

Appeal by Ms Amy Dorey re 20 Greville Green, Emsworth (APP/X1735/W/22/3306099)

Dear Mr Dunn

We welcome this opportunity to comment on the 'Statement of Havant Borough Council' that was submitted on 5th January 2023. To assist cross-referral, we have reiterated the paragraph numbers of the Council's statement.

Paragraph 5.2 At 2002 hours on 30th August, Mark Harris (the appellant's partner) submitted this email enquiry to planning officer Joseph Toole:- *"Regarding the application for planning no. APP/22/00359, you stated that one of the reasons for refusal was the 'Scale of the business'...Please can we ask you what you would consider an acceptable number of children, if 6 is an issue?"*

Joseph Toole replied at 0958 hours on 20th October 2022:- *"The Local Planning Authority considers an outbuilding for the use of a child-minding business, with all its associated activity, would be an over-intensify use of the planning unit/property and deemed unacceptable...However, in response to your query, I have carried out some further research into child-minding businesses operating from the main dwellinghouse...This research indicates that if were no more than six children and no one else employed, this may be considered not to materially change the use of the dwellinghouse; if this was to operate solely within the main dwellinghouse, then planning permission would not be required."* That fall-back arrangement is a material consideration in the determination of this appeal, as the prospect of *"...door slamming and other disturbances associated with such increased visits to the property"* would be no different for a child-minding business in the main house as it would within a log cabin in the garden.

Paragraphs 5.5 & 5.6 The Borough Council's acceptance that *"The development would result in supporting direct and indirect jobs during the construction and the use of the business respectively...(and)...There would be social benefits with regards to members of the public using the business"* is most welcome. However, issue is taken with its contention that *"...significant harm to character of the area and neighbour amenity would outweigh the economic and social benefits."* Despite Joseph Toole's recent 'further research', the Borough Council has brought forward no **evidence** whatsoever from established child-minding enterprises elsewhere in its administrative area, to demonstrate that such use generates unacceptable disturbance for neighbours.

Paragraph 6.1 Paragraph 4.2 of the Grounds of Appeal explained why, in Robert Tutton's submission, Joseph Toole misapplied Core Strategy Policy CS16 in his consideration of application APP/22/00359 - paragraph 7.28 of the Core Strategy states that Policies CS14 and CS16 apply to 'new development'; 'new development' is defined as one dwelling or more or over 500 square metres of non-residential floorspace; and the appeal proposal falls well below that threshold. The Officers misdirected themselves by their focus on Policy CS16 as the central test of Amy Dorey's proposal. As the Borough Council has confirmed (at its paragraph 7.10) that "*...no concerns were expressed with the building itself*", it is also evident that its reliance on paragraph 130 of the National Planning Policy Framework ('Achieving well-designed places') was misdirected and inappropriate.

Paragraph 7.5 No issue is taken with the Borough Council's assertion that the decision-maker is required to take into account all material considerations that are relevant to an application. That is why, having consulted Environmental Health, it was unreasonable for the case officer to proceed to determine APP/22/00359 without receipt of the response and to rely instead upon comments that had been previously recorded - the whole point of the second application was that the environmental impact of the child-minding business could be objectively assessed and tested over a trial period.

Paragraph 7.8 Contrary to the Borough Council's assertion that "*...the LPA has provided evidence of harm to the Inspector as set out in paragraphs 7.8-7.14 of the Officer's Report (Appendix A) and paragraph 5.2 of this appeal statement*", close scrutiny of those documents confirms that **no evidence** of prospective harm has been presented (eg from established child-minding businesses elsewhere in Havant Borough and beyond) and that the Officer's judgement was pure surmisal. The impact of the proposed use in this location would, however, be **objectively** determined by a trial run over all four seasons ie for a year.

Paragraph 7.10 The Borough Council's confirmation that "*...no concerns were expressed with the building itself*" is welcome.

Paragraph 7.12 While the time-honoured advice of Circular 11/95 has made way for Planning Practice Guidance, its paragraph 111 helpfully rehearsed some instances in which a temporary consent would be appropriate - a playgroup was cited as an example. It is submitted that, as the environmental consequences of a child-minding business in this location cannot be predicted with certainty, a fair and reasonable approach would be to grant permission for a one-year trial period.

Paragraph 7.13 The Borough Council has confirmed that it has no concerns with the location or design of the log cabin; it has however notably failed to demonstrate why permission should not even be granted for a trial period of a year, to ascertain whether the use of the log cabin for minding six children would cause unacceptable harm to the character of the locality and the amenity of neighbours, through noise and disturbance. For these reasons, the Secretary of State for Levelling Up, Housing and Communities is again respectfully requested to allow this appeal and grant temporary consent for a year, in order that the impact of the proposed use may be objectively tested.

Kind regards,

Robert Tutton

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