
Site Address: 4 Bembridge Drive, Hayling Island, PO11 9LU
Proposal: Variation of condition 5 (landscaping) of Planning Permission APP/21/00499 to allow for planting of any mix of Eleagnus, Griselinia, Green Leylandii, Green or Golden Privet, or Sea Buckthorn.
Application Type: Variation/Relief of Condition
Application No: APP/24/00435 Expiry Date: 06/08/2024
Applicant: Mrs N Adams-Madgwick
Agent: Case Officer: Tina Pickup
Ward: Hayling East

Recommendation: **GRANT PERMISSION**

1 Site Description

- 1.1 4 Bembridge Drive is a relatively recent replacement dwelling (approved under APP/21/00499 in February 2022) and comprises a detached property of a contemporary design with steeply pitched roof, located adjacent to the promenade on Hayling Island. The property has elevations of white render with wooden panel cladding to the first floor front and rear elevations, and grey powder coated aluminium doors and windows. The rear garden area consists of block paving patio area with a timber gazebo, the remainder of the rear garden area is shingled to the rear boundary wall. The rear side boundary treatment consists of wooden panelled fencing.
- 1.2 The front of the site fronts Bembridge Drive, which is a private road at this point, and within the frontage is a shallow mono-pitched double garage constructed of render and cladding to match the main house. It is sited in approximately the north east corner, but set back from the highway edge by between 1 and 1.5m. There is a low boundary wall to the back edge of the highway, and high five bar gates at the vehicular access in the north west corner. The side western boundary comprises 2m high grey composite fencing.
- 1.3 The strip of land between the garage and the front wall, was shown to be screen planting on the approved plans for the replacement dwelling, APP/21/00499. Those approved plans also specified the various boundary treatments and showed a line of planting running along the side western boundary at the front. The planting for both the front and side areas was specified to be Elaeagnus hedge (Escallonia) and condition 5 required the soft landscaping for the frontage of the site to be completed in full prior to the first use of the garage, and any planting that dies or removed in the first 5 years, to be replaced.
- 1.4 The current side fencing has no taper to Bembridge Drive, i.e. it is full height for its entire length, and none of the planting has been provided adjacent the side fence. The strip adjacent the garage has been planted but the applicant alleges that all plants die due to the overtopping tidal flood waters that surround the house - the salt water allegedly kills the plants before they become established.

2 Planning History

APP/19/00355 - Proposed alterations and extensions with increase in ridge height to create two storey dwelling with accommodation in roof space, (including balconies to

South elevation), attached double garage to North elevation., WD,31/05/2019
 APP/19/01259 - Proposed alterations and extensions with increase in ridge height to create two storey dwelling with accommodation in roof space, (including balconies to South elevation). (Revised)., PERM,03/04/2020
 APP/20/00395 - Proposed alterations and extensions with increase in ridge height to create three storey dwelling with accommodation in roof space, including balconies to South elevation. (Revisions to APP/19/01259 to include insertion of internal 2nd floor) (approved 3.9.20) - request to partially discharge condition 3 (11.9.20). Request to Discharge Conditions 3, 4 and 6 (17/11/2020).
 , PERM,03/09/2020
 APP/20/00396 - Proposed double garage (Approved 30/07/2020). Request to discharge Condition Nos 3 and 4 (16/11/2020)., PERM,03/09/2020
 APP/20/01088 - Application for non-material change to Planning Permission APP/20/00395 in relation to removal of portholes on first floor and replacement of portholes on ground floor with windows., PERM,15/12/2020
 APP/21/00499 - 1No. replacement dwelling and detached garage (Retrospective and same design as APP/20/00395 and APP/20/00396) , PERM,22/02/2022
 APP/23/00120 - Proposed first floor rear projecting balcony., PERM,20/06/2023

3 Proposal

- 3.1 Variation of condition 5 (landscaping) of Planning Permission APP/21/00499 to allow for planting of any mix of Eleagnus, Griselinia, Green Leylandii, Green or Golden Privet, or Sea Buckthorn.
- 3.2 As originally submitted the proposal was to remove the landscaping condition 5 entirely, as the applicant wanted freedom to be able to experiment with various plants to see what survived the saline conditions. But following discussions with the landscape officer during the course of determining this application the description has been amended to vary the condition to allow for a mix of specified plants instead, that are considered suitable for the saline conditions for the planting bed between the garage and Bembridge Drive. No planting is proposed for the western boundary.

4 Policy Considerations

National Planning Policy Framework
 Havant Borough Council Borough Design Guide SPD December 2011
 Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.
 Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Mark Coates

None received

Councillor Netty Shepherd

None received

Councillor Peter Oliver

None received

Landscape Team - original comments

Removal of condition 5 (landscaping) of Planning Permission APP/21/00499.

Having reviewed the submitted documents I am not satisfied with the proposals to remove the area of landscaping to the frontage of the site. We had raised concerns with the impact on the character of the street due to the proposals and in particular the scale and location of the garage as there is no precedent for this at adjacent properties. The applicant has created a bed but failed to specify appropriate species to survive in a coastal environment as well as a poor design to mitigate the risk of salt water accessing the bed.

As such I would recommend the planting bed to be contained to stop surface water running into it and remove the issue of salt water. This should then be planted with salt tolerant hedge such as either of the following; Griselinia, Green Leylandii, Green or golden privet or Sea Buckthorn.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 36

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: **5: of which 4 are objections and 1 is a neutral/supporting comment:**

These comments were also made when the proposal was to remove the condition; re-consultation did take place on the amended description but no further letters of objection were received

Comment	Officer Comment
Neutral comment:	
this seems like a reasonable request. As an immediate neighbour, I feel it would definitely enhance the appearance of the property and surrounding area to have some greenery. I have noticed that the owners have previously attempted to grow some plants in this space, but	Noted and agreed - some landscaping essential to help soften development Noted - other comments say none planted

were not successful. I therefore feel that it would be really helpful if, as requested, professional advice could be provided regarding suitable plants that could thrive in the given space and conditions; or they be granted permission to use a different type of plant from that originally stipulated.	Landscape officer provided this advice - see section 7
Objections:	
Condition No 5. of APP/21/00499 requires soft landscaping to enhance the visual amenity of the area, support biodiversity, and integrate the development harmoniously with its surroundings, but still hasn't complied with the planning order and there is no screen planting of Elaeagnus Hedge (Escallonia).	Planting has been undertaken in front of garage but plants failed
No. 4 has NEVER planted any plants or shrubs on the West Northern boundary fence nor do they appear to ever intend to, they would have incorporated this in when the driveway was built.	Noted & agreed - see section 7 re this minor breach
Absence of Landscaping Features has left the development stark and visually unappealing, detracting from the character of the neighborhood.	Noted - see section 7
The visual blight resulting from the failure to implement the approved landscaping scheme has negatively impacted the well-being of local residents, who expected a green and pleasant environment as part of the development's approval.	Noted
Without proper landscaping, there are visible signs of soil erosion and degradation, which were supposed to be mitigated by the specified ground cover and stabilising plants.	Condition 5 did not directly address soil condition - rather was for visual amenity reasons
Impact on Local Wildlife: The lack of landscaping has deprived local wildlife of the necessary habitats and food sources that the approved planting scheme was designed to provide. This failure directly undermines biodiversity in the area.	Noted

No. 4 should be enforced to put these shrubs in to apply with the planning order, there are plenty of trees in Bembridge Drive that survive and flourish the salt air / sea conditions,	Noted
No. 4 has not adhered to the boundary fences at both the front and back that was set out on the approved plans - this needs to be investigated	property been occupied for a couple of years and has permitted development rights relating to fences - which have been renewed in line with permitted development
The North side of property (East and West boundary identified in yellow), the composite fence did taper to 0.6m, however some months back this has now changed to 2m blocking the view of the highway and pedestrians. Rear boundary fences also recently been amended to higher fencing	as above
I believe No. 4 wants to remove the planning because No. 4 has not complied with the Northern Western boundary approved landscaping scheme	
The reason why the plants are not growing could be where the asbestos from the two old garages where buried. Should be investigated to where the asbestos went to.	Asbestos not a planning matter and would have been a matter for the Health and Safety Executive at construction stage
they have breached the approved plans multiple times.	see section 7
breach of policy CS16 for the last 3 years and the change of boundaries heights without planning, breach of policy CS16; Non-compliance with Planning Policies violates several local and national planning policies that emphasise sustainable development and environmental stewardship.	see section 7
Planning permission should not be granted, if it is then allowed to not be followed, these rules should be taken seriously and followed exactly; erodes trust in the planning process.	see section 7
should enforce compliance with condition 5 - serve notice/ monitor/ consider penalties	see section 7

Also, the balcony in the approved plans states that it would match the boundary uprights, which is galvanized steel but now they have put up polished shiny stainless-steel balcony, again yet another breach.	see section 7
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7 **Planning Considerations**

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity

(i) Principle of development and alleged breaches

7.2 This is a Section 73 application to vary a condition and if approved, its granting effectively re-issues the original permission and must repeat and update the relevant conditions unless they have been discharged. In this case condition 5 is being sought to be varied (front landscaping). The determination of this application must consider the impact of the proposed changes only and does not need to re-consider the whole development which already has planning permission and been implemented under APP/21/00499.

7.3 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The development of the replacement dwelling on this site has been the subject of ongoing breach allegations and has been thoroughly investigated by the Enforcement team. With respect to the dwelling and its siting the Enforcement team have found no breaches that warrant any further action.

7.4 In terms of the third party allegations about boundary fences being not in compliance with the approved plans - these comments note that in part the correct heights were originally erected and more recently the boundaries have been replaced with higher fencing of different materials. Once occupied a new dwelling benefits from permitted development rights and as such the occupiers are entitled to replace any fences provided it is not more than 2m high and 1m where adjacent a highway. The approved plans only control the initial development, and subsequent changes can occur in accordance with permitted development, unless removed - and the relevant decision notice (APP/21/00499) removed at condition 3 permitted development rights for extensions, roof alterations and additional windows, but it did not remove permitted development rights for boundary treatments. Therefore the current boundary treatments at the site conform to permitted development and there is no breach of planning control.

7.5 In terms of the front landscaping, some plants have been planted in the area in front of the garage, despite some third party allegations to the contrary - some were still evident at the recent officer site visit (17/6/24), albeit sparse and not particularly healthy. However it is acknowledged that no plants have ever been planted along the western side boundary as shown on the approved plans. This is therefore a technical breach of condition 5 of APP/21/00499.

- 7.6 However this application itself seeks to vary condition 5 and as such it is not appropriate to take any enforcement action pending the determination of this application, which must be considered on its merits.

(ii) Impact upon the character and appearance of the area

- 7.7 With regard to the lack of planting along the western side boundary, this would largely be screened by the 2m side fencing and therefore only visible from directly opposite the site or within the site. The aim of the landscaping condition was to help soften the visual prominence and bulk of the front garage and it is considered that the side planting that was offered as part of APP/21/00499 would have only limited effect on that aim. In street scene visual terms it is the planting area adjacent the garage and directly adjacent the highway that would have most public benefit. Therefore it is considered that non-provision of any landscaping along the western side boundary would not be detrimental to the overall character and appearance of the site, provided the front landscaping adjacent the garage is provided.
- 7.8 With respect to the front landscaping, following advice and negotiations with the Council's landscape officer and applicant, it has been agreed that the planting should comprise a mix of any of Eleagnus, Griselinia, Green Leylandii, Green or Golden Privet, or Sea Buckthorn. These are all suggested by either the applicants own gardener or Council's landscape officer as plants known to survive in saline conditions should the overtopping waves hinder their establishment, and be appropriate for the size and location of the planting bed. Once established they should all survive and provide effective screening. Notably the applicant's gardener suggested Tamarisk but the Council's landscape officer thought it would overhang the footway given its habit in relation to the size and location of the planting bed. It has therefore been excluded from the list of acceptable plants.
- 7.9 The list of plants will allow the applicant some flexibility on what is actually planted in her attempt to find suitable plants that will take in the specific ground conditions, but still provide an attractive green softening effect to the garage. Therefore it is considered that the amended application is acceptable and would maintain the objectives of condition 5 to screen the garage in the interest of the visual amenity of the area, in accordance with policy CS16.
- 7.10 Since the garage is already built, then it is important that the condition is amended to ensure the first planting takes place in the next planting season, which is generally between October and March.

(iii) Impact upon residential amenity

- 7.11 The planting does not directly affect neighbours in terms of privacy or light etc, but does affect the outlook of neighbours and the public on this highly prominent site. Provided some form of verdant landscaping is achieved to help screen the garage then the amenity of neighbours and the public would be improved. Overall it is considered that the flexible planting option will help the applicant to be successful in the planting of this bed, which has failed to date, which would benefit neighbouring amenity.
- 7.12 Arguably the loss of the side planting bed would have a marginal detrimental effect on the outlook and amenity of number 2 Bembridge Drive to the west, but due to the presence of the 2m high intervening fence, the actual loss of amenity would be

negligible. The occupiers of number 2 would hardly have seen the landscaping above the fence.

- 7.13 Overall it is considered that the variation of the planting condition would have limited and acceptable impact on the properties immediately adjacent to the application site and the properties opposite, meeting the requirements of Policy CS16 of the HBLP (Core Strategy).

8 Conclusion

- 8.1 This is a Section 73 application and its granting effectively re-issues the original permission and must repeat or amend accordingly the relevant conditions unless they have already been discharged. It is considered that it would be appropriate to vary condition 5 of APP/21/00499 to allow for the planting of a mix of any of Eleagnus, Griselinia, Green Leylandii, Green or Golden Privet, or Sea Buckthorn in the planting bed adjacent the garage, with no planting provision on the western side boundary. It is considered that there would be minimal adverse impacts of doing so and these alternative plants are suitable for saline conditions which enable a successful verdant screen to the garage. On this basis it is recommended for approval.

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT PERMISSION** for application APP/24/00435

(A) subject to the following conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Planning Statement

Flood Risk Assessment by Flood Risk & Drainage Consulting dated Jan 2022

Location and Block Plan Drawing No 190103/501

Proposed Ground Floor Drawing No 190103/503

Proposed First Floor Drawing No 190103/504

Proposed Second Floor Drawing No 190103/505 Rev A

Front & Rear Elevations as Proposed (Sheet 1 of 2) Drawing No 190103/506

Side Elevations as Proposed (Sheet 2 of 2) Drawing No 190103/506

Section as Proposed Drawing No 190103/508

Proposed Roof Plan Drawing No 190103/520

Proposed Garage Elevations Drawing No 190103/522

Street Scenes Drawing No 190103/523

email from applicant dated 19/08/2024 agreeing to the variation of planting

Reason: - To ensure provision of a satisfactory development.

- 2 The development permitted shall be retained in strict accordance with Flood Risk Assessment by Flood Risk & Drainage Consulting dated January 2022 and the measures it details, including the following condition:
1. The Finished Floor Levels (FFL) must be set no lower than the level of 5.45mAOD as proposed on Page 5 of the Flood Risk Assessment (FRA).
 2. The applicant must sign up to the Environment Agency flood warning

system as stated on Page 6 of the FRA.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to ensure the occupants can move to a place of safe refuge if required, having due regard to policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 3 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no enlargement of the dwelling house, extension, building or roof alteration, including the addition of windows, shall be constructed within the curtilage of the site without the prior approval of the Local Planning Authority.

Reason: To protect the amenity of neighbours and visual appearance in street scene terms, having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 The car parking provision for 3 vehicles and cycle storage for 3 bikes, together with associated servicing and other vehicular access arrangements shall be retained in perpetuity for their intended purpose.

Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 5 The soft landscaping for the planting bed between the garage and Bembridge Drive shall comprise a mix of any of Eleagnus, Griselinia, Green Leylandii, Green or Golden Privet, or Sea Buckthorn. The planting must be implemented in the first planting season following the date of this decision notice, and any plant which dies or is otherwise removed within the first 5 years, shall be replaced with another from the approved mix, in the same position during the first available planting season.

Reason: To ensure the satisfactory screening of the garage in the interest of the visual appearance of the area, having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.