

**Section 78 Appeal by Mrs B Gander against
the decision of Havant Borough Council to
refuse permission for "*Demolition of existing
outbuilding and erection of 1no 2 bedroom
bungalow*" on land adjacent to 60 Gladys
Avenue, Cowplain, PO8 8HS.**



**STATEMENT OF CASE OF STEPHEN JUPP
MRTPI ON BEHALF OF MRS B GANDER.**

LPA REF: APP/17/00651

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1.0 INTRODUCTION

- 1.1 This Statement represents the Appellant's Appeal Statement in respect of the decision of Havant Borough District Council to REFUSE planning permission for:

*"Demolition of existing outbuilding and
erection of 1no 2 bedroom bungalow"*

2.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 2.1 The appeal site fronts Gladys Avenue and lies to the rear of 17 Lovedean Lane and to the north of 60 Gladys Avenue. The land boundaries measure as follows:

North 15.3m

South 15.38m

East 16.3m

West 15m

This provides a site area of approximately 239.44sqm.

- 2.2 The site is fully enclosed by fencing and is separated from the adjoining residential gardens. The site has been cleared and the land slopes down to the south and east such that the adjacent bungalow, No 60 Gladys Avenue is on lower ground. It was noted at previous site visits that the site had been partly used as a storage area for waste materials, however, at a recent visit the site had mainly been cleared although there were two small boats and a small amount of waste material on site. There was evidence of a bonfire having taken place. There is a large shed outbuilding in the south-west corner of the site.

- 2.3 The surrounding area is primarily residential in character with a mix of semi and detached properties. 17 Lovedean Lane comprises a detached cream painted render 2 storey dwelling having a rear garden depth/separation to the application site of between approximately 12.5m to 9.2m. No 15 Lovedean Lane is a two storey semi-detached dwelling having a long rear two storey projection; the

curtilage of No 15 extends the length of the application site. On the western side of the Gladys Ave/Lovedean Lane junction lies a nursing home. Gladys Avenue is primarily characterised by bungalows and No 60 has a drive and garage on its northern boundary abutting the application site.

- 2.4 Photographs of the appeal site and its context are attached to this statement at Appendix 1.

3.0 PLANNING HISTORY

- 3.1 The current landowner has made three planning applications which have been supported by three local architects, one accredited by the HBC, all very experienced in national and HBC planning policies who believe the plot perfectly adequate to sustain a modest bungalow which makes efficient use of this unused site.
- 3.2 Three planning applications for a bungalow on the plot were made by the previous landowners and developers of the adjacent house, 17 Lovedean Lane.
- 3.3 The first application was considered at a meeting of the Development Management Committee on 28 March 2013. At this meeting the Leader of the HBC voiced his objections but did not declare his interest as a neighbour seven houses to the south and planning permission was refused on this and two further applications made by the original landowners. Without this declaration, the Leader of the HBC contravened the Councillors Code of Conduct and, due to his position of seniority, the appellant was concerned that recommendations made by Case Officers could, however unintentional, be influenced.
- 3.4 Her concerns were outlined in letters to two Councillors but were ignored and her complaint to the Monitoring Officer was dismissed.

- 3.5 During a final meeting with the previous landowners an altercation occurred with the Case Officer who abandoned the meeting.
- 3.6 During her first application, this same Councillor advised he would inform the planning department of his opposition but this was not made public on the HBC webpage.
- 3.7 On 26 April 2017 during the current application, she requested a meeting with the Case Officer to discuss the proposal in an endeavor to maximise the chance of success. This request was ignored.
- 3.8 Subsequently, following a request to discuss a revised sketch, the Architect was advised by the Case Officer that *"In my view the provision of a dwelling on the plot would be difficult to achieve."* Such advice had not been given at any time during any of the six planning applications.
- 3.9 In fact, the only advice given, on separate occasions, by the Case Officer, the Head of Planning and the Development Manager during the final planning application was to *"take the opportunity to appeal to the Planning Inspectorate"*. This advice was given even before the decision date was due on the final application.
- 3.10 An opportunity to revise the boundaries during the final application was missed when the Senior Landscape Architect reviewed the wrong plan and therefore she was unable to submit a revision in time for the decision due date.
- 3.11 Anomalies on the planning website of these applications included:
- A letter recorded as an objection when it was a very supportive contribution.
 - A comment of support from a next door neighbour was shown with an address over 13 miles distant, not Gladys Avenue.

- 3.12 An HBC Environmental Officer visited the site during efforts to curtail, by burning, the regrowth of brambles to facilitate access and improve the outlook for the neighbours. This Officer concluded that the plot was a commercial site, being a potential building plot, and a license would be required to burn green waste. No clarification that this conclusion was correct was forthcoming from the Officer or the Monitoring Solicitor.
- 3.13 As a consequence of inadequate communication, advice and lack of a positive and proactive approach by the HBC throughout the three planning applications which is contrary to NPPF 2012 guidelines, the landowner has incurred significant costs.
- 3.14 Para 187: LPAs should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.
- 3.15 Para 190: The more issues that can be resolved at pre-application stage, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process.
- 3.16 The 8 week anticipated decision date was extended to 12 weeks due to four decision due dates being missed, two without agreement with the landowner.
- 3.17 Opposition to the site has primarily emanated from the occupants of the double storey houses on the adjacent road, particularly 17 Lovedean Lane which opposition seems driven by their aspiration to secure the land to extend their own garden as expressed to one of the Architects, the neighbour at 60 Gladys Avenue, and to the landowner. These occupants bought the house full knowing that planning permission was being sought.

- 3.18 Many of the comments from the neighbours at 15 and 17 Lovedean Lane were in respect of drainage which has never been a reason to refuse planning. However, a Drainage Strategy Report was commissioned during APP/16/00820 and tests and recommendations made in this report would be implemented in compliance with Building Regulations.

4.0 **DETAILS OF THE APPLICATION, THE SUBJECT OF THIS APPEAL.**

- 4.1 This appeal scheme proposes the demolition of existing outbuilding [with a GIA of 9.4sqm] and erection of 1No. 2 bedroom bungalow.
- 4.2 The proposed bungalow would provide 2 bedrooms, a living area/kitchen and bathroom. It would be set back from Gladys Avenue by approximately 4.4m (closest point), with two parking spaces provided in the north-east part of the site. The bungalow would be set between 1.725m and 2.15m from the western boundary (rear garden of 15 Lovedean Lane), and 6.08m from the northern site boundary with 17 Lovedean Lane.
- 4.3 The proposal is to set the building into the existing slope effectively resulting in the building being set into the slope at the western (Gladys Avenue side) and being set at approximately ground level at the eastern side. The eaves height is approximately 2.45m and ridge height 4.164m.
- 4.4 The application was refused by the LPA for the following reasons:

1 The proposed development would by reason of its siting, proximity to boundaries, mass, bulk and changes in levels have an overbearing impact on 15 and 17 Lovedean Lane. The proposal would detract from and dominate the previously spacious setting and outlook from these properties and

introduce an unacceptable relationship between dwellings to the harm of the residential amenities of the occupants. The rear private gardens of No. 15 and 17 and their rear rooms would also be in close proximity to the limited private amenity space of the proposed dwelling and this is likely to lead to loss of privacy and disturbance from noise and activity. The proposal is therefore considered to result in an unacceptable relationship to adjoining residents and is contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

2 The proposed development would constitute an undesirable over-intensive use of the site which would not provide satisfactory private amenity space for future occupiers. The amenity space would be overlooked by 17 and 15 Lovedean Lane to the harm of the occupants privacy. Furthermore, the proposals to set the dwelling into the slope, the boundary treatments and landscaping proposals combined with the restricted nature of the site would result in the proposed dwelling having a poor outlook and restricted light. The north facing living area and bedroom windows would be directly overlooked further harming the residential amenities of future residents. As such the proposal would be contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

3 The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Project, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority. These seek to ensure that the provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA.

The development is therefore contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

- 4.5 With regard to refusal reason 3 a draft UU is attached as part of the appeal documents. It is intended that a completed UU will be submitted before the appeal site visit. Subject to the satisfactory completion of the UU refusal reason 3 can be addressed.
- 4.6 It is material to note that refusal reasons 1 and 2 are very specific in that they relate SOLELY to residential amenity issues, with refusal reason 1 raising issues with regard to loss of amenity for existing neighbouring residents at 15 and 17 Lovedean Lane, and refusal reason 2 alleging that the occupiers of the proposed dwelling will have insufficient amenity due to overlooking from 15 and 17 Lovedean Lane.
- 4.7 There is no allegation of harm to the character and appearance of the streetscene – accordingly it must follow that subject to addressing concerns with regard to amenity the scheme is otherwise wholly acceptable.

5.0 POLICY CONTEXT AND ANALYSIS

A Introduction

- 5.1 Policies relevant to the determination of the proposal are set out in material planning and other policy guidance: the National Planning Policy Framework [the Framework] and, the Havant Borough District Wide Local Plan. These policies are explored in the following paragraphs of this statement, together with an analysis of the appeal proposal's compliance with the same.

B NATIONAL PLANNING POLICY GUIDANCE

- 5.2 The Policies of the Development Plan are obliged to closely reflect Government Planning Guidance.
- 5.3 Paragraph 49 of the NPPF makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development.
- 5.4 Other parts of the NPPF recognize the need to respect the character of surrounding development.

LOCAL PLANNING POLICY CONTEXT

The Havant Borough Core Strategy

- 5.5 This document was adopted by the Council on 1st March 2011.
- 5.6 Policy CS16 is cited in respect of refusal reasons 1 and 2 and relates to 'High Quality Design'.
- 5.7 The policy is criterion based and covers numerous issues. Since refusal reasons 1 and 2 relate to impact on neighbours it is presumed that the LPA consider that criterion 1 is breached. This requires new

development to draw inspiration from, and respect, local context, and:

- a) Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site;*
- b) Integrates with existing local landscape features, promotes wildlife and biodiversity and/or applies characteristics of the local area into the design of a scheme wherever possible to create variety and interest;*
- c) Uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors;*
- d) Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible; and*
- e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.*

5.8 An analysis of the refusal reason indicates that criterion e) is the critical one since it relates to the amenity of neighbours.

6.0 **PLANNING ISSUES**

6.1 Whilst I have identified above that there appears to be a single issue that the LPA objects to – namely residential amenity [both existing residents and residents of proposed dwelling] I consider it relevant to look at the various issues identified in the officer's report and set them out in detail where there is no dispute between the parties.

6.2 The officer's report identifies 6 issues which are:

(i) Principle of development

(ii) Impact on the Character and Appearance of the area

(iii) Impact on neighbouring properties/future occupants amenities

(iv) Highway considerations

(v) Drainage

(vi) Developer Contributions

I deal with each issue in turn below, although I leave issue (iii) residential amenity to the end as it is the main issue.

Principle of development

6.3 This issue is set out in paragraph 7.2 of the officer report which I repeat in full below.

The application site is situated within an urban area where further development is considered acceptable in principle and where the effective use of land is encouraged. In this context, the addition of a new dwelling in such a location would make a modest contribution to the Council's overall housing requirements, and this weighs in favour of the proposal. The acceptability of the site in detail also needs to be considered, however, in the context of the usual development management criteria to establish whether the proposal would represent a sustainable form of development.

6.4 I have no issue with this statement.

7.0 **Impact upon the character and appearance of the area**

- 7.1 This issue is set out in paragraph 7.3 to 7.8 of the officer report. I repeat in full below the final paragraph which sets out the LPAs conclusions on this matter.

Having carefully considered the proposal in terms of its impact on the character and appearance of the area it is considered that the development would have a limited impact in relation to the character and appearance of the area when viewed from the Gladys Avenue street scene. The site area and shape is also similar to that of other developments permitted elsewhere in the Borough.

- 7.2 It is clear from the analysis that the LPA undertakes in paragraphs 7.3 to 7.8 that the LPA do **not** consider the proposed development to be out of keeping with the character and appearance of the area.

Highway considerations

- 7.3 This issue is set out in paragraphs 7.16 and 7.17. No objection is raised on highway grounds.

Drainage

- 7.4 This issue is set out in paragraphs 7.18 to 7.20 and no objection is raised on drainage grounds.

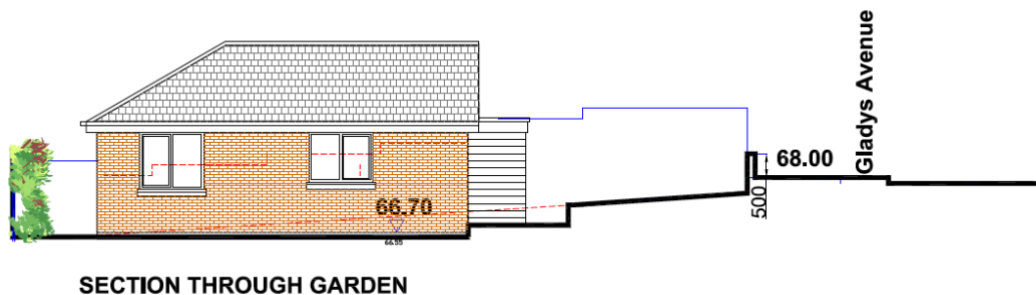
Developer Contributions

- 7.5 This issue is set out in paragraphs 7.21 to 7.23. Paragraph 7.23 sets out the requirement for a payment of £181 per dwelling to the Solent Recreation Mitigation Project. I have no objection to this requirement, but I do raise concerns as to the justification for a further cost towards admin and monitoring fee. Since the LPA require the payment up front there can be no justification whatsoever for an administration fee or monitoring fee.

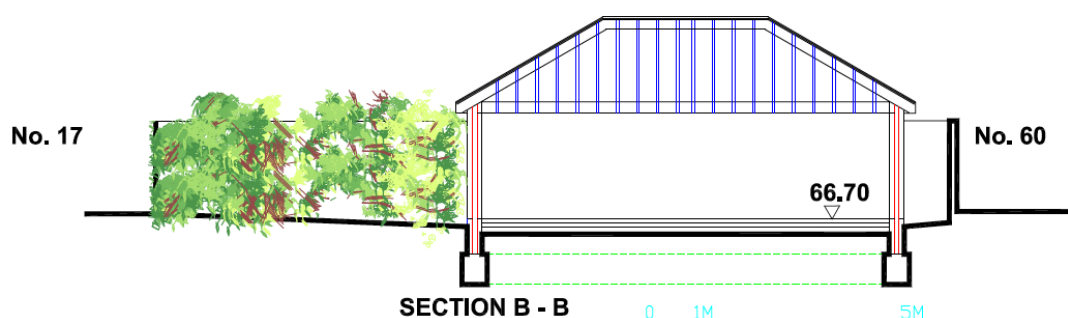
- 7.6 My client will pay the money upfront but the UU we have submitted includes a clause that the LPA shall refund the administration and monitoring fees if the inspector on appeal considers them not to be justified.

Residential amenity

- 7.7 This issue is set out in paragraphs 7.9 to 7.15 with paragraphs 7.9 to 7.13 dealing with the impact on the neighbours at 15 and 17 Lovedean Lane.
- 7.8 Drawing P03 Rev B sets out the proposed sections through the site. They show how the proposed dwelling will be set down from the road by cutting into the existing ground level and providing a level with the current east boundary, as per the example below.

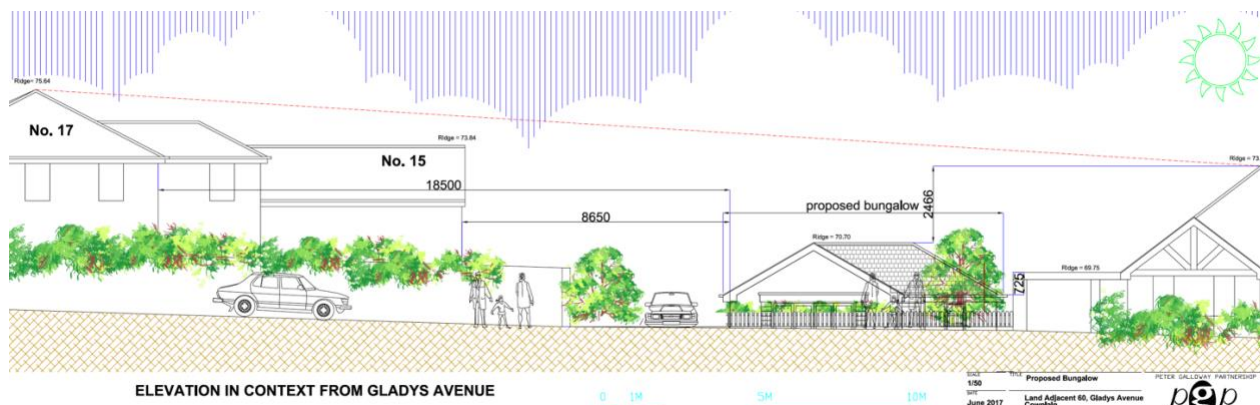


- 7.9 Section B-B shows a longitudinal section illustrating the finished levels with those at 17 Lovedean Lane as per below.

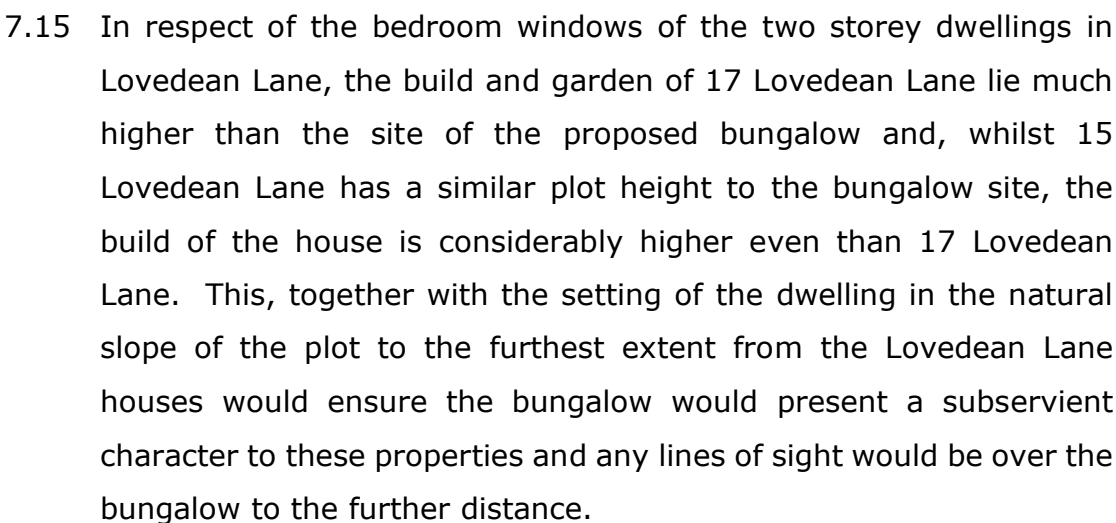


- 7.10 These sections are supplemented by two elevations in context as shown on drawing P04 Rev A. The bottom section on this drawing is

considered to be the most helpful, providing a view from Gladys Avenue and includes dimensions from the flank wall of the proposed bungalow to both 15 and 17 Lovedean Lane. I have set out an extract from this below.



- 7.11 It is anticipated any occupants of this modest bungalow would be small families or the elderly who would not contribute noticeably to smell or noise. For the foreseeable future, the bungalow would be the permanent residence of the owner of the plot, a self-employed parent who serves the local area as a heating engineer and plumber, with his four-year child with whom he currently shares a bedroom in his parents' home.
- 7.12 Privacy would be ensured to neighbours and occupants of the bungalow with close board fencing and further landscaping of small trees, bushes and shrubs on the boundaries.
- 7.13 The outlook from the neighbouring two double storey houses in a separate road, whose view was previously that of an abandoned piece of land invaded by brambles, weeds, and dense hedging, would be improved by the presence of a modest bungalow in keeping with its neighbours in the avenue and subservient to these double storey houses due to its size and location on the plot.
- 7.14 In respect of overlooking, the 2m close board fencing, and implementation of the HBC Landscaping Team's recommendations to introduce privacy trellising covered with climbing plants, would



- 7.16 With specific regard to the issues raised in refusal reason 1 I would make the following detailed submissions.
- 7.17 **In respect of siting:** the bungalow would be set low in the site taking advantage of the sloping nature of the terrain and situated to the furthest extent of the plot away from the properties in Lovedean Lane, thereby reflecting a subservient character to these properties whilst respecting the levels of its neighbours in Gladys Avenue.
- 7.18 **In respect of proximity to boundaries:** the HBC Design Plan 2011 recommends distances to boundaries of 10m, it also acknowledges that 'Some overlooking of gardens from the upper floors of dwellings will be unavoidable in most urban and suburban housing layouts.' In addition, many new builds in the Borough with smaller distances to boundaries, shorter separation distances and some overlooking issues have proven acceptable to planning officers as evidenced by the precedents detailed in the next section.
- 7.19 **In respect of mass and bulk:** the proposed build would represent a modest bungalow, of similar style and size to its neighbours in Gladys Avenue. With a GIA of 58.5m² on a plot sized 239.44m² and an amenity area of 132m² it would represent a well-proportioned dwelling on a plot of adequate size in an avenue of similar properties. The low pitch and hipped nature of the roof would mitigate any impact of mass and bulk from all directions.
- 7.20 **In respect of changes in levels:** the build and garden of 17 Lovedean Lane lie at a considerably higher level than the site of the bungalow. Whilst the house at 15 Lovedean Lane lies at a similar level to the proposed bungalow, the build of the property is considerably higher than 17 Lovedean Lane. These features, together with the siting of the bungalow to the furthest distance from 17 and 15 Lovedean Lane, lying low in the plot and with hipped roof would

ensure the dwelling would appear subservient and would not have an overbearing impact on 15 and 17 Lovedean Lane.

7.21 **In respect of the previously spacious setting and outlook:** the site has remained derelict since 2010 when the previous owners and developers of 17 Lovedean Lane left the land to become derelict, strewn with building materials and with impenetrable hedges and brambles. It would not therefore have presented a spacious setting and outlook to 15 and 17 Lovedean Lane.

7.22 Clearance of the brambles and hedging to facilitate meetings with the Architect and HBC Officers revealed that the view would be that of a large derelict shed, garage of 60 Gladys Avenue and dilapidated wall and fencing.

7.23 Due to the proposed bungalow's subservience to 17 and 15 Lovedean Lane, the lines of sight from the bedroom windows of these dwellings would be over the bungalow to the far distance.

Please see photographs at Appendix 1: in respect of the site prior and post clearance; and, view of plot from garden of 17 Lovedean Lane

7.24 **In respect of loss of privacy, disturbance from noise and activity due to the proximity of the gardens and rooms of Nos. 15 and 17:** the full amenity space of the proposed bungalow is 132m² and spreads around the dwelling in various directions. As such it would not represent 'limited amenity space' and the occupants would not be constrained to this one amenity area.

7.25 Privacy to the occupants of all three dwellings would be assured by boundary treatment of 2m close board fencing with privacy trellising covered in climbing plants, some evergreen, and sympathetic planting of indigenous trees, bushes and shrubs.

- 7.26 The anticipated occupants of the dwelling would be small families and the older generation who would not be likely to cause undue noise and activity.
- 7.27 With specific regard to the issues raised in refusal reason 2 I would make the following detailed submissions.
- 7.28 **In respect of over-intensive use of the site and poor amenity space:** The bungalow would have a GIA of 58.5m² on a plot sized 239.44m² with a dph of 43 and an amenity area of 132m². As such, the dwelling would provide suitable amenity space for the anticipated occupants and make effective but not over-intensive use of this derelict site in line with government guidelines to make best use of unused land and would, in addition, respond to government encouragement of self-build projects.
- 7.29 In support of this point, Para 7.8 of the Delegated Report notes 'The site area and shape is also similar to that of other developments permitted elsewhere in the Borough'.
- 7.30 **In respect of overlooking of the amenity area by 17 and 15 Lovedean Lane to the harm of occupants' privacy:** Privacy to the occupants of all three dwellings would be assured by boundary treatment of 2m close board fencing with privacy trellising as recommended by the HBC Landscaping Team, which would preclude overlooking from the houses and their gardens.
- 7.31 The view from the bedroom windows of the double storey houses would be a single window from each house and, in the case of 15 Lovedean Lane at an acute angle of 30 degrees. Due to the proposed bungalow's subservience to 17 and 15 Lovedean Lane, facilitated by the levels and build of the proposed bungalow and houses, and the siting of the bungalow low in the plot, any view would be over the bungalow to the far distance.

- 7.32 The HBC Design Plan 2011 acknowledges that 'some overlooking of gardens from the upper floors of dwellings will be unavoidable in most urban and suburban housing layouts'.
- 7.33 In addition, the Planning Inspector's report APP/X1735/A/08/2068016 [see Appendix 2] in respect of an appeal against the HBC decision to refuse planning permission for the building of 44a Gladys Avenue states in Para 24 - "44a would be the normal relationship between adjoining houses along a street. The normal, mutual, sideways overlooking of each other's gardens would occur There is nothing in this to indicate that the appeal should be dismissed." – see Chapter 7: Precedents and approved applications with distance and overlooking issues.
- 7.34 **In respect of the proposals to set the dwelling into the slope, the boundary treatments, landscaping and restricted nature of the site resulting in the proposed dwelling having a poor outlook and restricted light:** The proposal to set the bungalow at a lower level on the site was driven by a reason given by the HBC Development Manager for approval of a bungalow at 8 London Road Widley on a similar infill plot of a sloping nature. This was that its subservient appearance to the two overlooking double storey dwellings was acceptable as noted in Chapter 7: Precedents and approved applications with distance and overlooking issues.
- 7.35 Treatment of the boundaries with close board fencing topped with privacy trellising would, together with strategic landscaping specifically suited to this environment, not interfere with the outlook or restrict the light to the occupants.
- 7.36 It is not felt that the positioning of the proposed bungalow into this naturally sloping site would be so severe as to affect the outlook or restrict the light to the occupants and the east/west positioning of the amenity areas and open area created by two parking spaces would maximise the benefit of sunshine and natural light. Nor is it

felt that the site is of a restrictive nature for a modest bungalow with a GIA of 78.5m² on a plot sized 239.44m².

- 7.37 The north facing windows and amenity space of the proposed bungalow would only be overlooked from one bedroom window of 17 Lovedean Lane at a distance of 14.5m and, from 15 Lovedean Lane, a bedroom window at an acute angle of 30 degrees from a distance of 9.3m.
- 7.38 However, if the Appeals Inspector felt any overlooking of the windows of the living area and main bedroom of the proposed bungalow was grounds to uphold the HBC's refusal of planning permission, these windows could be removed with very little impact on outlook and light. The west facing wall of the living area already has wide floor to eaves windows which would provide more than adequate daylight to the room and this could also be increased with roof lights. The bedroom configuration could be changed so that the bedroom facing 17 Lovedean Lane could become the secondary bedroom with roof lights, and the current secondary bedroom could become the main bedroom which already has a window.
- 7.39 Apart from the amenity area adjacent to the Lovedean Lane properties, a further 32m² of amenity area is available to the occupants of the proposed bungalow to the west of the property out of sight of 17 and 15 Lovedean Lane. See Chapter 7: Precedents and approved applications with distance and overlooking issues.

7 PRECEDENTS AND APPROVED APPLICATIONS WITH DISTANCE AND OVERLOOKING ISSUES

- 7.1 Attention is drawn to the planning permission approved for a bungalow at 8 London Road, Widley, which lies some 4 miles to the south of the plot in a very similar urban area with surrounding properties of similar age, style, and garden sizes. Full details of this permission are attached at Appendix 3 and a photograph of it under construction is attached at Appendix 4.
- 7.2 The adjacent properties in both cases are 2 x two storey houses on an adjoining road. In the case of London Road, the proposed bungalow also has another adjacent two storey house, whereas Gladys Avenue has a bungalow similar to the proposed bungalow.
- 7.3 This approved application relates to a two-bedroom bungalow to be built in the rear garden of a two storey property at 8 London Road. The proposed bungalow represents:

A smaller plot, that is 205m² opposed to 230m² at Gladys Ave

A larger GIA on a smaller plot

A smaller amenity area of 123.5 as opposed to 132m² at Gladys Ave

A smaller plot width facing the street scene at 14.5m opposed to 15.3m at Gladys Ave

Shorter distances from overlooking neighbours

- 7.4 The principle of this development was accepted and, as its design was seen to accord with the design and surroundings of the proposed bungalow at Gladys Avenue and satisfied HBC's Strategic Plan's policies, it has provided a useful model for this proposal.
- 7.5 The Development Manager and Case Officer visited the site at 8 London Road in August 2017 and concluded that the bungalow did not constitute a precedent for the bungalow at Gladys Avenue.

Reason

"It does share a number of similarities.... it will form a new infill plot that constitutes the first plot in an established street scene; it features a similar road frontage; a similar (slightly smaller) plot size; and will result in garden depths shallower than those recommended in the Council's Borough Design Guide Supplementary Planning Documents."

"in terms of impact on living conditions for future occupants. In the case of 8 London Road its immediate neighbours to the north are a bungalow and chalet bungalow respectively, with no clear glazed windows overlooking the approved dwelling and its amenity space. The situation is rather different at Gladys Avenue, whereby the current application site lies adjacent to two, two-storey dwellings to the north both of which directly overlook the site from close quarters."

Response

- 7.6 The second paragraph is not correct. A planning application was approved for 8 London Road, the property in which the proposed bungalow is to be built, on 15 June 2016 for a loft extension which included a dormer window and two Velux windows.
- 7.7 This would create a double storey dwelling overlooking the proposed bungalow, identical to the scenario at Gladys Avenue where one bedroom window of 17 Lovedean Lane overlooks the proposed bungalow. However, the distance to the bungalow at London Road would be 9.334 whereas the distance to the bungalow at Gladys Avenue would be 14.5m.
- 7.8 Both proposed bungalows would also be viewed from a property to the rear. In the case of London Road, a Velux window at waist height on the upper floor of the side of 10 London Road. The Gladys Avenue bungalow would be viewed from a bedroom window of 15 Lovedean Lane some 9.3m away at an acute angle of 30 degrees.

Reason

"the levels differences across the current application site were noted, and these have a distinct bearing on how the proposed bungalow would be experienced by neighbouring properties – with 15 Lovedean Lane in particular lying at a lower level than the application site. In the case of 8 London Road the levels work in the alternative, with ground levels of adjoining properties generally higher than the site – and thus the potential visual impact of the approved bungalow is reduced."

Response

- 7.9 In respect of neighbouring properties, this is not entirely correct, the garden and build of 17 Lovedean Lane, which lies directly to the north of the plot, lies substantially higher than the site of the proposed bungalow. Whilst the plot at 15 Lovedean Lane may be lower than 17 Lovedean Lane, the actual build of 15 Lovedean Lane is much higher, thus any potential impact on either property would be reduced by the subservient nature of the proposed bungalow.

Reason

"In the case of your current application there is no natural screening to mitigate the visual impact of the new bungalow. In the case of London Road, a substantial and dense boundary hedge is in place along the northern boundary of the site to a height of 2.5m which, taken together with the falling levels, serves to lend the approved dwelling a very subservient character in relation to both the existing dwelling at London Road and adjoining properties."

Response

- 7.10 Whilst the hedging is 2.5m directly between the buildings 8 and 10 London Road, it becomes much lower and less dense where it nears the site of the proposed bungalow.

- 7.11 In respect of boundary treatments at Gladys Avenue, HBC Landscaping Team recommended a privacy trellising on close board fencing covered with climbing plants, some evergreen, on the boundaries with the properties in Lovedean Lane. This would create attractive and natural screening and would mitigate the visual impact of the proposed bungalow. Unfortunately, this advice was received after the due decision date of 15 September due to the Senior Landscape Architect reviewing the wrong plan and we were therefore unable to submit a revision to our Site Layout. In fact, the decision was made seven days later on 22 September which was, in fact, the second decision date missed without agreement.
- 7.12 It would be perfectly feasible to implement the advice from the Landscaping Team if the Appeals Inspector were to add this as a condition of planning permission.

Reason

"A further important difference lies in the character of the adjoining properties to each site, in terms of the impact they will have on living conditions for future occupants. In the case of London Road its immediate neighbours to the north are a bungalow and chalet bungalow respectively, with no clear glazed windows overlooking the approved dwelling and its amenity space. The situation is rather different at Gladys Avenue, whereby the current application site lies adjacent to two, two-storey dwellings to the north and both of which directly overlook the site from close quarters.

Response

- 7.13 This reason refers to overlooking issues and to the adjoining properties being a bungalow and chalet bungalow with no windows overlooking. As noted in the response to a) above, this is not correct as planning has been approved for a loft extension to 8 London Road with a dormer window and Velux windows overlooking the proposed bungalow site. Also, 10 London Road has a Velux window at waist height on the side of the dwelling from which the proposed bungalow could be observed. Both of these dwellings lie closer to the proposed bungalow than that at Gladys Avenue.

- 7.14 Both proposed bungalows would experience some degree of overlooking and attention is drawn to the HBC Design Guide 2011 which notes *"Some overlooking of gardens from the upper floors of dwellings will be unavoidable in most urban and suburban housing layouts"*.
- 7.15 If the Appeal Inspector felt this was reason to dismiss the appeal, it would be possible to remove the living area window from the north side of the bungalow as the room would be very adequately supplied with light from wide windows which stretch from floor to eaves.

PRECEDENT 44a Gladys Avenue, Cowplain – Application 05/68999/005 – full details at Appendix 2.

- 7.16 This development lies approximately 100m to the south of the proposed bungalow.
- 7.17 The Development Manager and Case Officer also visited this site and their conclusions, noted below, primarily refer to the main development which lies behind Gladys Avenue not the small bungalow at 44a in Gladys Avenue which was raised as a precedent in respect of distances between properties and garden lengths, lack of curtilages and the property spilling over onto the pavement. Whilst Google images do not represent the measurement of a plot accurately, the plot does seem significantly less than the 292 sq m noted in the report. See Appendix 1 - Photograph and Google Image of 44a Gladys Avenue

Conclusion from Planning Manager regarding 44a Gladys Avenue

- 7.18 In the case of 44 Gladys Avenue and Planning Permission 05/68999/005, the properties approved here are sited behind the original building line of Gladys Avenue, being served by a separate access drive. In terms of their position in the street scene they form a distinct and recessed built frontage.
- 7.19 Plot sizes vary but the smallest plot (No.44a) is of the order of 292sqm. Significantly, all of the plots lie considerably further from adjacent properties in the original built frontages of Gladys Avenue and Kendal Close, with intervening screening, than is the case with the current application site and adjoining properties – a minimum back-to-back distance of 17m is achieved

between No.44b and No.7 Kendal Close, with an angled relationship between the two. Other property separations are greater.

8 **CONCLUSIONS**

- 8.1 I strongly conclude that this sensitively designed revised scheme will result in a form of development that respects its situation and surroundings.
- 8.2 The LPAs own evidence [see officer report] is that the development is acceptable in principle and that the proposed dwelling will not give rise to material harm to the character and appearance of the area. Indeed, the only identified planning issue relates to residential amenity.
- 8.3 This Statement of case sets out in considerable details why it is considered that the degree of residential amenity will be acceptable to both existing residents at 15 and 17 Lovedean Lane and for intended occupiers of the appeal property.
- 8.4 For the reasons set out above it is concluded that the proposed development complies with the policies of the Development Plan and receives strong support from the Framework.
- 8.5 On the basis of the foregoing the Inspector is respectfully requested to ALLOW the appeal and grant planning permission for the proposed development.