

**TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**48 Tournerbury Lane, Hayling Island,
HAMPSHIRE, PO11 9DJ**

**Local Planning Authority Reference:
APP/17/01217**

**Planning Inspectorate Reference:
APP/X1735/W/18/3199971**

HAVANT BOROUGH COUNCIL



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR & MRS WILKINSON AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR SINGLE STOREY SIDE AND GABLED ROOF EXTENSION TO EAST ELEVATION, ENLARGED FRONT GABLE, AND ALTERATIONS TO ALLOW CONVERSION OF EXISTING 3 BED DETACHED DWELLING TO 2NO. 2 BED DEMI-DETACHED DWELLINGS AT 48 TOURNERBURY LANE, HAYLING ISLAND, HAMPSHIRE, PO11 9DJ.

Planning Inspectorate Reference: APP/X1735/W/18/3199971

LPA REF: APP/17/01217

1.0 INTRODUCTION

- 1.1 The application was validated on 29th November 2017 and sought permission for "Single storey side and gabled roof extension to east elevation, enlarged front gable, and alterations to allow conversion of existing 3 bed detached dwelling to 2No. 2 bed semi-detached dwellings."

The application was determined under delegated powers on 24th January 2018 where it was resolved to refuse permission on the following grounds:

1. By virtue of the proximity to the eastern boundary, the proposed gable end side extension would be overly bulky and dominant to users of the adjacent highway and would be detrimental to the visual appearance of the street scene and the spacious character and setting of the corner site. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 1.2 It is considered that the Delegated Officer Report is sufficiently detailed to form the basis of the LPA's Statement of Case. Therefore, the Inspector is respectfully requested to first refer to this document that has already been forwarded with the appeal questionnaire.
- 1.3 This Appeal Statement will not duplicate, but only update and elaborate on current policy situation and the reason for refusal as follows:

2.0 PLANNING POLICY UPDATE

- 2.1 Since the decision date of 24 January 2018, there have been updates to the NPPF; the Council's Draft Local Plan; and the ('Definitive') Solent Recreation Mitigation Strategy was adopted on 1st April 2018. The consequence of these updates is as follows:

NPPF, 2018

- 2.2 The NPPF was updated on 24 July 2018 and with respect to this proposed development and appeal, continues to have a presumption in favour of sustainable

development. Chapter 12 on Achieving well designed places makes high quality buildings a fundamental target with good design that is acceptable to communities a key aspect of sustainable development. Paragraph 127 notes that decisions should ensure that developments “....add to the overall quality of the area.....are sympathetic to local character...including the surrounding built environment.....establish 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;....and optimise the potential of the site...” Furthermore paragraph 128 encourages early discussion between applicants and the LPA about design and emerging schemes to clarify expectations and reconcile issues. This reinforces Chapter 4 on Pre-application engagement and front loading that also encourages pre-application discussions.

- 2.3 Paragraph 174-177 relate to Habitats and Biodiversity and paragraph 177 confirms that: *The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.* This is relevant in relation to recent case law and the revised Solent Recreation Mitigation Strategy, which will be detailed below.
- 2.4 It is considered that the new NPPF continues to place an emphasis on achieving good design and the key consideration in the determination of this appeal is design. Therefore, the new NPPF continues to be relevant and the LPA are confident that the decision to refuse planning permission was made in accordance with the design guidance contained within the updated NPPF.

Draft Local Plan

- 2.5 With respect to the Local Plan, the Council is preparing a new Local Plan and consulted on a Draft (Regulation 18) version of the [Havant Borough Local Plan 2036](#) (HBLP 2036) between 8 January to 16 February 2018. Whilst the Plan has limited weight in decision-making at this stage in the plan preparation, the Draft Local Plan, it is of relevance in setting out the Council's direction of travel.
- 2.6 The Council's [Draft Havant Borough Local Plan 2036 Consultation Summary](#) indicates that consultation on a Pre-Submission Local Plan will take place in early 2019. With respect to this appeal the draft Design Policy E6 reiterates the Council's commitment to achieving high quality design that respects its context and new draft policy E7 seeks High Quality Design specifically for New Homes and sets out spatial criteria. These draft policies are copied in full in **Appendix B**.

'Definitive' Solent Recreation Mitigation Strategy

- 2.7 The development would increase the number of dwellings within the 5.6km zone identified as significant in potentially increasing recreational pressure on the Solent SPA. Natural England's advice in regard all new housing development within this zone is that it is likely to have a significant effect on the SPA. Policy DM24 of the Allocations Plan covers this issue and allows for a financial contribution to be made towards mitigation measures. At the time when this planning decision was made in January 2018 the Council was using the 'Interim' Solent Recreation Mitigation Strategy which was based on a financial contribution per dwelling (£181 + £9 monitoring + £20 admin) and hence £210 was secured with the appropriate Deed. This satisfied the then Strategy.
- 2.8 However, on 1st April 2018, the ('Definitive') Solent Recreation Mitigation Strategy replaced the 'Interim' and the 'Definitive' Strategy now applies to new residential

development (this was as approved by Havant Borough Councils Cabinet on the 7th February 2018.) The updated Strategy uses a sliding scale to calculate the SRMS contribution for new residential development built within 5.6km of the coastline. As such, the contribution is now calculated based on the number of bedrooms per individual dwelling. In this case, the two-bedroom dwelling would require a contribution of £487 plus 5% monitoring fee of £24.35 and Administration Fee of £20 such that the total contribution required would be £531.35.

- 2.9 Therefore, an updated Unilateral Undertaking has been sent to the agents requesting the uplift amount of £341.35 to ensure the appeal is determined in accordance with the current Definitive Strategy to enable full compliance with policy DM24.
- 2.10 It should also be noted that following the Councils determination of this planning application the Court of Justice of the European Union (CJEU) issued a judgement (People over Wind, Peter Sweetman v Coillte Teoranta) which ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgement as measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage. PINS Note 05/2018 refers to the judgement.
- 2.11 In this case, the development is located within a zone of influence of an SPA, the Local Planning Authority undertook HRA screening which included the requirement for avoidance and mitigation measures in terms of the Interim Solent Recreation Mitigation Project (now Definitive Solent Recreation Mitigation Strategy). Payment at the then applicable rate was received during the course of the consideration of the application. As set out above this rate has now increased for decisions made after 1st April 2018 (including on appeal).
- 2.12 As a result of the above judgement and consequent update in case law, an Appropriate Assessment is also now necessary in accordance with Regulation 63 of the Habitats Regulations. Natural England are a statutory consultee on the Appropriate Assessment stage and the LPA have consulted Natural England on this appeal. Their response is attached at **Appendix C**, which concurs with the assessment, that provided all mitigation measures are appropriately secured then permission could be granted. As the Inspectorate are now the competent determining authority in relation to this appeal, it will be necessary for the Inspectorate to determine whether this is satisfactory to address the new case law.
- 2.13 However, it is the opinion of the LPA that without the completion of the revised unilateral undertaking and uplift financial contribution in line with the requirements of the current Definitive Solent Recreation Mitigation Strategy, then all mitigation measures have not been adequately secured. Unless this revised unilateral undertaking and uplift contribution are made before the Inspector determines this appeal, then the proposal with the shortfall contribution would be contrary to both the Definitive Solent Recreation Mitigation Strategy and policy DM24 and this could constitute a new reason for refusal if the Inspector is minded to dismiss this appeal.

3.0 PLANNING CONSIDERATIONS

- 3.1 The planning history is particularly relevant to this appeal and demonstrates that the LPA has worked with the Appellant in accordance with Chapter 4 and paragraph 128 of the NPPF. When the larger gable ended design first proposed under APP/16/00872 was refused, a subsequent meeting was held to reconcile the issues, discuss options

and alternative designs. As a result of that meeting revised plans for a hipped ended design was submitted and approved under APP/17/00556. A copy of the approved plans, Decision Notice and Delegated report for this hipped roof scheme are attached at **Appendix D** for the Inspectors reference. The fact that the LPA actively negotiated that acceptable design solution as part of the evolving proposals for the site demonstrates that engagement with the Appellant had a positive outcome in accordance with the NPPF.

- 3.2 However, that compromise hipped design solution is considered to represent the optimum development potential for the site. The current appeal proposal reverts to the gable ended design that has been refused under both APP/16/00872 and APP/17/01217. It is the opinion of the LPA that the proposed gable end adds considerable bulk and mass on this prominent corner site. The ridge height of the proposed gable, at some 5.1m high, with span width of some 8.5m at eaves level, all within 400mm of the eastern boundary wall, would result in a significant, overbearing façade, unduly imposing on the adjacent footpath.
- 3.3 It is also considered that the bulk of the proposed gable would result in a prominent 'triangle' of development, that would erode the spacious setting of this corner site and project beyond the nominal building line of the properties in Beech Grove.
- 3.4 The updated 2018 NPPF continues to require good design and paragraph 127 notes the need to be sympathetic to local character and maintain a sense of place using the arrangements of streets and spaces. The opposite corner, No. 50, is characterised by a similar bungalow that has its side elevation set back from the highway by about 3m. This gap and space provides a more spacious separation to the highway that helps to define the character of the area.
- 3.5 The LPA have already allowed a side extension at the appeal site that comes within 400mm of the eastern boundary wall with Beech Grove (APP/17/00556). That scheme retained the existing eaves line of the bungalow of about 2.2m which would sit behind the existing high boundary wall and project slightly above, with the roof then sloping away from the pavement. This was considered to be both less dominant and overbearing on users of the highway aswell as creating more space at skyline, helping to retain the more spacious setting of this corner site.
- 3.6 The reversion to the full gable scheme projecting above the boundary wall, with a ridge height of 8.5m is considered would be overly bulky and dominant to users of the adjacent highway and would be detrimental to the visual appearance of the street scene and the spacious character and setting of the corner site.

4.0 COMMENTS ON APPELLANTS STATEMENT OF CASE

- 4.1 The Appellant has compared the appeal site and proposal to the bungalow at 36A Tournembury Lane that is on the corner with Poplar Grove, some 70m to the west. This bungalow had various extensions approved between 1976 and 1984 and the resultant bungalow currently on site has a gable end set approximately 1.5m from the side boundary. A 1:500 site plan showing the extent of the adopted highway in relation to both the appeal site and this site at 36A is included at **Appendix E** for the Inspector to scale the difference.
- 4.2 It is the opinion of the LPA that this additional separation from the side boundary makes the gable end of 36A less imposing. The appeal proposal would be considerably closer to its boundary wall (just 400mm) which would result in an unduly overbearing and bulky extension, detrimental to users of the adjacent footpath and

loss of spatial corner site.

5.0 CONCLUSION

- 5.1 The LPA remains of the view that the proposed gable ended extension would result in an overly bulky and dominant development in such close proximity to the eastern boundary and public highway. This design solution is considered to have an adverse impact on the users of the highway and would be detrimental to the visual appearance of this spacious corner plot, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, policy DM20 of the Havant Allocations Plan 2014 and the National Planning Policy Framework, 2018. The Inspector is therefore respectfully requested to dismiss this appeal.

APPENDICES

- (A) Borough Map and 1:1250 Location Plan
- (B) Relevant policies from Draft Havant Borough Council Local Plan 2036
- (C) Natural England's consultation response to current appeal.
- (D) A copy of the approved plans, Decision Notice and Delegated report for APP/17/00556
- (E) 1:500 site plan showing both 36a Tournerbury Lane and the appeal site in relation to adopted highway