

**TOWN AND COUNTRY PLANNING ACT
1990 (AS AMENDED)**

**STATEMENT OF HAVANT BOROUGH
COUNCIL**

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

**Local Planning Authority Reference:
APP/22/00359**

**Planning Inspectorate Reference:
APP/X1735/W/22/3306099**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY Amy Dorey AGAINST REFUSAL to grant permission for:

Log cabin in rear garden and temporary child-minding use for one year (resubmission of application APP/21/00830).

Planning Inspectorate Reference: APP/X1735/W/22/3306099

Local Planning Authority Reference: APP/22/00359

1 Site Description

- 1.1 20 Greville Green, Emsworth, is located to the north side of Greville Green. The application site is a two storey semi detached property comprising red brick and concrete roof tiles. Vehicular access is from Greville Green with parking to the front.
- 1.2 The property is located within a residential area with surrounding properties of similar style and design.

2 Planning History

APP/21/00135 - Erection of a single storey log cabin for use as a childminding business., UNK,
APP/21/00830 - Studio building in rear garden., REF,09/12/2021

3 The Appeal

- 3.1 The proposal is for a log cabin in rear garden with a temporary child-minding use for one year (resubmission of application APP/21/00830).
- 3.2 This is a resubmission of the previously refused planning application reference APP/21/00830. This application differs from the previous as it is for temporary permission.

4 Planning Policies

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)

Havant Borough Local Plan (Allocations) July 2014
AL1 (Presumption in Favour of Sustainable Development)

Emsworth Neighbourhood Plan Post Examination Version 2020
ENP_D1 (General Design Policy)
ENP_D2 (Height, Mass & Materials)
ENP_D3 (Layout, Form & Density)

5 Planning Considerations

- 5.1 To avoid repetition, the attached Officer's report (Appendix A) sets out in detail the planning position of the Local Planning Authority (LPA) in respect of the appeal. The Inspector's attention is drawn in particular to paragraphs 7.8 – 7.14 in the report, where the key issues are set out. That said, the following paragraph highlights, the Local Planning Authority's concerns with regard to the proposal.
- 5.2 The property is semi-detached, located in a high-density residential area within close proximity to a number of neighbouring properties. Therefore, there a number of activities involved in the operation of the business which would give rise to unacceptable noise and disturbance, to neighbouring properties. These include the hours of operation and number of children proposed, which at various and prolonged times, due to the nature of the use, would be playing in the garden, which would result in noise and disturbance, above what would normally be associated with a dwellinghouse, to the detriment of residential amenity. Furthermore, the proposed childminding business would create more vehicles visiting the site, with noise and disturbance associated with this activity, which would be likely to include door slamming and other disturbances associated with such increased visits to the property. Overall, these activities would give rise to an unacceptable level of noise and disturbance to the detriment of the character of the area, which would have a significant adverse impact on the amenity of the neighbouring properties. As the Inspector will note, objections to the proposal were received from concerned residents, with the proposal seen as a "... cause of significant disruption to the lifestyle of residents within the immediate vicinity". A view that the Local Planning Authority concur with. The appeal is contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy).

Public Benefits

- 5.3 The Planning Practice Guidance advises that 'public benefits' may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the Framework.
- 5.4 The development would result in supporting direct and indirect jobs during the construction and the use of the business respectively.
- 5.5 There would be social benefits with regards to members of the public using the business.
- 5.6 Overall, the delivery of the proposed scheme would yield economic and social benefits, which have to be weighed against the impact the proposal would have on the locality. It is considered that the significant harm to character of the area and neighbour amenity would outweigh the economic and social benefits.

6 Overall Conclusions

- 6.1 The proposal is considered to be contrary to Policy CS16 and paragraph 130 of the National Planning Policy Framework and the Inspector is requested to dismiss the appeal.

7 Appellant's Statement

- 7.1 With regards to the Appellant's appeal statement, the points raised will be covered below. The LPA reserves the right to comment further, if new material planning considerations are raised by the Appellant.
- 7.2 Within Section 3 of the Appellant's appeal statement planning application APP/21/00830 is referred to. As the Inspector will be aware, this is not before him to consider, as this application has not been appealed by the Appellant.
- 7.3 The following response to paragraph 4.2 of the Appellant's appeal statement is that prior to the submission of planning application APP/22/00359, the LPA confirmed that if such an application was submitted for the same scale of business with the only difference being a temporary permission applied for, the application would be refused on the same grounds as APP/21/00830. Therefore, the agent and his appellant would be aware that further discussions would not take place in such a situation. This can be shown in Appendix C.
- 7.4 The following response to paragraph 4.4 of the Appellant's appeal statement is that the LPA contends that throughout its dealings with the two applications submitted by the applicant's agent for 20 Greville Green, it has behaved reasonably, co-operated and dealt with the proposal in a timely manner and in no way been misleading.
- 7.5 Paragraph 4.5 and 4.6 of the Appellant's appeal statement refers to Environmental Health's comments on APP/21/00830. Environmental Health was a consultee, and their comments are not binding on the LPA as the decision maker, who is required to take into account all material considerations, relevant to an application; not just the comments of one consultee. Furthermore, Environmental Health were consulted on planning application APP/22/00359 however, they did not respond within the consultation period. As no response was forthcoming the LPA took the decision, which it was entitled to do, that as the application is the same as the previous except for the temporary position, a reasonable view was taken that their previous comments still applied.
- 7.6 The following response to paragraph 4.5 of the Appellant's appeal statement referring to 'Temporary Permission' is that the appellant's agent contacted the LPA regarding the possibility of obtaining permission for a 'trial period' for the childminding business. The LPA responded saying this was assessed under planning reference APP/21/00830 however due to the significant harmful impact upon neighbouring properties it was not deemed to be appropriate. The LPA confirmed that if such an application was submitted for the same scale of business with the only difference being a temporary permission applied for, the application would be refused on the same grounds as APP/21/00830, as it was not materially different to that refused. This can be shown in Appendix C.
- 7.7 The following response to paragraph 4.7 of the Appellant's appeal statement is that the redacting of names and addresses of respondents is not a 'regrettable practice' it is required by data protection regulations.

- 7.8 The following response to paragraph 5.4 of the Appellant's appeal statement is 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.
- 7.9 The following response to paragraph 5.5 of the Appellant's appeal statement is that LPA has actively engaged with the appellant following the refusal of APP/21/00830 by responding to numerous emails from the Appellant's agent. This is also shown in Appendix C.
- 7.10 The following response to paragraph 5.5 of the Appellant's appeal statement is that no concerns were expressed with the building itself, only its intended use. This can be shown in paragraph 7.6 of the Officer's Report (Appendix A).
- 7.11 The following response to paragraph 5.7 of the Appellant's appeal statement is that as previously mentioned loud music was not the only concern expressed by the LPA. The concerns have been covered in paragraphs 7.8 – 7.14 of the Officer's Report (Appendix A) and paragraph 5.2 of this appeal statement.
- 7.12 Paragraph 5.9 of the Appellant's appeal statement refers to Circular 11/95. Circular 11/95, with the exception of Appendix A (model conditions) which is retained, has been cancelled and replaced by the planning practice guidance. The LPA's position for a temporary permission has been covered in paragraph 7.15 of the Officer Report (Appendix A).
- 7.13 The following response to paragraph 6.6 is that Policy CS16 of the Havant Borough Council Core Strategy (2011) has been misdirected by the appellant's agent, as this is key policy which states that "All development should demonstrate that its design:", follow a set of criteria, including:
- "e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking."
- As Policy CS16 is directly relevant to the appeal proposal, its inclusion in the reason for refusal was necessary and fundamental. As to Policy CS14 referred to by the agent, as the Inspector will note this is not referred to in the reason for refusal, as this is not relevant to the appeal.
- 7.14 The following response to paragraph 6.7 of the Appellant's appeal statement has been covered in paragraphs 5.3 – 5.6 of this appeal statement.

8 Suggested Conditions

- 8.1 Notwithstanding the LPA's continuing objection to the proposal, if the Inspector is minded to grant the appeal a list of suggested conditions is attached as Appendix B.

Appendices

- (A) Officer's delegated report
- (B) List of possible conditions
- (C) Engagement with Agent

APPENDIX A

Submission Version Havant Local Plan

Emsworth Neighbourhood Plan Post Examination Version 2020

ENP_D1 (General Design Policy)
ENP_D2 (Height, Mass & Materials)
ENP_D3 (Layout, Form & Density)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Julie Thain-Smith

No Comment.

Councillor Lulu Bowerman

No Comment.

Councillor R Kennett

No Comment.

Environmental Health Manager, Community Group

No Comment

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 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.

Hampshire Highways

Thank you for your consultation on the above planning application. The Highway Authority wish to make the following comments.

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. For more information on standing advice please use the following link: www.hants.gov.uk/transport/developers/consultation

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: 9

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 3

Comment	Officer Comment
Running a commercial business within this quiet residential area would interfere with the future of our lives and neighbours in this vicinity	Please See Section 7.
Disrupt lifestyle	
Do not believe it would cause significant amount of noise and disturbance to the surrounding neighbours.	Noted
The applicant has confirmed they will not be playing loud music or using noisy equipment.	
Believe the proposal of permission being granted for a year so that noise levels or disruption can be reviewed to be a fair compromise for all	

7 **Planning Considerations**

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Appropriateness of design and impact on the character of the area
- (iii) Effect on neighbouring properties
- (iv) Temporary Permission
- iv) Parking

(i) Principle of development

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

(ii) Appropriateness of design and impact on the character of the area

- 7.3 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.
- 7.4 Many types of businesses operate from home, some of which are incidental or ancillary to the lawful use of the residential property and not subject to planning control. Other uses, because of their nature and scale, as a matter of fact and degree, amount to a material change of use, subject to planning control.
- 7.5 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 childminding studio with a office and W/C 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.
- 7.6 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. 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. This position has not changed from the previous refusal reference APP/21/00830.
- 7.7 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.

(iii) Effect on neighbouring properties

- 7.8 To the front of the proposed outbuilding there would be bi folding doors and a window within the proposed studio facing out onto the rear garden and shared boundary with No.21 Greville Green. Due to the existing screening of hedging it is not considered to cause harmful overlooking. Furthermore, as the proposed studio would be offset from the shared boundary by approximately 6.5 metres it is not considered to appear overbearing or result in the harmful loss of light to the occupiers of No.21.
- 7.9 To the south side there would be a door and a window within the proposed studio. This would face out onto the rear garden and back of the house with views screened by the existing 1.8 metre high fencing and property.

- 7.10 To the north side there would be doors within the proposed studio. This would face out onto the rear garden and due to the existing screening of 1.8 metre high fencing it is not considered to cause harmful overlooking. Furthermore, the proposed studio would be offset from the rear boundary by approximately 15 metres thus it is not considered to appear overbearing or result in the loss of light to the neighbouring properties to the back.
- 7.11 On the west side there would be no windows. It would be placed along the shared boundary with No.19 Greville Green. The roof design slopes away from the shared boundary it is not considered to appear overbearing or result in the harmful loss of light to the occupiers of No.19.
- 7.12 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.
- 7.13 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.

Policy CS16 e in Havant Borough Core Strategy requires, that:

"The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking".

- 7.14 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, D1, D2 and D3 of the Emsworth Neighbourhood Plan and National Planning Policy Framework.

(iv) Temporary Permission

- 7.15 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. Under APP/21/00830 a temporary permission was considered however due to the scale of activity it was considered not to be appropriate. As this planning application is for the same proposal the Council's position has not changed.

(v) Parking

- 7.16 Hampshire Highways commented on the application referring to the standing advice. There is parking on site with space for up to 2 vehicles. The applicant has advised that the intention is for children to be dropped off at staggered times. Based on the information before the Local Planning Authority, this should not give rise to parking or highway issues.

8 **Conclusion**

8.1 The scale of the development is unacceptable and would be likely to result in a significant adverse impact on the amenity of neighbours, due to noise and disturbance and therefore is recommended for refusal.

9 **RECOMMENDATION:**

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/22/00359

- 1 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.

APPENDIX B

Condition 1

The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition 2

The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan
Proposed Site Plan
Proposed Site Plan, Elevations and Floor Plans - REV A
Planning Statement

Reason: - To ensure provision of a satisfactory development.

Condition 3

The external materials used shall be as indicated on the submitted forms and hereby approved plans, or shall match, in type, colour and texture, those of the existing building so far as practicable.

Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Condition 4

This permission shall be restricted to a temporary period expiring within one year of the decision date. The outbuilding hereby permitted on a temporary basis shall be permanently removed from the site within one month of that date unless otherwise agreed by the Local Planning Authority.

Reason: To determine whether the scale of activity would have a sufficient and detrimental impact on the character and amenity of the area. This permission is therefore time restricted having due regard to policy CS16 of Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Condition 5

The times of operation of the childminding business is to be restricted to 08:30 to 17:30 Monday to Friday and not at all on Saturday, Sunday or Public holiday.

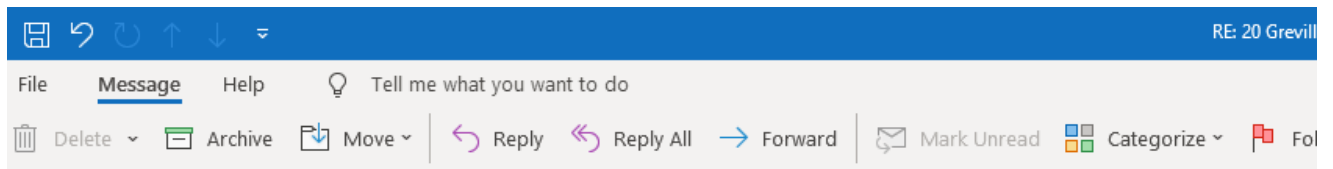
Reason: To ensure the amenities of neighbouring residential receptors, within and adjacent this site, are not detrimentally impacted by any noise and disturbance having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Condition 6

The childminding business shall be restricted to a maximum number of six children and two staff members at all times, unless agreed by the Local Planning Authority.

Reason: To ensure the amenities of neighbouring residential receptors, within and adjacent this site, are not detrimentally impacted by any noise and disturbance having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

APPENDIX C



RE: 20 Greville Green, Emsworth (APP/21/00830)



Toole, Joseph
To Robert Tutton

Dear Mr Tutton,

Thank you for your email.

If the revised application is submitted like for like it would be refused for the reasons outlined in the delegated report for APP/21/00830.

However, if changes are made we would assess it accordingly.

Kind regards,

Joseph

Joseph Toole
Planning Officer
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Your privacy matters, go to: www.havant.gov.uk/privacy-policy