

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

137 Victoria Road, Emsworth, PO10 7LX

**Local Planning Authority Reference:
APP/17/00718**

**Planning Inspectorate Reference:
APP/X1735/W/17/3191873**

HAVANT BOROUGH COUNCIL



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MRS CELIK AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE USE OF EXISTING SUMMERHOUSE AS ANNEX FOR RESIDENTIAL ACCOMMODATION.

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1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The application site comprises a mid-terrace 2 storey house located on the north side of Victoria Road opposite the junction with Record Road. The property, which has a relatively long rear garden, backs onto school playing fields. The frontage is hard surfaced to provide parking. Access to the rear is gained through the house or via the side entrance and rear garden of the neighbouring property to the west.
- 1.2 This part of Victoria Road is primarily residential in character and comprises dwellings of similar age and style.

2.0 PLANNING HISTORY

- 2.1 No relevant planning history

3.0 THE APPLICATION

- 3.1 Use of summerhouse as annexe for residential accommodation. This was a retrospective planning application in that the structure has been erected for the purposes of providing primary accommodation comprising living/bedroom/kitchen area with separate shower room without the benefit of planning permission. Being constructed as primary accommodation, albeit of an ancillary nature, it does not fall within Class E of Part 1 of Schedule 2 of the GDO relating to permitted development within the curtilage of a dwelling house.

Class E – buildings etc incidental to the enjoyment of a dwellinghouse

Permitted development

E. The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure;

Interpretation of Class E

E.4 For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

- 3.2 The summer house has the appearance of a timber log cabin with a pitched felted roof design, and measures 4.8m by 6m plus a 6 by 3.6 m deck. The summerhouse which provides primary living accommodation has been constructed for the purposes of providing for the applicant's parent.
- 3.3 The structure has been insulated and has electricity, and a separate shower room which is connected to the drainage for the house.
- 3.4 The application was refused under delegated powers on the 28 September 2018 for the following reason: -

Having regard to the plot size of the application site, its relationship to adjacent residential properties and the nature of the development applied for, it is not considered that the summerhouse is appropriate for primary living accommodation as it is likely to have an adverse impact on adjoining residents. Furthermore, an approval for the proposal will create an undesirable precedent which would make it difficult to refuse similar further applications. The development is therefore contrary to policies CS16 and DM10 of the Havant Borough Core Strategy 2011, and the National Planning Policy Framework 2012.

4.0 PLANNING POLICY

- 4.1 The Development Plan comprises the Havant Borough Local Plan (Core Strategy) 2011 and the Havant Borough Local Plan (Allocations) July 2014. In addition the National Planning Policy Framework sets the national framework for the consideration and determination of planning applications, and the Havant Borough Council Borough Design Guide SPD December 2011 and the Havant Borough Council Parking SPD July 2016, provide supplementary guidance.
- 4.2 The following policies of the Havant Borough Local Plan (Core Strategy) 2011 (HBLP (CS) 2011) are considered to be particularly relevant to the determination of this appeal:

CS9	(Housing)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
DM10	(pollution)
DM13	(Car and Cycle Parking on Residential Development)
AL1	(Presumption in Favour of Sustainable Development)
AI2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

5.0 REPRESENTATIONS

- 5.1 The application which is the subject of this appeal was published in accordance with the Council's adopted publicity procedures, and 5 neighbour notification letters were sent. A total of 2 representations were received, both in support of the development. Copies of the representations received have previously been forwarded to the Inspectorate.
- 5.2 No consultee responses were received.

6.0 PLANNING CONSIDERATIONS

- 6.1 The main issue relates to the effect of the use of the summerhouse as additional residential accommodation on the living conditions of the adjacent residential neighbours at Nos 135 and 139.
- 6.2 The cabin which is sited in the region of 14 to 16m from the main dwelling, occupies much of the width of the site and as such has a very close relationship with the adjacent dwellings. Policy CS16 among other things states:

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:

e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.

- 6.3 The summer house provides primary living accommodation enabling the occupant to live in the building on permanent basis as a dwelling, with associated daily activities such as the coming and goings of the occupant and visitors, cooking, washing, socialising, watching TV, listening to the radio and entertaining. These will inevitably result in some noise on a regular basis, especially if some of these activities take place on the outside deck. Anyone occupying or visiting the cabin would need to access the rear garden and the associated movement, beyond and above the usual garden use, could have an adverse impact on the amenities of the neighbouring properties, as could any lighting of the cabin. Additionally, there is a right of access through the garden of the property to the west and use of this to access the summerhouse would have a direct loss of privacy and raise potential security issues for the occupiers of that property.
- 6.4 These activities will take place in vary close proximity to the neighbouring properties and adversely impact the amenities of those properties from noise and associated loss of privacy, contrary to Policy CS16.
- 6.5 Additionally, window to window distances would be below the 20m distance set out in paragraph 5.05 of the Borough Design Guide. This is a minimum distance designed to maintain an adequate level of privacy between habitable rooms. Whilst this would not impact the ground floor windows of the adjacent dwellings, first floor windows would be impacted, and privacy would be unacceptably impacted.
- 6.6 If the application had been acceptable in all other respects, the scheme would be liable to the Community Infrastructure Levy Schedule which became a material planning consideration on 1st August 2013, however, an annex relief could be claimed. In the event that the appeal is allowed the Council will forward to the appellant the relevant CIL liability form and guidance on claiming relief for completion by the appellant to address this matter.

7.0 COMMENTS ON THE GROUNDS OF APPEAL

- 7.1 It is considered that the planning merits comments have already been addressed above and therefore to avoid repetition the following comments relate only to matters not covered above.
- 7.2 In terms of the principle the application site is situated within an urban area where further development is considered acceptable subject to the usual development

control criteria. Policies CS9, and CS17 of the Core Strategy together with Policies AL1 and AL2 support residential development within the built-up area and the need to provide small units to meet housing demand, which is also identified in the Annual Monitoring report.

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development however this should not be to the detriment of the local area.

Paragraph 6 makes it clear that regard must be had to the document as a whole in determining what the Government's view of sustainable development means in practice. It promotes the effective use of land through the re-use of previously developed land. With paragraph 49 stating that "housing applications should be considered in the context of the presumption in favour of sustainable development."

However, paragraph 56 makes it clear that "Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." Paragraph 58, bullet 4 seeks to ensure that development responds to local character, with bullet 6 requiring good architecture.

Paragraph 59 seeks to ensure the sustainable construction of the dwellings, whilst paragraphs 60 and 61 seek to ensure the development is designed well accounting for local context. Paragraph 64 however, requires development of poor design to be refused.

Policy CS16 of the Havant Borough Core Strategy Local Development Framework 2011 seeks to reflect the requirements of the NPPF at a local level. It and the local plan policies encourage the principle of development within the settlement area, provided that any new development pays proper regard to the character and appearance of the area, design and neighbour amenity. In the case of the appeal proposal the contribution to providing for housing need is not considered to outweigh the detriment to the amenities of the neighbouring properties.

8.0 CONCLUSION

- 7.1 In conclusion, the retrospective application for the summerhouse as primary living accommodation is considered unacceptable resulting in noise and harm to the living conditions of the occupants of the neighbouring residential properties. It is therefore contrary to policy CS16 of the Havant Borough Core Strategy which among other things seeks to protect the amenity of neighbours.

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Suggested condition

1

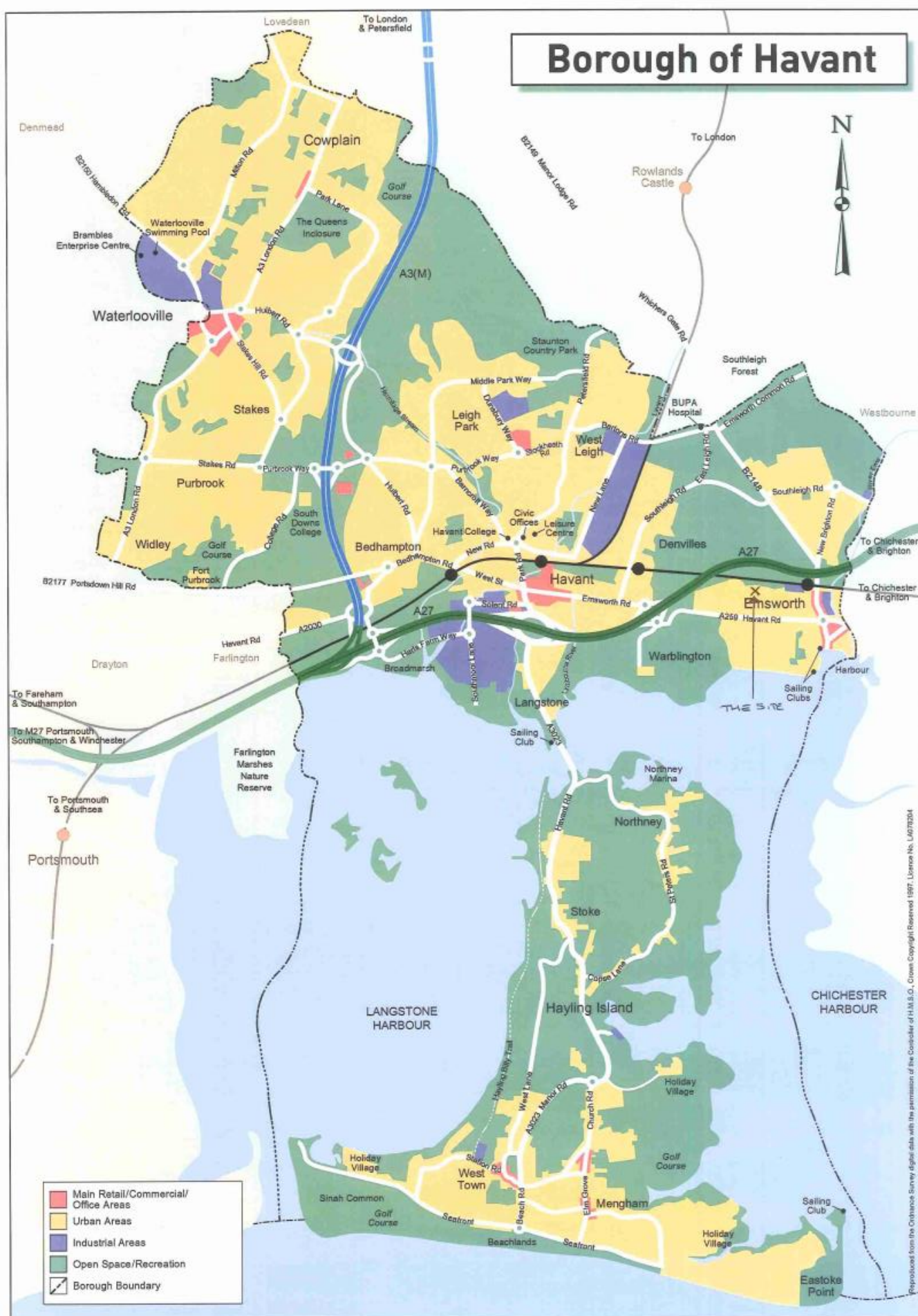
The accommodation hereby permitted shall be occupied solely for purposes ancillary to the occupation and enjoyment of the existing dwelling and shall not be used as a separate independent unit of accommodation.

Reason: The unit of accommodation is not satisfactory to be occupied separately from the main dwelling and having due regard to policies CS16 and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

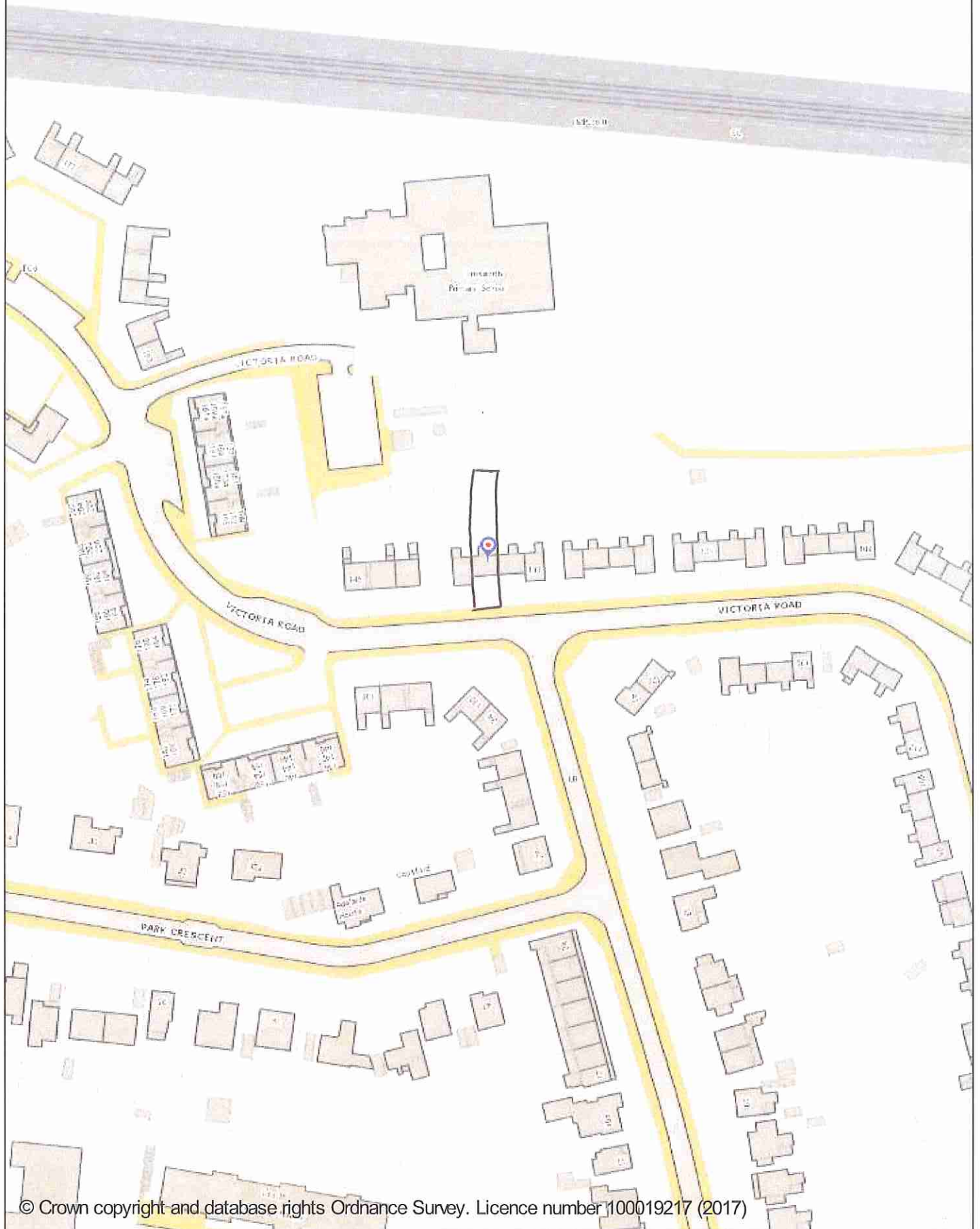
APPENDICES

A – Location Maps

Borough of Havant



20 m
100 ft



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 **137 Victoria Road**
Scale: 1:1417
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