

Appeal by Mrs Amy Dorey

re.

**20 Greville Green, Emsworth
Hampshire PO10 7TH**

Grounds of Appeal

presented by

Robert Tutton BSc(Hons), MRTPI.

Mr Robert Tutton

Qualifications: Bachelor of Science (Honours) Degree in Town and Country Planning awarded by the University of Aston in Birmingham.
Member of the Royal Town Planning Institute since 1976.

Experience: Has worked in the town and country planning field for fifty-seven years, of which nine were spent with Portsmouth City Council (1965-74) and fifteen with Fareham Borough Council (1974-89) in several senior positions, including Chief Forward Planning Officer and Chief Development Control Officer. Has been a Town Planning Consultant in private practice since July 1989 and a Director of Robert Tutton Town Planning Consultants Ltd since January 2008.

Is familiar with the provisions of adopted planning policies for the Emsworth area and has visited the appeal site and its environs on several occasions since first being instructed by Mrs Amy Dorey in October 2021.

TOWN AND COUNTRY PLANNING ACT 1990
Section 78

APPEAL by Mrs Amy Dorey against the decision of **Havant Borough Council** to refuse the grant of planning permission for a *“Log cabin in rear garden and temporary child-minding use for one year (resubmission of application APP/21/00830)”* at 20 Greville Green, Emsworth in Hampshire PO10 7TH.

Havant Borough Council’s reference: APP/22/00359

GROUND OF APPEAL.

1.0 THE APPEAL SITE and its environs.

1.1 No.20 is a semi-detached two-storey house that stands on the north side of Greville Green, to the north of its junction with Southleigh Road, in the central eastern sector of Havant Borough Council’s administrative area. A flat-roofed single-storey building stands at the west elevation of the main house - it blocks the view through to the rear garden from the public domain of Greville Green but stands far enough from the common boundary with no.19 to allow pedestrian access through a gateway to the rear garden (**Appendix 1**). Wooden panel fencing 1.8 metres in height stands on the west boundary with no.19 while the east boundary with no.21 is defined by hedging of similar height. The south side of Greville Green is public open space and the carriageway is wide, so the staggered drop-off and pick-up times characteristic of child-minding activities would not generate congestion or noise issues at peak times or unsocial hours.

1.2 Amy Dorey has described her proposal for the daily running of the childminding business in this way:

“Drop-offs - staggered arrivals between 8am-9am, each lasting approx.2-5 minutes (including local parents arriving on foot)

Morning - social play and indoor activities including reading, writing and phonics.

Snack time

Outdoor time - growing fruit and vegetables, painting, water play, local walks to the woods and park etc.

Lunch time

Afternoon – quiet activities (reading stories, jigsaw puzzles, craft etc.. Sleep time for younger children.

Late afternoon – indoor activities, including messy play and cooking.

4pm-5.30pm – staggered pick-up time, each lasting approx. 5 mins.”

2.0 BACKGROUND to the proposal.

2.1 Amy Dorey has described her childcare experience and the background to her appeal proposal in this way:- *“I have worked in childcare for almost 30 years and can*

reassure anyone that has doubts that there will be no negative impact on my neighbours and surrounding area...I currently work at the local nursery, Childrens Learning Centre, and know that there is a desperate need for childcare in Emsworth...The nursery have to turn away parents on a weekly basis due to lack of spaces, forcing them to find care out of the area...I have been approached by several local parents and friends, colleagues and through Childcare.co.uk where I have 5 star reviews from my previous childcare business, all needing care in Emsworth"

3.0 RELEVANT DECISION - APP/21/00830

3.1 On 13th July 2021, Paul Davey submitted application APP/21/00830 to Havant Borough Council on behalf of Mrs Amy Dorey for a *"Proposed child-minding studio building in rear garden"* at 20 Greville Green; the application was validated on 16th August 2021.

3.2 On 12th October 2021, Assistant Transport Planner Sophie Osborne of Hampshire County Council stated that *"Due to the scale of the proposal and that there is no change to the vehicular access, HCC's standing advice should be referred to in the first instance...As a result, the Highway Authority will not provide detailed comments on this planning application."*

3.3 On 25th November 2021 Regulatory Officer Mark Moss of Environmental Health advised that *"My only real concern is for the possibility that loud music could be played either in the studio room or in the garden area, for the enjoyment or entertainment of the children...In the event of this happening, it could potentially lead to complaints from neighbouring residents, which would need to be dealt with by existing legislation but it would be easier to either condition against it at this stage or to get the applicant to agree to not do it, in writing...I would also recommend limiting the benefit of any approval to the current occupants of the property."* Scrutiny of the Borough Council's web-site for application APP/21/00830 has confirmed that planning officer Joseph Toole did not invite Mrs Dorey to confirm that loud music would not be played in the studio room or garden for the enjoyment/entertainment of the children nor did he present a planning condition for Mrs Dorey's consideration, to control such activity; instead of suggesting a possible solution to address Mark Moss's *"...only real concern"*, Joseph Toole proceeded to reject the proposal, four months after its registration.

3.4 Application APP/21/00830 was determined by the Officers under their delegated powers, so no prior opportunity was afforded to Mrs Dorey or her agent to appreciate the precise basis on which the Officers' recommendation would turn or to present a deputation in favour of the proposal to Members of the Planning Committee. The decision notice issued on 9th December 2021 (**Appendix 2**) recorded this reason for withholding consent:

"Due to the hours proposed and the scale of the proposal, the development would cause unacceptable harm to the character of the locality and amenity of neighbours through noise and disturbance and therefore is contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Policy E1 of the

Submission Havant Borough Local Plan 2036 and D1, D2 and D3 of the Emsworth Neighbourhood Plan.”

3.5 The Officers’ report which led to the decision in December has since come to hand and these extracts are seen to be relevant to the consideration of this appeal:-

“Environmental Health – My only real concern is for the possibility that loud music could be played either in the studio room or in the garden area for the enjoyment or entertainment of the children. In the event of this happening, it could potentially lead to complaints from neighbouring residents, which would need to be dealt with by existing legislation but it would be easier to either condition against it at this stage or get the applicant to agree not to do it, in writing...I would also recommend limiting the benefit of any approval to the current occupants of the property.”

“Community Involvement” - Number of neighbour notification letters sent: 7...Number of representations received: 4.”

“Principle of development” – “The application site is located within the defined urban area, therefore development is considered acceptable in principle, subject to development management criteria.”

“Appropriateness of design and impact on the character of the area” – “The proposed development would involve the removal of the existing shed and construction of a studio building in the rear garden...It would be used as a child-minding studio with an office and WC and would have a width of approximately 3.6 metres, a depth of approximately 8.6 metres with a mono-pitched roof having a maximum height of approximately 3 metres.”

“The proposed rear building would not be readily visible from the street scene. Therefore the building itself is not considered to have a negative impact upon the character of the area. Although the proposed outbuilding is deemed to be of a large size, it is considered to be subservient to the host dwelling and the retained amenity space. The childminding studio would operate Monday to Friday from 8:30 to 5:30 with staggered drop-off and pick-up times, to reduce traffic congestion and noise concerns. There would be 2 members of staff, with a maximum of 6 children. Whilst some level of use may be acceptable, the scale of the building for child minding is considered to be likely to give rise to an unacceptable level of noise and disturbance, to the detriment of the character of the locality, contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and D1, D2 and D3 of the Emsworth Neighbourhood Plan

“Effect on neighbouring properties” – “From objections received, which includes surrounding neighbours, there are concerns about the commercial use of the outbuilding and the noise and disturbance that would arise from such a use, which includes more vehicles visiting the site, car doors slamming, noise

and disturbance from the use of the building and how this use would adversely impact on their well being and amenity, if granted. The LPA needs to be satisfied, before a positive recommendation could be made, that the scale of the use was such that it would not adversely impact on residential amenity. The proposed scale of the use is considered to be unacceptable, which would be likely to result in noise and disturbance, in particular over and above that associated with friends and visitors to the family...Due to the hours proposed and number of children, the scale of the proposal would cause unacceptable harm to the amenity of neighbours through noise, disturbance and therefore is contrary to Policy CS16 of the Havant Borough Core Strategy and D1, D2 and D3 of the Emsworth Neighbourhood Plan.”

3.6 It is noteworthy that, although a charge was laid in the decision notice regarding the requirements of Policy E1 of the Submission Havant Borough Local Plan 2036, that consequence was not rehearsed within the body of the Officer Report. It is also noteworthy that no breach of the National Planning Policy Framework was alleged.

4.0 PLANNING APPLICATION APP/22/00359

4.1 Planning application APP/22/00359 was submitted to Havant Borough Council by Robert Tutton Town Planning Consultants on 5th April 2022 and although it was validated later that day, the letter confirming its registration was not issued until 11th May ie nearly five weeks of the statutory determination period had elapsed before the case-file was opened. The proposal was described as being for a *“Log cabin in rear garden and temporary child-minding use for one year (resubmission of application APP/21/00830)”* and was supported by Robert Tutton’s ‘Planning Statement’ - attention is drawn to these extracts:

“Our client was particularly concerned that, although the ‘Other Important Information’ on the reverse of the decision notice asserted that her agent Paul Davey had been up-dated on the issues generated by her proposal, possible solutions had not been initiated by the case officer Joseph Toole while the application was before him. As the opportunity to challenge that decision at appeal has passed, we have been instructed to invite reconsideration of our client’s proposal. For the avoidance of doubt, this submission should be seen to comprise the Design and Access Statement that is required by Policy D1 of the Emsworth Neighbourhood Plan.”

“Although Mark Moss has expressed concern at the possibility of loud music being played, neither he nor Joseph Toole sought to find a remedy for their concern. On reflection, they should have shown more diligence and explored the possibility of granting permission for a temporary period (a ‘trial run’) and/or the imposition of a planning condition to restrict noise emissions. A ‘Trial run’ was advocated by paragraph 111 of Circular 11/95 *“...where an application is made for permanent permission for a use which may be ‘potentially detrimental’ to*

existing uses nearby but there is insufficient evidence to enable the authority to be sure of its character or effect...Nor would a temporary permission be justified on the grounds that, although a particular use, such as a hostel or playgroup, would be acceptable in a certain location, the character of its management may change.” It is noteworthy that a ‘playgroup’ (which is a strikingly similar use to child-minding) was cited in Circular 11/95 as a use that was particularly suitable for a ‘trial run’ because the local planning authority could not determine, with certainty, whether it would be (un)acceptable within the situation intended.”

4.2 In similar vein to APP/21/00830 before it, application APP/22/00359 was determined by the Officers under their delegated powers - again, no opportunity was afforded to Amy Dorey or her agent to appreciate the precise basis on which the recommendation would turn nor to present a deputation in favour of the proposal to Members of the Planning Committee. The decision notice issued on 30th June 2022 recorded this composite reason for withholding consent:

“Due to the hours proposed and the scale of the proposal, the development would cause unacceptable harm to the character of the locality and amenity of neighbours through noise and disturbance and therefore is contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy), 2011, D1, D2 and D3 of the Emsworth Neighbourhood Plan and the guidance in the National Planning Policy Framework.”

4.3 While an alleged breach of Core Strategy Policy CS16 (see paragraph 2.5 above) was reiterated, the reference to emergent Policy E1 had made way for a generalised reference to the NPPF. In response to Robert Tutton’s email enquiry, Joseph Toole stated on 23rd August that he had relied on paragraph 130 of the NPPF for his contention that temporary consent for child-minding should not be granted at these premises.

4.4 The ‘Other Important Information’ on the reverse of the decision notice asserted that, in accordance with paragraphs 38-50 of the NPPF, the Officers had taken a positive and proactive approach to the applicant’s proposal, worked with her on issues as they arose and suggested solutions. It will be shown that claim was so inaccurate as to be misleading.

4.5 The Officers’ Delegated Report which led to the decision on 30th June 2022 has since become available for scrutiny (**Appendix 3**) and these extracts are considered noteworthy:

“Environmental Health Comments on APP/21/00830

My only real concern is for the possibility that loud music could be played either in the studio room or in the garden area for the enjoyment or entertainment of the children. In the event of this happening, it could potentially lead to complaints from neighbouring residents, which would need to be dealt with by existing legislation but it would be easier to either condition against it at this stage or get the applicant to agree not to do it, in writing...I would also recommend limiting the benefit of any approval to the current occupants of the property.”

“Community Involvement - Number of neighbour notification letters sent: 9...Number of representations received: 3.”

“Principle of development - The application site is located within the defined urban area, therefore development is considered acceptable in principle, subject to development management criteria.”

“Appropriateness of design and impact on the character of the area” – Policy AL1 in the Havant Borough Local Plan (Allocations) 2014 takes “a positive approach [towards development] that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)”. As set out in the explanatory text to Policy AL1, the Council prides itself on being ‘open for business’ and “...*will seek to balance the three core elements of sustainable development: environment, social and economic issues...*” in decision making. In accordance with the NPPF...However this has to be balanced against the impact the business use would have on the character and appearance of the area, residential amenity and parking...The proposed rear outbuilding would not be readily visible from the street scene. Therefore the building itself is not considered to have a negative impact upon the character of the area...Whilst some level of use may be acceptable, the scale of the building for child-minding is considered to be likely to give rise to an unacceptable level of noise and disturbance, to the detriment of the character of the locality, contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, D1, D2 and D3 of the Emsworth Neighbourhood Plan and National Planning Policy Framework.”

“Temporary Permission. – Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only. Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. Following a full assessment, including whether a temporary permission would be appropriate, the local planning authority is still of the view that the use would have an adverse impact on the local and residential amenity, by reason of noise and disturbance. Therefore a temporary permission is not considered to be appropriate and the local planning authority’s position as regard this use has not changed.”

4.6 As application APP/21/00830 was refused without exploration of the possible assurances that had been suggested by Mark Moss (ie the presentation of a draft planning condition for the applicant’s consideration and/or an invitation to agree in writing that loud music would not be played), it is particularly notable that Environmental Health was not reconsulted on the temporary use proposal - Joseph Toole chose to rely instead on the “Environmental Health Comments on APP/21/00830”. At 0856 hours on 23rd August,

Robert Tutton invited Mark Moss to clarify his position regarding the temporary consent proposal..

4.7 Seven neighbours were notified of application APP/21/00830 and four responded; nine were notified about APP/22/00359 but just three responded. It is Havant Borough Council's regrettable practice to redact the names and addresses of respondents, so it has not been possible (in preparing these Grounds of Appeal) to appreciate the geographical relationship of interested parties to the proposal. The redacted submission dated 14th June 2022 is particularly noteworthy, however, because it reiterated the approach that had been promoted by the Regulatory Officer Mark Moss seven months before:- *"Having spoken to the applicant, I would like to register my support for this application...The proposed childminding business is for a maximum of six children and I do not believe that this would cause a significant amount of noise or disruption to the surrounding neighbours...The applicant has confirmed that they will not be playing loud music or very noisy equipment."*

4.8 Confirmation of that intention was reiterated on 4th August 2022, when the appellant's husband Mark Harris wrote to Mark Moss - *"Myself and Amy would like to add that at no time of the day would we be using loud music to entertain the children; this is not part of a learning curriculum. Loud outdoor activities are never going to be used...What they can expect is children talking and being children, laughing etc...If conditions to them being outside need to be enforced in the trial, then this is fine...Children will be learning in a playful environment but again not with the use of loud music."* Robert Tutton's email to Mark Moss and Joseph Toole at 0744 hours on 5th August invited acceptance of the promise by Amy Dorey and Mark Harris that *"...no loud music"* would be played.

5.0 PLANNING POLICY

5.1 Section 38 of the Planning and Compensation Act 2004 requires an application or appeal to be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise; an element of flexibility is provided which enables decisions to be made which may disagree with the development plan. The statutory development plan for Emsworth comprises the **Havant Borough Local Plan (Core Strategy)** 2011 and the **Havant Borough Local Plan (Allocations)** 2014. The **Emsworth Neighbourhood Plan** 2019-2036 was made in 2020.

5.2 The **Havant Borough Local Plan Core Strategy (Appendix 4)** was adopted in March 2011; its paragraph 1.04 tells one that it *"...describes the council's long term vision and objectives for what the borough will be like as a place in 2026"* and paragraph 1.06 asserts that *"When considering planning applications, the council will consider all the policies contained in the Core Strategy that are relevant to the proposal"*. When a policy document is intended to provide a reference point for decisions about all kinds of development that may be promoted borough-wide over a fifteen-year period, it is perhaps inevitable that its criteria are generalised and one needs to look hard to find a test that directly applies to a modest temporary use in the garden of an existing house. Paragraph 7.28 of the Core Strategy recognises that limitation - it states that *...Policies CS14 and*

CS16 set out the principles that will be applied to all new developments...All new development is defined as one dwelling or more and 500 square metres or more of non-residential floorspace." When 'new development' is defined as a proposal with over 500 square metres, it is evident that an application for one year's temporary use of a modest building (30.96 square metres) in a private rear garden was never intended to be subject to the requirements of Policies CS14 or CS16. It is also evident from the charge laid in the Reason for Refusal that the Officers misdirected themselves by focusing on Policy CS16 as the central test of Amy Dorey's proposal.

5.3 Core Strategy Policy CS16 is a 'coarse-grained' omnibus policy that generates a presumption in favour of development proposals that meet seven 'High Quality Design' tests that are intended to apply to all forms of development proposals; the generality of the criteria poses an inevitable challenge as to which test should be applied to the temporary use of a log cabin that stands in a private garden; indeed, that is probably why para.7.28 of the Core Strategy recognised that its tests should **not** be applied to a proposal of less than one dwelling. As Policy CS16 was a central component of Havant Borough Council's Reason for its refusal of application APP/22/00830, however, attention has been given to the criterion which appears to have been central to the Officers' decision:

"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:

1. Responds to, draws inspiration from and respects local context and:
 - e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking."

5.4 Should (notwithstanding that this proposal does not fall within the definition of 'new development') Core Strategy Policy CS16 be somehow seen to be germane to the consideration of this appeal, one is bound to acknowledge that it generates a presumption in favour of development, so the onus falls on Havant Borough Council to demonstrate (with evidence) that unacceptable harm would be caused to neighbours. Scrutiny of the Officer Report has revealed (in paragraph 7.12) that the Borough Council's 'evidence' derived from "...*concerns about the commercial and the noise and disturbance that would arise from such a use, which includes more vehicles visiting the site, car doors slamming, noise and disturbance from the use of the building and how this use would adversely impact on their well being and amenity, if granted.*" One is bound to recognise that the six children that would arrive at or depart from these premises at staggered times would likely be the progeny of entrepreneurs and employees who would so welcome the child-minding service offered that requests like "*Please don't slam your car door*" and "*Walk quietly up the footpath*" are far more likely to be respected than rejected. Patrons would appreciate that, if they cause noise and disturbance, the prospect of a renewed consent would fade and the service that they value would cease to be made available. Amy Dory is responding positively to a call for a child-minding service and, once it is in place, her clients are bound to respect the simple rules that would ensure its continuance. Joseph Toole could produce no evidence of disturbance before the event and his unsubstantiated concerns about

slamming doors are misplaced and inappropriate; if Core Policy CS16 is considered relevant, then human nature tells one that its requirements would be satisfied.

5.5 Policy AL1 of the **Havant Borough Local Plan [Allocations]** generates a “Presumption in Favour of Sustainable Development” and asserts that *“When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)...It will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area...Planning applications that accord with the policies in this local plan will be approved without delay, unless material considerations indicate otherwise.” (Appendix 5)*. There can be little doubt that, as the introduction of a child-minding business to Greville Green would directly and indirectly enhance the economic and social and conditions of the area (in a form that would have minimal impact on the local environment); the Officer Report which led to the determination of application APP/22/00359 gave that part of the development plan no attention whatsoever. The planning case officer did *not* work proactively with the applicant to find a solution that would facilitate a grant of permission; on the contrary, he adopted a negative stance from the outset and failed to take the positive approach required of him.

5.6 With regard to ‘General Design Policy’, Policy D1 of the **Emsworth Neighbourhood Plan (Appendix 6)** calls for the impact of proposed development to be specified in a Design and Access Statement (see para.3.1 above), Policy D2 specifies the ‘Height, Mass and Materials’ of new buildings to be *‘typical for the area’* (see ‘Principle of Development’ in para.3.5 above) and Policy D3 states that “Development proposals should make the most efficient use of land and be developed at the optimum density.” Contrary to the charge set down in the decision notice, it is submitted that the temporary use proposed would satisfy the general intentions of the Emsworth Neighbourhood Plan.

5.7 Paragraph 56 of the **National Planning Policy Framework** records the view of Government that *“Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making”*. While Mark Moss had suggested to Joseph Toole in November 2021 that his only ‘real concern’ was the *‘possibility’* that loud music could be played in the studio room or the garden area for the enjoyment or entertainment of the children but, contrary to the claim set down on the reverse of the decision notice, Joseph Toole failed to suggest a planning condition which would address that issue.

5.8 Via email at 1540 hours on 23rd August, Joseph Toole stated *“With regard to referencing the NPPF, the application was considered contrary to Para.130.”* That paragraph forms part of Section 12 which proffers advice regarding ‘Achieving well-designed places’ - it calls for developments to function well, be visually attractive, be sympathetic to local character and history, maintain a strong sense of place, optimise the site’s potential of the site to accommodate and sustain a mix of development and create places that are safe, inclusive and accessible. One calls to mind Joseph Toole’s acceptance that *“The proposed rear outbuilding would not be readily visible from the street*

scene...Therefore the building itself is not considered to have a negative impact upon the character of the area.” (see para.3.55 above). It is submitted that, contrary to the charge laid down in the decision notice, the proposed outbuilding would satisfy the design objectives of the NPPF.

5.9 Circular 11/95 re “*The use of conditions in planning permissions*” proffers sound advice for dealing with the circumstances of this case:- *“Again, where an application is made for permanent permission for a use which may be ‘potentially detrimental’ to existing use nearby but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable, having regard to the capital expenditure necessary to carry out the development...A trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the right answer.”* Amy Dorey is content to carry the capital cost of the studio building (which is, after all, simply a larger shed) and believes that a trial period of a year would be a reasonable period for the impact of her child-minding business to be appreciated over all four seasons.

6.0 CONCLUSION and SUBMISSION

6.1 The flat-roofed single-storey building that stands at the west elevation of 20 Griggs Green blocks impressions from the public highway but stands far enough away from the side boundary to allow pedestrian access to the rear garden. The carriageway outside is wide, so the staggered drop-off and pick-up times characteristic of child-minding activities would not generate congestion or noise issues at peak times or unsocial hours.

6.2 In response to planning application APP/21/00830 (which sought permanent consent for a child-minding business here), the ‘*only real concern*’ of Regulatory Officer Mark Moss was “...*the possibility that loud music could be played either in the studio room or in the garden area, for the enjoyment or entertainment of the children*”; he suggested that a planning condition be considered for its control or an invitation to the applicant to agree not to do it. It is matter of public record that planning officer Joseph Toole did neither.

6.3 In his Planning Statement supporting APP/22/00359, Robert Tutton reminded Joseph Toole of the ‘Trial run’ advice proffered by paragraph 111 of Circular 11/95 “...*where an application is made for permanent permission for a use which may be ‘potentially detrimental’ to existing uses nearby but there is insufficient evidence to enable the authority to be sure of its character or effect.*” - he contended that a child-minding use is similar to a play-group and particularly suitable for a ‘trial run’ because the local planning authority cannot determine, with certainty, whether it would be (un)acceptable in this situation.

6.4 Joseph Toole had consulted Regulatory Officer Mark Moss on APP/21/00830 but did not invite his comments on the proposal APP/22/00359 for temporary consent.

6.5 On 4th August 2022, Amy Dorey’s husband Mark Harris confirmed in writing to Mark

Moss that “...at no time of the day would we be using loud music to entertain the children;...Loud outdoor activities are never going to be used.”.

6.6 Paragraph 7.28 of the adopted Core Strategy states that *...Policies CS14 and CS16 set out the principles that will be applied to all new developments...All new development is defined as one dwelling or more and 500 square metres or more of non-residential floorspace.*” As ‘new development’ is defined as a proposal with over 500 square metres, it is evident that an application for one year’s temporary use of a modest building (30.96 square metres) in a private rear garden was never intended to be subject to the requirements of Policy CS16.

6.7 A child-minding business in Greville Green would directly and indirectly enhance the economic and social and conditions of the area (in a form with minimal impact on the local environment) and thereby assist achievement of the sustainable development objectives of Havant Borough Local Plan [Allocations] Policy AL1.

6.8 The Secretary of State for Housing, Communities and Local Government is respectfully requested to allow this appeal and grant planning permission for development that **accords** with the policies of the adopted development plan and no other material considerations suggest otherwise.

7.0 APPENDICES

1. Photographs.
2. Officer Report and decision notice re APP/21/00830.
3. Officer Report and decision notice re APP/22/00359;
4. Havant Borough Core Strategy 2011 (extracts).
5. Havant Borough Local Plan (Allocations) 2014 (extracts).
6. Emsworth Neighbourhood Plan 2020 (extracts).