
Site Address:	36 Oaktree Drive, Emsworth, PO10 7UJ		
Proposal:	Retention of play equipment. (Revised application.)		
Application No:	APP/16/01251	Expiry Date:	03/02/2017
Applicant:	Mr & Mrs Carr		
Agent:	Mr John Montgomery	Case Officer:	Tina Pickup
	Tanner & Tilley Development Consultants		
Ward:	Emsworth		
Site Visit Date:			

Recommendation: **GRANT PERMISSION**

1 Site Description

36 Oaktree Drive is a new two storey detached dwelling located at the head of a private cul-de-sac; it is the northern most dwelling within the Urban Area before woodland to the north. The property has an unusually large garden benefiting from a wide curtilage - the depth from the rear elevation is some 8m but the width extends to some 28m. It is bounded by 1.8m high close boarded fencing.

The land slopes up to the north-east and the recent housing development has resulted in some marked level differences with retaining walls. The garages and parking area immediately to the east of No 36 and south of the garden, is at a much lower level than the application site garden (approximately 1 - 1.5m lower) with retaining timbers below the close boarded fencing. The property has a sitting out patio area outside its north eastern elevation and this is at the lower level with small retaining wall and the garden then slopes up to the north-east from here.

The housing development was constructed by virtue of Planning Permission 09/72129/002 for the "Demolition of 2No dwellings and erection of 48No. dwellings with associated garages and parking with access from Oak Tree Drive." This was permitted on 28/02/2011 and condition 10 removed permitted development rights for Class A, D and E development i.e. Extensions to the houses, porches and incidental buildings or enclosures. The reason for the imposition of this condition was to ensure the appearance of the development was satisfactory having regard to relevant policies.

At the eastern end of the garden timber play equipment has been erected. This structure is cemented into the ground and has an overall length of some 6.5m, width of nearly 3m and height of 2.3m. It was initially constructed on site in April 2016 and then comprised a double platform with railings from which a slide extended to the west with a climbing wall to the south and steps/ladders up from the north with a fireman's pole as well as a 3m long monkey bar at 2m high from which 3 swings hung at its eastern end. Following complaints a retrospective planning application was received, APP/16/00722 refers, but despite some negotiations over the configuration of the equipment, a satisfactory conclusion was not reached and that application was refused on 22 November 2016.

Following that refusal the applicant has subsequently made some further alterations to the configuration of the equipment including the removal of the central railings. The plans now submitted reflect the configuration on site.

2 Planning History

APP/14/00545 - Proposed demolition of unstable brick boundary wall and replacement with new brick boundary wall as detailed located to north of Plot 32 of Planning Approval ref 09/72129/002. Replacement stables., PERM,19/11/2014
APP/14/01285 - Application for variation of Condition No. 1 of Planning Permission APP/14/00337 to extend timescale from 31st December to March 31st 2015., PERM,23/01/2015
09/72129/002 - Demolition of 2No. dwellings and erection of 48No. dwellings with associated garages and parking with access from Oak Tree Drive., PERM,28/02/2011
APP/16/00722 - Retention of play equipment., REF,22/11/2016

3 Proposal

This is a revised application seeking the retention of the play equipment in its reconfigured form. This has removed the former central railings and fireman's pole and now comprises a low platform (height about 0.7m) with vertical steps up to the top of the slide with 2 red handles for children to hold onto. The monkey bars and 3 swings remain.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)
DM10 (Pollution)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 6

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 2

Comment	Officer Comment
This application was agreed to in July with compromise on all parties. It is only now in December that the changes to the play equipment have happened. It is sad that all that was promised by Mr and Mrs Carr took so long. This involved a waste of council time and money to ensure the application they submitted was adhered to. I accept the play equipment being retained in its present state.	Planning history and negotiations have led to current compromise scheme.
Revised drawings and alterations align with previous compromised solution, hence no objection	Noted

7 **Planning Considerations**

- (i) Principle of development
- (ii) Impact upon residential amenity

(i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. Section 55 of the Town and Country Planning Act 1990 states that development includes the “carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.” The very fact that the climbing frame structure is concreted into the land and cannot be easily moved i.e. it has a degree of permanency, means that it is the Local Planning Authority's view that it is a structure involving a building operation that constitutes development.

Class E of the General Permitted Development Order 2015 does give permitted development rights for structures within the curtilage of dwellinghouses and criteria apply. However condition 10 of 09/72129/002 removed those permitted development rights and accordingly any development within the curtilage needs planning permission. The removal of these p.d. rights was to protect the appearance of the area and resultant impacts of any Class E structures on the overdevelopment potential of this new tight knit development.

This application has been submitted as a householder application for the retention of the play equipment at Number 36 Oak Tree Drive only - it is not being dealt with as a variation of condition 10 of 09/72129/002 which would relate to the whole of that development.

(ii) Impact upon residential amenity

The precise siting of the play equipment, within 1m of the eastern boundary with Nos 15 & 17 Aubin Wood, where the land is at its highest, is such that the equipment is particularly prominent from No 15 & 17 Aubin Wood, being visible above the shared fence on the eastern boundary. The original equipment was considered to have an adverse effect on the quiet residential amenity of these occupiers by virtue of the children using the equipment having an elevated view into the adjacent gardens, being detrimental to neighbours privacy.

Following the refused scheme the applicant has made further alterations to the play equipment and removed the main elevated areas that were causing the overlooking and impact on neighbouring residential amenity. Both neighbours had previously agreed to the current reconfiguration as a compromise in the interest of neighbourly harmony.

The current plans and configuration have removed the children's ability to climb at the higher level (except for the monkey bars which are to remain) and result in a more acceptable layout that significantly reduces the likelihood of overlooking and loss of privacy to neighbours. Four trees have also been planted on the eastern boundary - these are 'Red Robins' which are an evergreen species which can vary in 2m to 5m in height depending on the specific plant. Whilst currently relatively small they will grow and provide some screening between the equipment and neighbours, helping to soften the use of the play equipment.

Therefore, provided the equipment remains in its current form and the four trees remain, then it is considered that this layout would not cause unacceptable harm to neighbouring residential amenity and is now compliant with Policy CS16.

8 **Conclusion**

The revised layout of the play equipment, which has already been implemented on site, is considered to offer a satisfactory compromise and adequately overcome the main privacy objections. Provided conditions retain it in its current form with the retention of the screening trees, then the proposal is considered appropriate and recommended for approval. It should be noted that this permission only relates to the retention of the play equipment and Class E pd rights remain removed and any other structures in the future will also require planning permission - an Informative can be added to this effect.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/16/01251 subject to the following conditions

- 1 The play equipment hereby permitted shall be retained in the approved configuration and layout in accordance with the following approved plans. No alterations or additions shall be made without the prior written approval of the Local Planning Authority.
1:1250 Site Location Plan
1:250 Block Plan
1:50 Elevations
Photo 1 and 2
Reason: - To ensure provision of a satisfactory development in the interests of residential amenity.
- 2 The four Red Robin trees planted on the eastern boundary shall be retained in perpetuity. Any tree that is removed, uprooted, destroyed, dies or becomes severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species unless the Local Planning Authority gives its consent in writing to any variation.
Reason: To provide an appropriate standard of evergreen screening, in the interests of residential amenity, having due regard to policies CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.