

Grounds of Appeal

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48 Havant Road, Emsworth, Hants, PO10 7JG

Against the decision made by Havant Borough Council to refuse planning permission for the erection of a replacement workshop at 48 Havant Road, Emsworth, Hants, PO10 7JG (App Ref:18/00151)

Introduction

The Grounds of Appeal will set out a brief history of the application, a summary of the letters of representation and response to the representations and will then move on to the reason for refusal and response to the reason for refusal. The Grounds of Appeal will finish by outlining a highly relevant, similar appeal on the site directly to the rear (south) of this appeal site (52 Havant Road).

History of the application

The proposed development is for a replacement workshop at 48 Havant Road, Emsworth, Hants, PO10 7JG. The workshop would replace a single garage that was present on site until mid-2016 when it was demolished to allow for the removal of a static caravan that had been positioned on site and used as accommodation by the owners of the site (applicants) whilst the new dwelling was being erected. The floor slab of the single garage is still present and visible.

The single garage was never used by the owners as a garage as its dimensions made it too small to accommodate their family car. It was therefore used by the applicants as a workshop for working on domestic tasks and as a storage facility.

This application for a replacement workshop was subject to revisions throughout the lifespan of the application, to address concerns raised by neighbouring properties. The revisions culminated in a case officer recommendation for approval.

The application was brought to Development Management Committee on the 24th May at the request of a local councillor who was contacted by the residents of 46 Havant Road (the neighbouring dwelling). The officer recommendation was over turned at Development Management Committee and the application was refused for the following reason:

‘The proposed development would result in an excessive building bulk adjacent to an existing residential property, detrimental to the visual outlook and amenities of the occupier of this property. Contrary to Policy CS16 of the HBC Local Plan.’

The minutes of the Development Management Committee state:

‘During the debate the Chairman and officers raised concerns about the reasons for refusal suggested by Councillor Bowerman. The officers advised it would be difficult to justify a reason for refusal on the grounds of the bulk of the proposal and its impact on 46 Havant Road in view of:

- (i) the size of the garage at 46 Havant Road;
- (ii) the amendments made to overcome to reduce the impact of the proposal on 46 Havant Road; and
- (iii) the size of the application site area.’

Letters of representation

No statutory consultee objections were received.

The Committee report outlines the neighbour objections and they will be supplied by the Council, but it is important to note that although 30 individual letters of representation were received, these were from 11 households, of which one household (46 Havant Road) submitted in excess of 10 letters of representation. We have provided a brief summary of the representations below:

Comments were received regarding the granting of planning permission for the main dwelling, the planning process, lack of dimensions on the plans.

Response:

Concerns regarding the granting of planning permission for the new dwelling (completed in 2015) are not relevant to the merits of the consideration of the planning application for the workshop. The submitted plans complete with appropriate scale bars met all the validation requirements (dimensions on plans are not a mandatory requirement).

Comments were received regarding the use of the former garage on site and over development of the site.

Response:

The single garage on site was retained as part of planning permission granted for the new replacement dwelling and double garage to the front (ref: 14/01104). This was demolished in 2016 in order to allow for the removal of the static home that was on site as temporary accommodation for the applicants whilst the main dwelling was being constructed.

When the Council determined the planning application for the new dwelling and double garage to the front of the site, the single garage was still shown as being retained. The Council did not consider the new dwelling, double garage and single garage to be over development of the plot.

The case officers committee report for this application acknowledges that the plot is double width/substantial and raises no concerns regarding overdevelopment (para 7.6 of the committee report).

The single garage was used by the applicants as a domestic workshop and was never used by the applicants as a garage. How the applicants used the former garage is not considered relevant to this application as the principle of a building on the site in this location for ancillary use by the applicants was established by the presence of the former garage on site.

Comments were received regarding the potential use of the workshop.

Response:

The use of the workshop would be ancillary to the use of the main dwelling and can be controlled and enforced by appropriate planning conditions.

Comments were received regarding the proposed workshop being out of character with the area.

Response:

No concerns were raised by the case officer regarding the design or appearance of the workshop and therefore throughout the revisions to the plans, the design and materials were not changed. Para 7.4 of the committee report acknowledges the presence of very adequate screening and that the workshop would be set back 38.5m from the highway. The case officer concluded the proposal would have a limited and acceptable impact on the visual amenity of the street scene and that other outbuildings are a notable feature in the rear gardens of the dwellings along Havant Road.

Paragraphs 7.7 and 7.8 of the committee report state the materials proposed compliment the existing dwelling and the palette of materials would not be unacceptable within the greater street scene.

Comments were received regarding the proposed development reducing the value of 46 Havant Road.

Response:

This is not a material planning consideration

Comments were received regarding the applicant's street scene/ context drawing dated 02.04.2018 being factually incorrect.

Response:

The street scene/context drawing dated 02.04.2018 was submitted and approved by the Council with the application for the main dwelling (ref: App/14/01104). The perspective in the street scene has been flattened so the drawing depicts an elevational street scene where both widths and heights of the former garage and proposed workshop are relative to the properties in the foreground. The case officer has not questioned the integrity of the drawing and it is not incorrect.

If the street scene was illustrated with a true sense of perspective the former garage would be perceived smaller due to the sense of distance from the highway and the proposed workshop would similarly be perceived as smaller due to the extra distance from the highway. If you were to compare the doors on the properties in the foreground with the garage door the proportions are accurate and representative.

Comment: The proposed development would set a precedent

Response:

Any application should be determined on its own merits.

Comment: The applicant is an employee of the Council.

Response:

The applicant does not work for Havant Borough Council in any capacity.

Comment: The proposed development would result in a loss of view over the applicant's garden and reduce the sense of openness.

Response:

There is no right to a specific view and the applicants are entitled to privacy in their rear garden. The case officer noted in the committee report (para 7.4) that outbuildings were a feature in the rear

gardens of properties along Havant Road, including those at 46, 44 and 42 Havant Road, directly adjacent to the site.

Comment: Photos submitted by 46 Havant Road indicating where the residents of 46 Havant Road consider the proposed development to be.

Response:

The photos are annotated to show the ridge projected to the boundary – this is incorrect. Some photos are then annotated to show the ridge as a continuous horizontal line on what would be the north elevation – again this is incorrect. Other photographs show the ridge north south (which whilst correct) are not annotated to any degree of accuracy or based on any mathematical or 3D modelled true representation that can take into account the effects of perspective or foreshortening of heights relative to distance. The photos themselves contradict each other, will contain an element of camera distortion which is not an accurate representation of the view by the human eye, are generally misleading and are not representative of scale. These photographs were an attempt by the neighbour early in the application process to comment on the original iteration of the design prior to its revision during the process – so are not relevant to the final determination.

Comment: The proposed development does not fall within permitted development

Response:

Agreed, that is why a planning application has been submitted.

Comment: The proposed development would be too big and bulky. Neighbours have suggested alternative sizes they consider would be appropriate.

Response:

The proposed development has been revised to reduce the bulk and mass in light of neighbour concerns (420mm reduction in height and 1040mm reduction in length).

Comment: The proposed development would cause overlooking and overshadowing

Response:

There are 2 Velux windows proposed in the west elevation to allow natural light into the workshop. These have been repositioned from the east elevation to remove any sense of perceived overlooking. There is no mezzanine floor proposed therefore no view will be afforded out of the windows and in any event, the only view afforded would be over the applicants garden. Please see sun path analysis which demonstrates there will be no significant additional overshadowing.

Reason for refusal:

The proposed development would result in an excessive building bulk adjacent to an existing residential property, detrimental to the visual outlook and amenities of the occupier of this property. Contrary to Policy CS16 of the HBC Local Plan.

Response to reason for refusal:

The proposed development is for a replacement workshop which would measure 4.45m high, 8.1m deep and 5m wide and be sited 0.9m from the shared boundary with no. 46 Havant Road, 38.5m from

the highway and 17m from the southern boundary. The workshop would be sited adjacent to a detached double garage (not single garage as noted in the case officer report) in the rear garden of 46 Havant Road which is sited 0.9m off the shared boundary with a flat roof and no windows facing onto the site.

For clarity, the location of the workshop would not be adjacent to the neighbouring residential property, but adjacent to the garage of 46 Havant Road with the northern gable end in excess of 10m from the southernmost elevation (rear of the lean to) of 46 Havant Road. The distance from the rear of 46 Havant Road (not including the lean to) to the northern elevation of the workshop is in excess of 13m.

The reason for refusal cites excessive building bulk. The bulk and mass of the proposed development has been reduced in height by 420mm and length by 1040mm from the original proposals. The proposed development would be 550mm higher than the original garage on site but with a ridge line set 1650mm further to the west than the original garage. The sun path analysis demonstrates that the location of the proposed development 3m further to the rear of the site than the original garage and the ridge line position being 1650 further to the west than the original garage would have no additional shading impact on 46 Havant Road than the original garage on site and cannot therefore be considered excessive in bulk.

The proposed workshop is comparable in size to a garage. An average single garage is 3m wide and 6m long (to allow for cycle storage). An average double garage is 6m by 6m to allow for access around cars and storage. The height of the roof would be determined by materials and pitch, but the proposed workshop sits between a single and double garage width but longer in length to accommodate additional storage and boat maintenance.

Amenities

Policy CS16 Part e states:

All development should demonstrate that its design:

(E) Does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.

The reason for refusal does not specify what amenities at the existing residential property (46 Havant Road) would be impacted by the proposed workshop; however, the amenities listed in Policy CS16 (and shadowing to address concerns raised by the occupiers of 46 Havant Road) have been addressed below.

Shadowing

The sun path analysis (see appendix B) demonstrates the proposed replacement workshop would have a lesser impact on 46 Havant Road than the original garage at 48 Havant Road for the full 12 months of the year. This is due to the siting of the proposed replacement workshop 3m further to the rear of the site than the original garage, and the ridge being positioned 1650mm further to the west of the site than the ridge on the original garage.

The analysis was undertaken using 14.30 as a time of day as this is the time proposed by the residents of 46 Havant Road in one of their representations submitted online (15/03/2018) where the proposed development would cast shade over their rear garden.

It is clear from the sun path analysis that, particularly during the winter months, the garage in the garden of 46 Havant Road and the boundary fence between 46 and 48 Havant Road are the predominant shading factors and the proposed replacement workshop does not significantly impact further.

Visual Outlook

The proposed workshop would be set at an oblique angle from 46 Havant Road with the northern gable end in excess of 10m from the southernmost elevation (rear of the lean-to as measured from the centre of the lean-to to the centre of the workshop) of 46 Havant Road and the distance from the rear of 46 Havant Road (not including the lean-to and measured from the centre of 46 Havant Road to the centre of the workshop) to the northern elevation of the workshop is in excess of 13m. The relationship between the 2 buildings would therefore be indirect and the workshop would be off set from the rear elevation of 46 Havant Road.

The eaves of the workshop would be 2.35m high (which the case officer acknowledges in the committee report para 7.5 is a marginal increase in height over the existing shared boundary and would be lower than that allowed under permitted development) and would gradually slope away from the shared boundary up to the ridge at a height of 4.45m which is off set from the centre of the workshop to the west, to minimise the bulk and mass adjacent to the shared boundary.

The visual impact of the proposed workshop on 46 Havant Road has therefore been minimised by setting the workshop in excess of 10m from the southernmost elevation of 46 Havant Road, at an oblique angle and with the ridge line pushed off centre to the west of the workshop. These measures ensure the proposal complies with Havant Borough Council adopted guidance (Havant Borough Council Design Guide Supplementary Planning Document – HBC DG SPD) and gained the support and recommendation for approval from the planning case officer who acknowledges compliance with HBC DG SPD in para 7.15 of the Committee report.

Page 35 of the Havant Borough Council Design Guide Supplementary Planning Document (see appendix D) adopted Dec 2011 states:

‘5.05 In order to maintain a reasonable relationship between new dwellings and neighbouring properties, the following minimum distances should apply:

- Where a dwelling faces a blank gable, 10m separation is required’

The proposed workshop would not directly face the rear of 46 Havant Road but would be set at an oblique angle in excess of the 10m separation distance required between a dwelling and a blank gable. The HBC DG SPD does not state whether it applies to single storey or two storey dwellings, but Figure 5.1 in the document uses 2 storey dwellings to illustrate the point, it could therefore be inferred that the HBC DG SPD refers to 2 storey dwellings and not single storey, where potentially, the separation distance between the rear of the existing dwelling and the gable end could be reduced. In any event, the distances stipulated are exceeded and set at an oblique angle.

Paragraph 5.08 of the HBC DG SPD states:

‘New developments should not result in the loss of light to existing buildings. Acceptable daylight to interiors can be provided once there is a 25 degree vertical angle from a point 2m above the ground on the facing external façade. (This results in a 10m separation distance between dwellings).’

As previously stated, the separation distance between the southern elevation of 46 Havant Road and the northern elevation of the workshop is in excess of 10m. The submitted sun path analysis also further demonstrates that the proposed workshop would have no significant additional impact on the amount of light to the rear elevation of 46 Havant Road, above and beyond that already experienced from the shared boundary treatment or that experienced when the single garage was in situ. This is due to the distance between the northern elevation of the workshop and southern elevation of 46 Havant Road and the orientation of the roof set with the ridge line to the west of the workshop, away from the shared boundary.

The visual impact of the workshop is further mitigated by the current boundary screening which takes the form of 1.8m boundary fencing and brick wall pillars and gates. The boundary screening would be in the foreground when viewed from 46 Havant Road, with the workshop located beyond the screening.

Overlooking

There would be no overlooking due to there being no windows in the northern elevation of the workshop and the velux windows have been positioned on the western roof slope with no view over the neighbours to the east.

Smell and Noise

The workshop would be for domestic use and could be conditioned to be used only for ancillary use to the main dwelling. No objections were raised by Environmental Health and therefore the level of noise, smell and disturbance emanating from the workshop would have no significant impact on the neighbouring properties enjoyment of their outside space. This was concurred in paragraphs 7.17 and 7.18 of the case officers Committee report.

Similar Appeal

In 2010 planning permission was granted (10/58782/006) at 52 Havant Road on appeal (APP/X1735/A/10/2129275 - see appendix C) for the replacement of a coach house with a two storey triple bay garage with a workshop/studio above at a height of 6.6m, 7.2m directly to the west of the single storey lounge extension at 7 Kingsey Avenue. 52 Havant Road is located directly to the rear (south) of this appeal site with the development located approximately 6m from the shared boundary with the applicants.

Application 10/58782/006 was originally refused by the Local Planning Authority for the following reason:

‘The proposed development would have, by reason of its size, siting and design, an overbearing impact upon the amenities of the neighbouring property at Southview. The proposal would therefore be contrary to saved Policy D1 of the Havant Borough District Wide Local Plan 1996-2011, which forms part of the Havant Borough Local Development Framework, CC6 of the South East Plan and Planning Policy Statement 1.’

In granting planning permission on appeal for the triple bay garage with a workshop/studio above, the main issue for consideration was:

- ‘The effect of the proposed development on the living conditions of the occupiers of Southview, with particular reference to visual impacts, privacy and sunlight and daylight.’

The property Southview lies immediately to the west of the replacement coach house, with a single storey lounge extending into the garden. Southview is a large 2 storey dwelling with a relatively small, enclosed rear garden with a small patio area adjacent to the shared boundary with 52 Havant Road which is an important space for the dwelling.

The replacement coach house would have a similar footprint to the original coach house but would increase in height, bulk and mass when viewed from Southview. The dimensions of the proposed building would be 6.6m (1.3m higher than the original building), 7.2m directly west of the single storey side lounge extension of Southview. The appeal inspector concluded that despite the additional height and bulk, the roof would not cause increased shadowing or loss of daylight for Southview. The window in the east elevation would not cause overlooking.

The Inspector acknowledged the concerns of the neighbours and accepted the proposal would introduce changes that would be visible from the garden; however, they would not be materially harmful to the living conditions of the occupiers.

The similarities with this appeal are:

The proposed development is for a replacement building in a similar location to the original building (the proposed development at 48 Havant Road would be set 3m further to the rear of plot away from the neighbour at 46 Havant Road than the original garage).

The proposed development would be marginally higher than the original building.

Concern was raised over the impact of the proposed development on the visual impact and amenities of the neighbouring dwelling.

The proposed development is accompanied by sun path analysis which demonstrates there would be no significant additional impact on the amenities of the neighbouring property when compared with the original building.

It is also worth noting that the approved development is directly to the west of Southview and not at an oblique angle as the proposed workshop would be to 46 Havant Road, and, is 3m closer to Southview and 2m higher than the proposed workshop would be to 46 Havant Road.

Conclusion

In conclusion, the proposed replacement workshop had the support of the planning officers and was considered:

‘To have a limited and acceptable impact on the character and appearance of the area and on the residential amenities of neighbouring residents and planning permission is therefore recommended’.

The contents of the appeal statement demonstrate why the planning officer’s recommendation was an objective assessment of the proposal, and is consistent with local permission, and why permission should therefore be granted.

Appendices

A Suggested Conditions

B Sun path analysis

- C Appeal Ref: APP/X1735/A/10/2129275
- D Havant Borough Council Design Guide Supplementary Planning Document

Appendix A

Suggested Conditions:

1. The development must be begun not later than three years beginning with the date of this permission.
2. The development permitted shall be carried out in accordance with the approved plans.
3. The development hereby permitted shall be for ancillary use in association with the main dwelling and shall not be used for any other purposes.
4. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and a full specification of the materials to be used externally on the building have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.

Appendix B

Appendix C

Appendix D