

Site Address: 8 Selsmore Avenue, Hayling Island, PO11 9PB

Application Type: Full Planning Permission

Local Planning Authority Reference: APP/22/00746 Expiry Date: 25/09/2022

Planning Inspectorate Reference: APP/X1735/W/23/3316047

Applicant: Mr & Mrs Griffiths

Agent: Mr Murray I J Murray Associates Ltd

Proposal: Division of site into two to allow the construction of a three bedroomed detached bungalow to the rear. Single storey front and side wrap around extension of existing dwellinghouse

The following comments are made in relation to the statement submitted by the Local Planning Authority, the numbers points correlate to the document.

5.5. It is not disputed that the sequential test was applied to 16 Selbourne Avenue, a case decided in March 2021. The appellant disputes the inference that this is a similar application to the case discussed in this appeal. 16 Selbourne Avenue is identified on the Environment Agencies website Flood Zone 3 for current Risk (Appendix A) and a Medium Flood Risk for both Flood and Surface Water for long term risk (Appendix B). This contrasts with the position at 8 Selsmore Avenue which as outline in the Appeal Statement, is classified as Flood Zone 1 for the Current Risk and Very Low Risk for both Flooding and Surface water on a Long-Term Risk (Appeal Statement *Appendix 3* and *Appendix 4*).

The original refusal document for 16 Selbourne Avenue dated March 2021 states:

“The proposed development is not considered safe for its lifetime with the finished floor level below the level required by the Environment Agency” (Appendix C) supporting the evidence already stated by the appellant that the LPA did not and does not have a Strategic Flood Risk Assessment and relies upon the EA information for decisions.

7.4 To avoid duplication of information, there was substantial evidence presented to disprove the LPA statement that they have a have a Strategic Flood Risk Assessment (SFRA). The LPA’s insistence that they have a SFRA does not prove that they had one at the time of the decision for 8 Selsmore Avenue, and their failure to demonstrate the existence of this document is well documented in the applicant appeal. They have been unable to provide the SFRA under a Freedom of Information (FOI) request and the websites mentioned do not provide any clear documentation or statements that the information was the SFRA for Havant Borough Council and provided no specific documentation. In addition to this, it should be highlight that the LPA has failed to use this opportunity to demonstrate a clear and documented SFRA as a part of the defence of their fundamental failure to have one. The submission of this documentation from this point onward should be considered new evidence and requested rejection from the planning inspectorate.

It is not disputed that there is an interactive Map on the ‘Where I Live’ section of the LPA website, what is disputed is the validity of it to form the only basis of a SFRA, at the time there was:

- No key on the mapping
- No reference to planning
- No reference from the planning portal
- No link to data or Portsmouth CC website
- No link from the Portsmouth CC Website to Havant Borough Council
- It couldn’t be searched on the website.
- Was not an active guide for any planning application.
- In contrast to Policy Mapping provided on the Planning portal – most relevant *Appendix 8 Map 14 Planning Policy* in the original appeal statement)
- Not created for planning purpose
- Conflicts with the signposts to the EA data to check for flood risk from the LPA website.

The comment in the LPA statement directs you to the Portsmouth CC website for review, however, it is important to note that nowhere on the LPA website, planning portal or otherwise, was there a signpost to this mapping; for example please see the appeal statement *Appendix 6 Havant Borough*

Council Planning Portal, Appendix 26 Portsmouth CC SFRA Map, Appendix 22 HBC Search Strategic Flood Risk, for demonstrations that there was no direction from their website or once you reached the website. The websites have subsequently been updated following the decision, the time frame on this is unknown, however, the decision on the consultation to change the councils planning policies was made after the decision on this application. It is incorrect to state that the information was publicly available, the mapping may have been available online, however there was no signposting available, and the website stated doesn't have any mention of the LPA on the site. Without sufficient signposting and referencing, this cannot be considered as "not ideal" by the LPA it is an acceptance of their failing to demonstrate any level of SFRA and as such it cannot be considered "Publicly available". The Information Commissioner's Office outlines that "Information is in the public domain if it is easily, readily and realistically accessible to the public. One example of this is information which can be easily found through a simple internet search." (<https://ico.org.uk>). The appeal statement submitted by the appellant clearly demonstrates that the information was not easily, readily or realistically available.

7.5 The appellant sought information on current and future flood risks diligently from the information signposted by the LPA and extended this to also include the EA Future Flood Risk at <https://www.gov.uk/check-long-term-flood-risk>.

It is inappropriate and misleading to sight information which has been made available post decision. The updates to the website <https://www.havant.gov.uk/flood-risk-development> as stated, were advertised as available to the planning agents on the 19th April 2023, more than 6 months after the decision notice. To demonstrate the timeframes, the email update sent to planning agents can be viewed in Appendix D.

7.6 While the LPA state that the approval of APP /20/01219 is "regrettable" it was demonstrated in the appeal statement *Appendix 9 Previous Planning Applications HBC* that it was not an isolated case, and a number of applications were approved. This action serves to prove that there has been changes in planning policy which was being implemented during the period of consultation. 11 West Haye Road resides in Flood Risk Zone 1 for current risk and very low risk for future surface and coastal flood risk (Appeal Statement *Appendix 12, Appendix 13 and Appendix 14*). It is accepted that a similar decision was made in the case of Pepperpot Cottage, however, it is still argued all the points above are relevant and it was the decision of the applicant of APP/22/00339 not to challenge at appeal and obtain a decision from the Planning Inspectorate.

Summary

16 Selbourne Avenue and 11 West Haye Road were both decided within a month of each other in early 2021. It is clear to see that both of these decisions were clearly based upon the Environmental agencies flood risk data and thus this is the only reliable data Havant Borough Council as an LPA have been basing decisions upon. It continues to be refuted that the LPA have an SFRA and any of the data they are claiming was publicly available has been proven not to have been until April 2023 when an update was issued by the planning department. It is rebutted that there was any information publicly available as no manner of searching, simple or otherwise could locate any website of information relating to the LPA claimed SFRA.

Appendix A

Cookies on Flood Map For Planning

We use analytics cookies to help understand how users use our service.

Accept analysis options

Reject analytics cooking

[View cookie preferences](#)

 GOV.UK

Flood map for planning

BETA This is a new service — your [feedback](#) [/feedback](#) will help us to improve it.

[← Back](#)

This location is in flood zone 3

What flood zone 3 means

Land within flood zone 3 has a high probability of flooding from rivers and the sea.

You need to carry out a flood risk assessment (FRA) as part of the planning application for this development.

Find out more about [food zones and what they mean](#) ([Must-see results explained](#) [Zone=FCI](#)).

To find out about other factors that might affect the flood risk of this location, you should also check:

<https://nces.ed.gov/ipeds/data/ipedsonline/ipedsonline.asp?cid=16000101> & <https://nces.ed.gov/ipeds/data/ipedsonline/ipedsonline.asp?cid=16000101>

5

- [surface water, groundwater and reservoir flood risk thru surface-long-term flood-risk.service.org.uk/long-term-flood-risk/mas?sectionof105053&country=10612&main=Surface\(Water\)](http://surface.water.groundwater.and.reservoir.flood.risk.thru.surface-long-term.flood-risk.service.org.uk/long-term-flood-risk/mas?sectionof105053&country=10612&main=Surface(Water))
- Havant planning authority's strategic flood risk assessment (SFRA), which includes future flood risk

Flood map showing the flood zone your site is in

The map shows the flood risk to your site and the surrounding area.



<https://doi.org/10.1016/j.jnlp.2019.05.001>

29

Appendix B

Cookies on Check your long term flood risk

We use analytics cookies to help understand how users use our service.

[View cookie preferences \(/cookies\)](#)

16, SELBORNE AVENUE, HAVANT, PO9 4PX

Rivers and sea risk	Medium risk Medium risk means that this area has a chance of flooding of between 1% and 3.3% each year .
Surface water risk	Medium risk Medium risk means that this area has a chance of flooding of between 1% and 3.3% each year . Lead local flood authorities (LLFA) manage the risk from surface water flooding and may hold more detailed information. Your LLFA is Hampshire .
Reservoir risk	Flooding from reservoirs is unlikely in this area
Groundwater risk	Flooding from groundwater is unlikely in this area

Appendix C

To:
Mrs T Parker
Bespoke Architects
1 Potters Corner
The Avenue
Hambrook
Chichester
PO18 8TT

For: Mr Sturgess

**The Town and Country Planning (Development Management Procedure) (England)
Order 2015
Refusal of Planning Permission**

Application Number: APP/21/00353
Site Address: 16 Selborne Avenue, Havant, PO9 4PX
Proposal: Erection of 1No.2bed dwelling.

Further to your application received on 19 March 2021 Havant Borough Council, as Local Planning Authority, **Refuses Planning Permission** for the above proposal.

The reasons for the Council's decision to refuse planning permission are:

- 1 The site falls within flood zone 3 and it is considered that reasonably available alternative sites exist that are at a lower risk of flooding. The proposed development is not considered safe for its lifetime with the finished floor level below the level required by the Environment Agency. The proposed SuDs solution is not considered sufficient to provide a community benefit that outweighs the fluvial flood risk. Therefore the development proposal is considered to fail the sequential and exception tests as set out in the NPPF and would represent unsustainable, inappropriate development in an area of high risk of flooding, contrary to adopted policy CS15 of the Havant Borough Core Strategy, 2011, emerging policy E19 of the Pre-Submission Havant Borough Local Plan 2036; and the National Planning Policy Framework.
- 2 The proposed subdivision of the plot in the manner proposed with dog-legged garden boundary with number 16, results in a tight and contrived layout that is at variance with the traditional plot width and layout of the area. The proposal is therefore considered to fail to respect local context would be harmful to the character of the area, and is considered contrary to policy CS16, clause c) of the Havant Borough Local Plan (Core Strategy) 2011, the Borough Design Guide SPD, 2011, the National Planning Policy Framework and emerging policy E1 of the Submission Havant Borough Local Plan.

Our Ref: APP/21/00353

- 3 The proposed dwelling, by reason of its siting, proximity to 32 Overton Crescent, and orientation, would result in a dominant and overbearing building bulk adjacent to existing residential properties, causing overshadowing, loss of outlook and a sense of enclosure, detrimental to the amenities of the occupiers of adjacent properties. Additionally, the contrived triangular garden size would not provide adequate amenity space for future occupiers and its use would be harmful to the amenity of the occupiers of number 16 Selbourne Avenue. The proposal is therefore contrary to the Borough Design Guide SPD, 2011, adopted policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework and emerging policy H1 of the Submission Havant Borough Local Plan.
- 4 In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites as specified in the Habitats Regulations Assessment that has been undertaken in relation to this planning application. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policy E16 and EX1 of the Submission Havant Borough Local Plan, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.

In coming to its decision the Council considered plans and other documents submitted with regard to your application and the relevant policies of the Havant Borough Local Plan and other planning policy documents including the National Planning Policy Framework.

Other Important Information:

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to the Planning Inspectorate, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council. See www.planningportal.gov.uk/pcs
- (3) In accordance with paragraphs 38-50 of the NPPF Havant Borough Council (HBC) takes a positive and proactive approach and works with applicants/agents on development proposals in a manner focused on solutions by:
 - Offering a pre-application advice service, and
 - Updating you of any issues that may arise in the processing of your application and where possible suggesting solutions, and,

In this instance:

- You sought and were provided with pre-application advice,

-
- You were updated about issues after the initial site visit,

Your application is considered unacceptable for the reasons set out in this Decision Notice.

[Simon Jenkins](#)

Simon Jenkins
Director of Regeneration and Place

27 August 2021

TOWN AND COUNTRY PLANNING ACT 1990

NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS

- These notes are for information only and do not purport to set out the law on the subject.
- Only the applicant possesses the right of appeal.

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a householder application and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission for a minor commercial application and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse express consent for the display of an advertisement and you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.
- If this is a decision to refuse consent to work on a tree which is subject to a Tree Preservation Order and you want to appeal against your local planning authority's decision then you must do so within 28 days of the date of this notice.
- If this is a decision to refuse any other type of application and you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK](#).

IMPORTANT NOTICE FOR APPLICANTS WITH REGARD TO BUILDING REGULATIONS

This notice only relates to the decision of Havant Borough Council under the Town and Country Planning Acts. It does not relate to any other application that may be required any other Act, Regulation, Byelaw or Order where the Council's approval may be needed.

For further guidance as the need for consent under the Building Regulations, please telephone Havant Borough Council's Building Control team on:

023 9244 6571

Appendix D

From: "Clark, Jacky" <Jacky.Clark@havant.gov.uk>
Date: Wednesday, 19 April 2023 at 09:39
To: Havant Planning and Development Mailbox New
<planning.development@havant.gov.uk>
Subject: Havant Borough Council Local List Requirements - update to Flood Risk guidance

Dear Planning Agent,

I am writing to let you know that we have published an update to our Flood Risk Sequential Test guidance for applicants. You will find it at <https://www.havant.gov.uk/flood-risk-development>. The revisions reflect the [updated national guidance from August 2022](#) as well as experience gained from applying the test to applications locally.

At the same time we have made some corrections to the text and links within [the Local List](#). These are only to make sure there are no inconsistencies with the guide, as well as adding and updating some weblinks to further information.

Finally, the [SPD page](#) now has links to the 'key issues for planning applications' as well as to a few other frequently used documents and web pages, which we hope you will find useful.

Kind regards

Jacky Clark

Business Support Manager
Planning Services, Havant Borough Council, Public Service Plaza, Havant, PO9 2AX
Email: jacky.clark@havant.gov.uk
Tel: 02392 446249
Mob: 07879 518543

My working pattern

Working from home: Monday, Tuesday, Wednesday
In the office: Thursday, Friday

Notice of leave: 2 May; 12 May; 5-16 June.

From: Clark, Jacky <Jacky.Clark@havant.gov.uk>
Sent: 12 December 2022 09:20
To: Havant Planning and Development Mailbox New <planning.developmentnew@havant.gov.uk>
Subject: Havant Borough Council Local List Requirements - implemented 12.12.22

Dear Planning Agent

Further to our consultation of 20th September to 1st November 2022, we have implemented the latest version of the Havant Borough Council Local Requirements List today.

I attach a copy of the updated Local List and the Consultation Report; we thank you for your interest and cooperation.

Please note: as part of the updated List requirements and in line with many other Local Authorities, we will require all plans to have a scale bar and original page size. I'm sure many or most of you already do this but it's just a reminder if you aren't currently providing this on your plans. For the

avoidance of doubt, this requirement excludes sketch plans for TPO applications, CGI's, photomontages or artists sketches.

Kind regards,

Jacky Clark

Business Support Team Leader

Planning Services, Havant Borough Council, Public Service Plaza, Havant, PO9 2AX

Email: jacky.clark@havant.gov.uk

Tel: 02392 446249

My working pattern – Monday, Tuesday, Wednesday, Thursday, Friday

Notice of leave: Thursday 22nd December

From: Havant Planning and Development Mailbox New

Sent: 20 September 2022 15:21

To: Havant Planning and Development Mailbox New <planning.developmentnew@havant.gov.uk>

Subject: Havant Borough Council Local List Requirements Consultation 20th September to 1st November 2022

Draft Local List Consultation 20th September to 1st November 2022

We are consulting you on changes to our Local List as a Planning Agent who has worked with Havant Borough Council within the last 12 months,

The consultation will run for six weeks from 20th September to 1st November 2022. If you wish to comment, please email us at planning.development@havant.gov.uk with the subject reference Local List Consultation 2022.

The draft Local List for consultation can be viewed on our [Local Requirements List](#) webpage and a copy of the Consultation Version of the Local List accompanies this email. Changes have been made to update existing requirements; no new requirements are added as part of this consultation.

Key Amendments

The list below highlights key areas of change.

Flood Risk

Revised text to clarify and explain the requirement and includes updated considerations for climate change and future flood risk. See accompanying text on Flood Risk at the bottom of this page and a link to the Flood Risk Information for Applicants.

Nutrient Neutrality and Recreational Disturbance Mitigation

Formerly known as EU Checklist, the revised text clarifies the requirements for new residential dwellings and overnight accommodation.

Minor Amendments

Small amendments to existing requirements

Emsworth Neighbourhood Plan

The Emsworth Neighbourhood Plan is now adopted and part of the development plan. Relevant policies have been updated including Parking, Housing mix and the requirement for a Design Checklist to form part of a submitted Design and Access Statement for Emsworth applications (when a D&A is required nationally)

CIL

Clarifies the requirement for Annexes.

Parking

Clarifies the requirement for a parking plan for applications increasing bedroom numbers or losing existing parking space(s).

Plans

Clarifies the requirement for all plans to show a scale bar and page size.

At the end of the consultation period, all comments will be reviewed and assessed and any further changes made accordingly. The outcomes will be shared with you in due course.

Kind regards,

Jacky Clark

Business Support Team Leader

Planning Services, Havant Borough Council, Public Service Plaza, Havant, PO9 2AX

Email: jacky.clark@havant.gov.uk

Tel: 02392 446249

My working pattern – Monday, Tuesday, Wednesday, Thursday, Friday