry Road Streetscene**

6.25 The Case Officer states at 7.13 of the report that *“Neither the LPA’s policy position nor the circumstances of the site have altered since the time of this appeal...”* The appellant would like to point out that this statement is incorrect. The refusal of the appeal application leans very heavily upon the appeal decisions from 2004. Almost all planning policy that was current in 2004 has been replaced by more recent National and Local Plan policy (i.e. Havant Borough Local Development Framework, 2011-2026, and other Supplementary Planning Documents). Additionally, since planning appeal APP/X1735/D/19/3230346 was determined, the National Planning Policy Framework has been updated twice. The appellants argue that their proposals are compliant with current planning policy. For instance, paragraph 130 of the NPPF states that *“Planning policies and decisions should ensure that developments... a) will function well and add to the overall quality of the area...b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping... c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change ...”* The appellant contends that his proposals are compliant with the design section of the NPPF. Furthermore, it should be noted that at Section 11 of the NPPF (September, 2023) the Government actively encourages applicants and LPAs to make an “Effective use of land” stating at paragraph 120 that *“Planning policies and decisions should: ... e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.”* It is clear that the important consideration for LPAs to consider granting permission where *“...the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards)...”*

6.26 The appellant considers that the appeal proposals are compliant with both Local Plan policy CS16 and the Council’s Design SPD. Policy CS16 states *“All development should demonstrate that its design: 1. Responds to, draws inspiration from and respects local context and: a) Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site...b) Integrates with existing local landscape features... c) Uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors...”* It is argued that the current appeal proposal is compliant with Local plan policy CS16.

6.27 In particular, the appellant would like to advise the Inspector that the Council's Design Guide currently seeks to protect the amenities of the occupiers of adjacent residential property from overlooking from first floor secondary room windows. This guidance has been adopted by the LPA since the appeal decisions of 2004. Paragraph 5.06 of the Council's Design Guide, 2011, states *"Some overlooking of gardens from the upper floors of dwellings will be unavoidable in most urban and suburban housing layouts. However, the design should aim to mitigate these effects as far as possible by carefully designing the internal floor layout to concentrate habitable rooms away from adjacent properties where overlooking could be an issue. The council could also impose a planning condition as part of a planning consent, requiring obscurely glazed first floor bathroom or secondary windows to protect residential amenity."* It can be seen that the Council now recommends, according to this guidance, that side facing, first floor secondary windows should be fitted with obscure glazing in order to minimise overlooking. It is also the case the LPAs often view clear glazed windows, within first floor side elevations of dwellings, as being unreasonably prejudicial to the future redevelopment of adjacent sites.

6.28 The appellant is perplexed, therefore, that the LPA continually refuses his application to extend his property at first floor level due to the impact upon two secondary windows which serve a bedroom that is also served by front and rear primary windows.

7.0 Conclusions

7.1 The appellant argues that, in the case of the appeal application, the LPA should have taken a more 'balanced' view. It is contended that the decision of the LPA to refuse planning permission for a first-floor extension that would be substantially reduced in terms of its height, width and depth, from the one dismissed at appeal in 2019, was unreasonable.

7.2 It is contended that the LPA should have considered the porthole windows in the west elevation of Sinah House as secondary windows, and not afforded them similar 'weight' as primary room windows. The appellant argues that the LPA has, therefore, placed a disproportionate amount of weight on the impact of the proposed development upon these secondary room windows and not taken into account that this bedroom is also served by primary windows to the front and rear. Furthermore, the appellant is of the view that as a 'second home', occupied occasionally and during school holidays, the actual alleged impacts upon the amenities of the dwellings occupiers would be less than if the property was occupied on a permanent basis.

7.3 Finally, the appellants contend that the LPA has also misinterpreted the context of development within this part of the Ferry Road streetscene which is characterised by dwellings which are sited in very close proximity to one another with only limited separation distances between their flank elevations. It is considered that the appeal proposal, if allowed, would consolidate the prevailing character of housing development within this stretch of Ferry Road as being tight knit.

7.4 Given the foregoing it is considered that the proposed development would not *"cause demonstrable harm to interests of acknowledged importance."* It is respectfully requested that the Planning Inspector views the proposal favourably and allows this appeal.

APPENDIX I

APPEAL DECISION LETTER FOR APP/X1735/D/19/3230346

APPENDIX II

OFFICERS REPORT IN RELATION TO APP/23/00450