

Site Address: 18 Kingsey Avenue, Emsworth, PO10 7HP
 Proposal: Proposed outbuilding providing ancillary accommodation.
 Application No: APP/20/00754 Expiry Date: 21/10/2020
 Applicant: Dr & Mrs Lee
 Agent: Mr Atkinson Case Officer: Bee Crawford
 RJCA Chartered Architects
 Ward: Emsworth
 Site Visit Date:

1 Site Description

***Note** - Due to Coronavirus a site visit was not possible but the agent supplied photos of the application site which have been used to inform this decision.*

01/61387/001 - Application for Certificate of Lawfulness in relation to existing conservatory to rear. PERM 06/08/2001.
95/61387/000 - Porch to front of house. PERM,16/11/1995.
09/61387/002 - Two storey rear extension and extension to garage.
PERM.10/05/2010.

3.1 The proposal is for the construction of an outbuilding providing ancillary accommodation.

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

CS16 (High Quality Design)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Havant Borough Pre Submission Local Plan 2036

E1* (High quality design)

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

Providing the work is carried out in strict accordance with the Arboricultural Method Statement and Tree Protection Plan I have no objection to the proposals and the mature Oaks along the rear boundary should not be negatively impacted. I would however like to see the detailed foundation design submitted for approval prior to commencement to ensure minimal disruption within the RPA.

Following the submission of amended plans on 19/10/20, further comments were received:

I have no objection to the revised siting of the building. Provided the Arboricultural Method Statement and Tree Protection Plan are strictly followed there will not be a negative impact on the Oak trees.

Officer comment: Conditions recommended

Environmental Health

I have reviewed the details and whilst having no objection in principle to an outbuilding in this location, I have serious concerns about the proposed low level flue which appears to be serving a wood burning stove or similar. The low level discharge of smoke and fumes in this location, surrounded by residential gardens and properties of varying heights, is likely to significantly impact residential amenity.

In order for a flue to achieve satisfactory smoke and fume dispersal, we would expect the flue height to extend above the ridge height of the tallest nearest building. The rationale behind this principle is that unless a flue extends well above all nearby obstructions, down draught of the smoke/fume plume can occur which has the potential to significantly impact the amenities of surrounding premises. Moreover, unless a flue terminates at sufficient height, the smoke may be trapped in regions of stagnant air which are common between low level buildings, rather than being rapidly mixed and dispersed sufficiently.

Both Building Regulations and HETAS guidance recommend a minimum chimney height of 4.5m to a position where the products of combustion can discharge freely, with the Building Regs also noting that chimney heights may need to be increased in situations where wind exposure, surrounding tall buildings, high trees or high ground could have adverse effects on flue draught.

In order to address my concerns and achieve suitable dispersal of smoke and fumes the height of the flue would need to be significantly increased which is not possible due to the nature of the building which it is attached to. As a satisfactory height of dispersal cannot be achieved, I recommend that permission is not granted at this time.

Following the submission of amended plans on 13/10/20, further comments were received:

I have reviewed the amended plans relating to the above application and note the applicant has removed the wood burning stove and associated flue.

The removal of the stove addresses my previous concerns. I have no adverse comments in respect of this proposal.

Developer Services, Southern Water

The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised.

Please note:

- The 225mm and 300mm diameter gravity foul and surface water sewers requires a clearance of 3 metres on either side of the gravity sewers to protect it from construction works and to allow for future access for maintenance.
- No development or tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water.
- No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewers.
- All existing infrastructure should be protected during the course of construction works.

Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer.

To make an application visit developerservices.southernwater.co.uk and please read our New Connections Services Charging Arrangements documents which are available on our website via the following link:

southernwater.co.uk/developing-building/connection-charging-arrangements

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part 3 of the Building Regulations:

- Reuse
- Infiltration
- Watercourse
- Storm sewer
- Combined Sewer

Guidance on Building Regulations is here:

gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h
For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119). Website: southernwater.co.uk by email at: SouthernWaterPlanning@southernwater.co.uk

Officer comment: Informative recommended

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: 8

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
We note that the proposed structure, with an overall area of 57.14 square meters (615 square feet), is equivalent to the footprint of the average two storey house which is very large for an "outbuilding", as it is described in the proposal. By virtue of the accommodation shown and the provision of sanitary facilities, it is reasonable to suggest that this is effectively a self-contained, habitable unit. Describing it as "ancillary accommodation" is also stretching credibility: the building is of sufficient size to suggest possible future use as guest accommodation or as a lettable chalet, if not by the present owners then by subsequent owners. In my experience as a retired Chartered Surveyor, the building thereby constitutes unacceptable backland development. Our objections accord with the relevant Considerations as set out on the reverse of your letter of notification dated 9 September 2020 and are as follows: 1. Adverse visual impact regarding the outlook from both the ground and first floor windows in the rear elevation of 17 Kingsey Avenue which serve lounge/dining room, kitchen, two principal bedrooms and bathroom. Likewise, adverse outlook from our garden. 2. Loss of privacy as the principal elevation of the proposed building faces the rear elevation of 17 Kingsey Avenue whereby the windows, french casements and roof lights serving the proposed building are all fully visible from all of the windows in the rear elevation of 17 Kingsey Avenue. 3. Light nuisance at night, and particularly during winter months, as light emissions from the windows, french casements and particularly the roof lights serving the proposed building are all directed at the rear elevation of 17 Kingsey Avenue.	See section 7. See section 7. See section 7. See section 7.

4. Light nuisance from the verandah as it is virtually inevitable that external lights will be fitted.	See section 7.
5. Noise nuisance as the opening casements in the proposed building will project noise to the rear elevation of 17 Kingsey Avenue and its garden.	The application is for works to an existing residential property and any excessive noise would need to be reported to the Council's Environmental Health Section.
6. Air pollution - if a wood burning stove is installed, as shown on the plans. The stack pipe will be too low to clear the smoke, and the vortex effect of the prevailing south west winds passing over the existing house will drive the smoke down into our garden and house.	Amended plans received 13/10/20 removed the proposed wood burning stove.
7. The proposed building, at a height of 3 meters (9.82 ft) above the boundary wall, will cast an unacceptable shadow over a substantial proportion of our garden.	See section 7.
The above observations are not speculation as to possible future nuisance. They have already been experienced following the proposer's earlier extension to the main house whereby light emissions from two Velux windows, and an external PIR light on the wall, floodlight the rear of our house. The opening roof lights also amplify internal noise from the kitchen/diner of 18 Kingsey Avenue in the same way as sound is amplified through the hole in the body of a guitar.	This is not relevant to the current planning application.
When planning representatives called to discuss these issues, to which we had objected earlier in the consultation process, we were advised that we would have to take it up with Environmental Health, should they present a problem later.	This is not relevant to the current planning application.
They have presented the problems we anticipated and continue to do so, and verbal representations have been made to the proposers. The bulb was removed from the external light for approximately one year but is now back, and the Velux windows continue to cause light and noise pollution which is detrimental to our enjoyment of our property. We have not referred the matter to Environmental Health to date to maintain good relations with our neighbours but as it is the purpose of planning control to eliminate such issues at the planning stage, if these matters are not adequately addressed in this current proposal, we will have no option but to refer the question of the adequacy of the planning control function to	This is not relevant to the current planning application.

higher authorities.	
There is ample room in the rear half of the garden of 18 Kingsey Avenue, notwithstanding tree considerations, to site the proposed building away from existing dwellings with the principal elevation, roof lights etc facing south where there are no existing buildings to be affected, and accordingly there can be no excuse for permitting the existing proposal in such a contentious position.	See section 7.
It may be of interest to note that the existing foul sewer runs to the north of the main house which could explain the choice of the proposed location so close to the existing buildings to facilitate connection but this is totally unjustifiable in terms of the detrimental impact on 17 Kingsey Avenue, as defined above.	Noted. Southern Water have provided comment.
Further comments received 05/10/20	
• Room to reposition and re-orientate outbuilding • Nuisance/pollution • Exceeds permitted development criteria • Planning Authority should refuse buildings which exceed permitted development criteria • Effect on light/noise/air pollution/loss of privacy	See section 7. Application submitted because it falls outside permitted development criteria. See section 7
Following the submission of amended plans on 13/10/20 further comments were received.	
We are in receipt of your letter of 14 October inviting further comment in respect of the deposition of further documents, including amendments to the proposal.	
Whilst heartened by Environmental Health's support of our identification of unacceptable smoke pollution from the originally proposed wood burning stove and their recommendation that "permission is not granted at this time", we are dismayed by the proposer's minimal amendments by relocating the proposed building 1.7m (5.6 ft) to the east and 1.5m (4.9 ft) to the south. This totally fails to address the admissible grounds for objections as listed on the reverse of your letter, namely:	
• Effect on daylight, privacy and outlook • Noise • And we would add inevitable light pollution and nuisance, both within our accommodation and in the garden of our house.	See section 7.
It is pertinent to note that when permission was granted in May 2010 for the proposer's	This is not relevant to the

application for a two storey extension to the main house (Application no 09/61387/002), not only was the original design amended to reduce the roof height and include a hipped end rather than a gable to mitigate the overshadowing of our garden, it was conditional upon no windows being installed in the north elevation other than two roof lights “in the interest of the amenities of the occupiers of nearby properties...”	current planning application.
Surely, if this applies to a structure at a right angle to our rear elevation, it must be unequivocal that the same considerations should apply to a structure effectively facing the principal elevation of our property in terms of fenestration and principal rooms.	See section 7.
We are concerned that the photographs submitted on 5 October may not have adequately portrayed the enormity of the impact of such a large and tall structure, particularly our attempt on Photo C to draw the position of the proposed building where I fear we did not get the perspective quite right. We therefore forward four further photographs to clarify the intensity of the impact on us of this proposal.	Noted.
In summary of all our objections to date, all of which stand, we consider the proposed outbuilding wholly inappropriate in terms of its height, size and proposed proximity to our house; buildings of this size would not be in such close proximity in a new development. There is undoubtedly adequate space for it to be positioned centrally in the rear half of the garden, with the principal elevation facing south where there are no existing dwellings, only rear gardens, in front of it, thereby obviating the inevitable nuisance factors. Even then, there can be no excuse for any of the permitted development limitations as to size, height, etc, to be exceeded.	See section 7. Application submitted because it falls outside permitted development criteria.
In its current form and location we expect you, as the Planning Department, to refuse permission.	Noted.

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) Appropriateness of design and impact on the character of the area
- (iii) Effect on neighbouring properties
- (iv) Use of the outbuilding

(i) Principle of development

- 7.2 The application site is located within the defined urban area, therefore development is considered acceptable in principle subject to development management criteria.

(ii) Appropriateness of design .

- 7.3 The proposal is for the construction of a single storey building to be built towards the northern boundary of the rear garden and would not be visible from the public realm. The building is to provide additional ancillary accommodation and has a width of 8.8 metres and a depth of 6.8 metres, which includes a 1.2 metre deep verandah. The original scheme was to be situated 1 metre from the northern boundary, however following officer concerns and issues raised by the Council's Environmental Section, the building has been repositioned 2.5 metres away from this boundary and the height of the building has been reduced by approximately 0.5 metres to a ridge height of 4.2 metres with an eaves height of 2.4 metres. The wood burning stove and associated flue have also been removed from the scheme.
- 7.4 Following these amendments, it is noted the resulting building only requires planning permission due to the proposed verandah to the building and the total height being 0.2 metres over what could be built within the realms of permitted development.
- 7.5 Whilst the structure is of a generous size, it is of an appropriate design and the application site benefits from a large garden, retaining sufficient rear amenity space.
- 7.6 The design and appearance of the proposal is deemed appropriate in context to the main building and therefore considered to be acceptable, meeting the requirements of Policy CS16 of the HBLP (Core strategy). It is considered that the scheme would not result in an adverse impact on the visual amenity of the locality or significant detriment to the character of the area.

(iii) Impact upon neighbouring properties .

Impact on 17 Kingsey Avenue - north/side

- 7.7 This property is situated to the north of the application site on a plot of a similar depth. The outbuilding, which is of a generous size was originally situated 1 metre from the southern boundary of this property. Following officer concerns and issues raised by the Council's Environmental Section, amended plans were subsequently submitted, which re-positioned the outbuilding 2.5 metres from this boundary, together with a 0.5 reduction in the total height and the removal of the wood burning stove and associated flue.
- 7.8 Whilst it is acknowledged there would be an impact on this property, it is noted that the revised scheme only requires planning permission owing to the proposed verandah and the ridge height being 0.2 metres over what could be built within the realms of permitted development. Furthermore, a building with a larger footprint could be built closer to this boundary and towards the rear elevation of this property without the need for planning permission.
- 7.9 The western elevation of the building has two windows, french doors at ground floor and roof windows and is situated approximately 17 metres from the rear elevation of this neighbouring property and does not directly face it, and as such has an angled viewpoint. Furthermore, the proposal is single storey in nature. Whilst the proposal could be perceived to result in a loss of privacy and overlooking to this neighbouring property, it is situated at a slightly higher level, and this aspect together with the existing boundary treatment, which consists of 1.8 metres close boarded fencing and wall provides a level of screening to the private amenity areas of this neighbouring property.

As such taking the layout, size, scale, massing and degree of separation of the development to 17 Kingsey Avenue matters together, it is not considered that the proposed amended development would create a significant adverse impact with regards to loss of sunlight/daylight, overlooking or overbearing to justify a reason for refusal on this matter.

- 7.10 Regarding potential noise disturbance and light pollution, the site is situated in an established residential and urban area and any resulting activities are not expected to be any different from any other residential area. Additionally a condition is recommended for the building to be used solely for purposes ancillary to the occupation and enjoyment of the existing dwelling and not be used as a separate unit of accommodation.
- 7.11 With respect to possible loss of light and overshadowing, the outbuilding is located towards the end of the rear garden and 2.5 metres away from the southern boundary of this property. Although there would be an impact on and change to the outlook from the rear windows and garden of number 17 when looking south, this is not however considered to be unacceptable given the extent of the garden which would remain unaffected by the development. Again it is noted a building with a larger footprint could be built in closer proximity to this property without the need for planning permission, which could result in a greater bearing on the occupiers of this property. Notwithstanding the above, the development, based on its own merits is not considered to have a significant adverse impact on the amenities of 17 Kingsey Avenue to justify a refusal on this matter.

Impact on 19 Kingsey Avenue - south/side

- 7.12 This property is situated to the south of the application site and adjoins its southern and eastern boundaries. Although there are windows, french doors and roof windows in the western elevation of the proposal, this is situated approximately 17 metres from the rear elevation of this property and does not directly face this property.
- 7.13 Whilst the proposal could be perceived to result in a loss of privacy to the amenity area of this property, some screening would be provided by the existing boundary treatment. A degree of overlooking already exists from the current property and it is deemed any additional overlooking would not be harmful. The impact is therefore considered to be acceptable in planning terms.

Impact on 5 Kings Road - south/side

- 7.14 Due to the shape of the site, part of the southern boundary at the eastern end of the garden is adjacent to part of the northern boundary of this property. Whilst there are french doors in the southern elevation of the outbuilding, this is situated approximately 13 metres away from this boundary.
- 7.15 The rear elevation of number 5 Kings Road is 10 metres away from where the shared boundary with number 18 Kingsey Avenue starts. The impact is therefore considered to be acceptable in planning terms.

Impact on 14, 16 and 18 Clovelly Road - east/rear

- 7.16 These properties are situated to the rear of the application site. There are no windows in the rear elevation of the outbuilding which is approximately 8 metres from the eastern boundary with the rear elevations of these properties a further 22 metres away. Furthermore, a number of mature trees provide good screening between the properties. The impact is therefore considered to be acceptable in planning terms.

Impact on 1 and 2 Kingsey Avenue - west/opposite

- 7.17 These properties are opposite the application site and the proposed outbuilding is to the rear. There is a distance in excess of 20 metres between the front elevation of these

properties and the front elevation of the application site. It is therefore deemed any impact would be negligible.

- 7.18 Consequently, it is considered that the proposal is unlikely to appear overbearing or lead to overlooking and would have limited and acceptable impact on the properties immediately adjacent to the application site and the properties opposite or to the rear, meeting the requirements of Policy CS16 of the HBLP (Core Strategy).

(iv) Use of the outbuilding

- 7.19 Whilst the floor plan of the proposal indicates it is to be used as a games rooms, it is acknowledged the building could potentially be utilised as a self-contained unit, so it is important that the ancillary relationship between the annexe and existing dwelling be maintained, as independent occupation would suffer from lack of amenity space and would result in an intensive use of the site, out of keeping with the character of the area and detrimental to the occupiers of the neighbouring properties. It would also be contrary to the NPPF and policy CS17. Furthermore, the creation of a separate dwelling could have an in-combination impact on designated habitats, which has been considered by the recent Solent Recreation Mitigation Strategy, as well as in terms of water quality - policies CS11 (Core Strategy) and DM24 (Allocations Plan) refer. For these reasons a planning condition is therefore recommended for the accommodation to be occupied ancillary to the enjoyment of the existing dwelling, precluding it from being established as a separate unit of accommodation.

8 Conclusion

- 8.1 The scale, siting and design of the proposal would have limited and acceptable impact on the character of the area and neighbouring amenity and is therefore considered to be appropriate and recommended for approval.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/20/00754 subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The external materials used shall be as indicated on the submitted forms and hereby approved plans, or shall match, in type, colour and texture, those of the existing building so far as practicable.
Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 3 No development hereby permitted shall commence until plans and particulars specifying the details of the design of the foundations have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: Policy DM8 to protect the conservation and enhancement of existing natural features and to ensure minimal disruption within the RPA.

- 4 The development must be undertaken in accordance with the Tree Protection Plan LLD2043-ARB-DWG-002 Rev 01 received 19 October 2020 and the Arboricultural Impact Assessment and Method Statement.
Reason: Policy DM8 to protect the conservation and enhancement of existing natural features.
- 5 The outbuilding hereby permitted shall be occupied solely for purposes ancillary to the occupation and enjoyment of the existing dwelling and shall not be used as a separate unit of accommodation.
Reason: The outbuilding is not a satisfactory position, has insufficient amenity space and insufficient on-site parking to be occupied separately from the main dwelling and would result in an intensive use of the site, out of keeping with the character of the area and detrimental to the occupiers of the neighbouring properties. It would also have a likely significant effect on the Solent SPAs by reason for recreational disturbance and water quality. This is having due regard to policies CS11, CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011, Policy DM24 of the Havant Borough Local Plan (Allocations) 2014, and the National Planning Policy Framework.
- 6 The development hereby permitted shall be carried out in accordance with the following approved plans:
Location plan
Drg no. 2020/04/02 Rev A Block plan
Drg no. 2020/04/01 Rev B Proposed elevations, floor, roof and section plan
Drg no. LLD2045-ARB-DWG-001 Rev 01 Tree constraints plan
Drg no. LLD2043-ARB-DWG-002 Rev 01 Tree Protection Plan received 19 October 2020
Arboricultural Impact Assessment and Method Statement
Reason: - To ensure provision of a satisfactory development.