

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

4 Yateley Close, Havant, PO9 4DH

**Local Planning Authority Reference:
APP/17/01180**

**Planning Inspectorate Reference:
APP/X1735/X/18/3196308**

HAVANT BOROUGH COUNCIL



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR & MRS TAYLOR AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT A for Certificate of Lawfulness application relating to proposed partial two storey rear extension and first floor rear extension (over existing ground floor single storey extension).

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LPA REF: APP/17/01180

1.0 INTRODUCTION

- 1.1 The application was validated on 6th November 2017 and sought A Certificate of Lawfulness application relating to proposed partial two storey rear extension and first floor rear extension (over existing ground floor single storey extension). The application was determined under delegated powers on 11TH December 2017 where it was resolved to refuse permission on the following grounds:

1. The development falls within the limitation imposed by Schedule 2, Part 1, Class A, A.1 (k) (iv) criteria and is therefore not able to be carried out under Permitted Development and would require formal planning permission. A.1 (k) (iv) Development is not permitted if it would consist of or include an alteration to any part of the roof of the dwellinghouse.

The proposed extension has been designed so that it forms an attachment to the roof of the main dwelling which would require an alteration to the roof of the dwellinghouse. The General Permitted Development Order does not provide any provision for allowing small alterations to the roof as part of a larger extension. It would therefore not be consistent with the requirements of Class A to suggest that the proposed extension does not include or contain an alteration to any part of the roof of the dwellinghouse. Unless the applicant is able to demonstrate that there is a mechanism by which no alteration would be required to the roof, then the proposed extension could not be considered to be Permitted Development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Having communicated this to the agent, no further information has been submitted and as such no evidence has been provided to demonstrate that the proposed extension would not consist of or include an alteration to any part of the roof of the dwellinghouse.

The development does not meet the condition imposed by Schedule 2, Part 1, Class A as follows:

A.3 (a) The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The information/plans provided as part of this application do not indicate what the proposed materials are in respect of the proposed extension. Having requested this information from the agent, no further information has been submitted and as such the Local Planning Authority is required to determine without further evidence that the proposed extension would not satisfy this condition.

It is therefore considered that the rear extension would not meet the requirements of Class A by virtue of the alteration to the roof of the main dwellinghouse under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and the works proposed would require formal planning permission

- 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 LEGISLATION

- 2.1 Section 192 of the Town and Country Planning Act (as amended) allows an applicant to clarify whether a proposed use or development requires planning permission, or whether a proposed development already has planning permission (i.e. is considered to be Permitted Development by virtue of a Development Order), or is lawful by some other reason.
- 2.2 As outlined in the Planning Practice Guidance (PPG) in the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.
- 2.3 The PPG also advises that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

3.0 COMMENTS ON APPELLANTS STATEMENT OF CASE

- 3.1 The Appellant has at paragraph 1 on page 3 agreed with the Local Planning Authority that the proposed development is NOT permitted under the limits and conditions set out in Schedule 2, Part 1, Class A.
- 3.2 It is noted that the appellant has clarified the proposed materials as follows:

Wall: Brickwork - brick to match existing, Tile Hanging - tiles to be concrete and or similar colour to tiles on existing house.

Roof: Tiles – Concrete tiles to match existing

Windows: PVCu – white to match existing

Fascia & Soffits: PVCu – white to match existing

Given that these proposed materials are of similar appearance to the existing dwelling, the LPA are content that this complies with this condition.

- 3.3 Furthermore, given this clarification on this matter the LPA would wish to **withdraw** the second element of the reason for refusal to issue the certificate. For the avoidance of doubt this element of the reason for refusal was as follows:

The development does not meet the condition imposed by Schedule 2, Part 1, Class A as follows:

A.3 (a) The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The information/plans provided as part of this application do not indicate what the proposed materials are in respect of the proposed extension. Having requested this information from the agent, no further information has been submitted and as such the Local Planning Authority is required to determine without further evidence that the proposed extension would not satisfy this condition.

- 3.4 It noted that the appellant considers that the proposed development would be permitted under the limits and conditions set out with Schedule 2, Part 1 Class B -The enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Notwithstanding the fact that the LPA do not agree that Class B is engaged, the LPA have assessed the development against Class B below, and identified the areas that this development would not comply with the conditions laid out in this legislation:

- 3.5 **(b) the enlargement must be constructed so that — (aa) the eaves of the original roof are maintained or reinstated;**

The proposed development outlined in the submitted plans would not comply with this condition. It is clear from the plans that the development would interrupt the eaves of the original roof, and therefore as result the eaves of original roof would not be maintained or reinstated. As such the proposed development would not comply with this condition. It is noted that the appellant considers that this element is Not applicable. The LPA do not understand how this conclusion has been reached, given that the development clearly would not maintain or reinstate the eaves of the original roof.

- 3.6 **(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves;**

The proposed plans clearly outline that this condition would not be complied with. The proposed roof form would be attached, envelope and alter the eaves line at the roof junction. It is noted again that the appellant considers this element is Not applicable. The LPA again do not understand how this conclusion has been reached, given that the development clearly envelopes the eaves of the original roof, and therefore would not comply with this criterion.

4.0 CONCLUSION

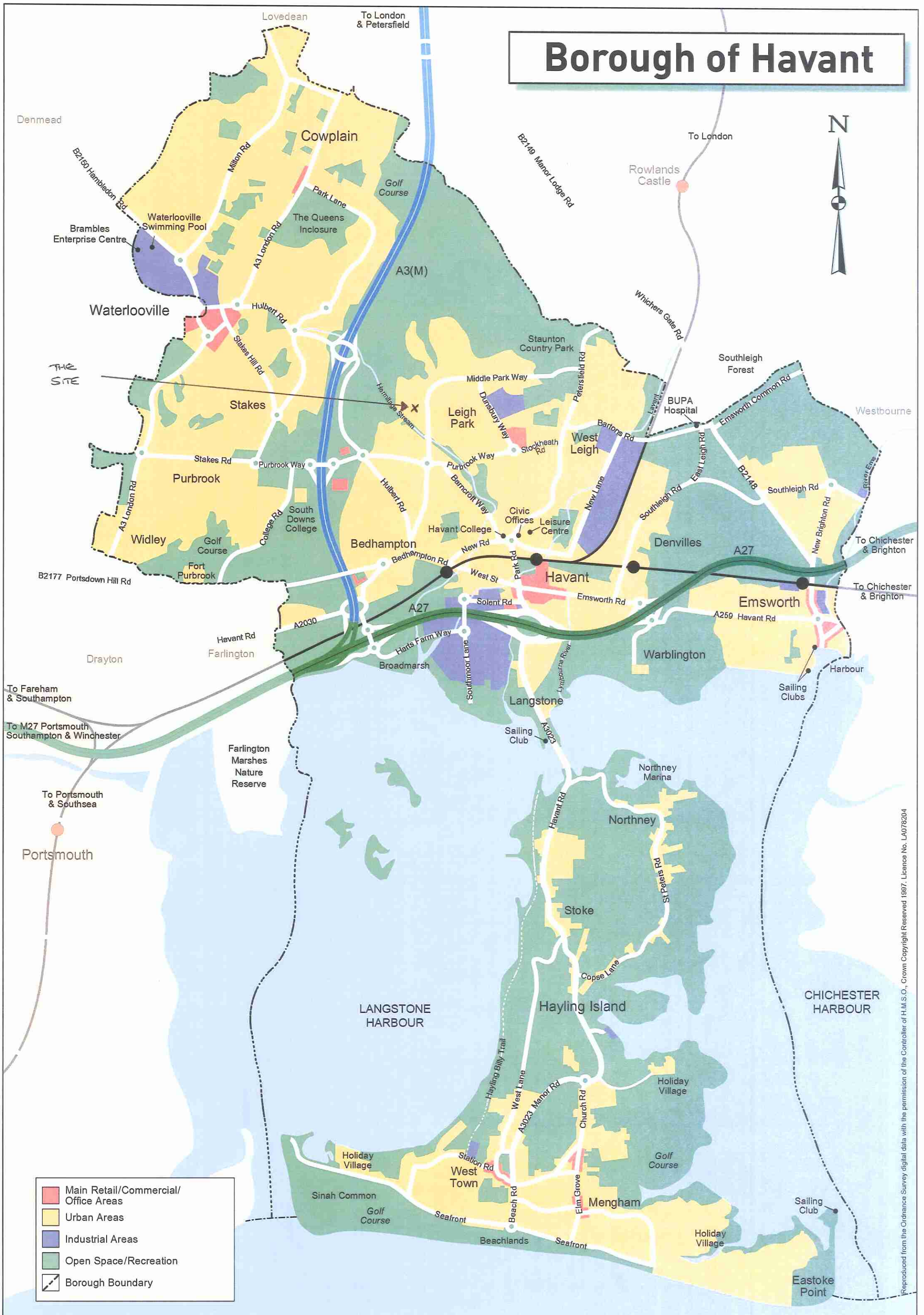
- 4.1 The LPA remains of the view that the proposed that the proposed extension is not permitted development under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) Order 2015 by virtue of the alteration to the roof of the main dwellinghouse.
- 4.2 The appellant has outlined that they consider that the development benefits from Permitted Development rights afforded under Schedule 2, Part 1, Class B of The Town and Country Planning (General Permitted Development) Order 2015. As has been outlined, notwithstanding that the LPA does not agree with this approach, when the development is assessed against these permitted development rights, it does not comply with conditions B.2 (b)(aa) or (bb), and is therefore not lawful development in this regard, in any event.

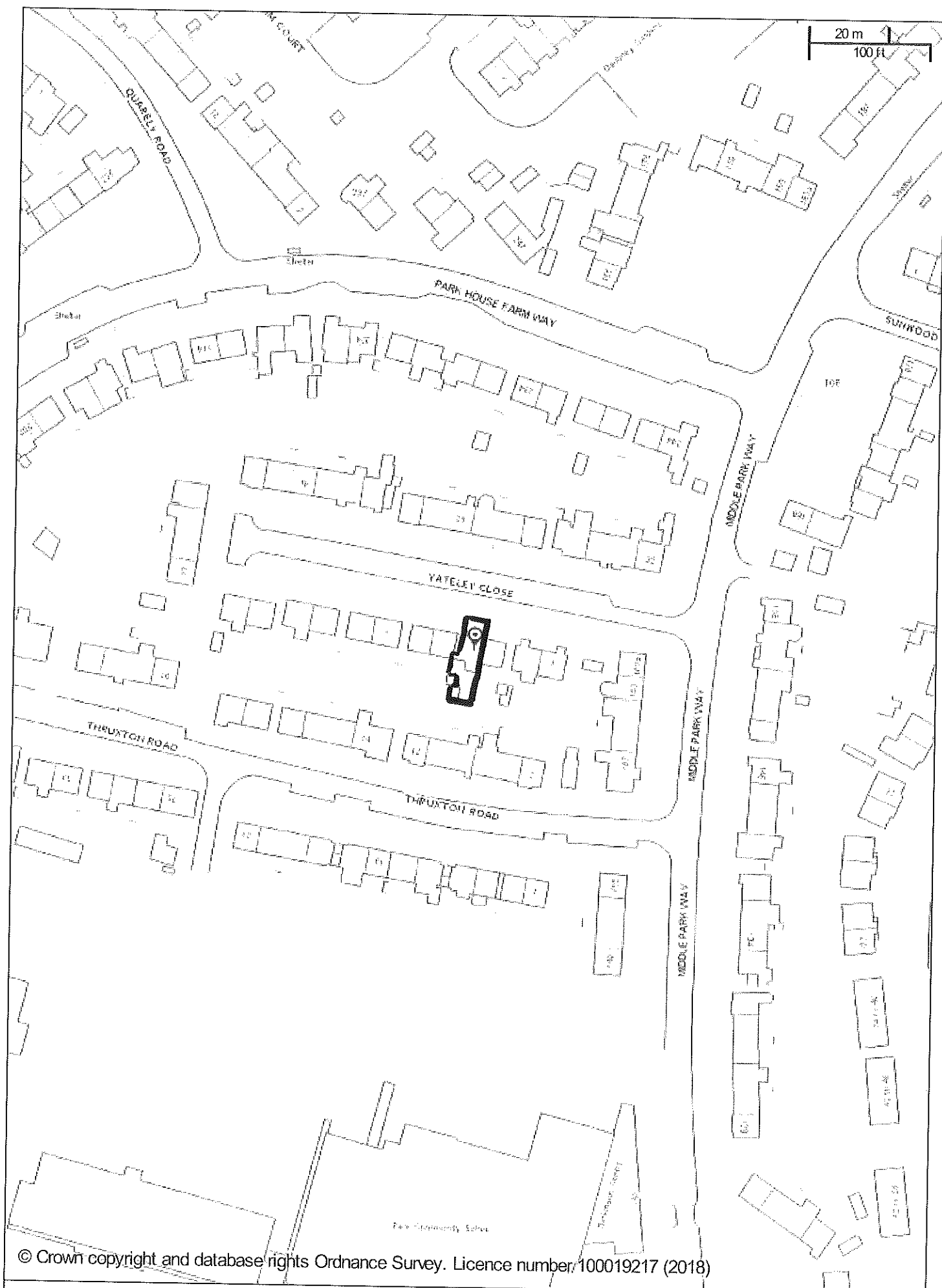
4.3 The Inspector is therefore respectfully requested to dismiss this appeal.

APPENDICES

A – Borough Map and Location Plan

Borough of Havant





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4 Yateley Close

Scale: 1:1250

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