

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**65 Andrew Crescent,
Waterlooville
PO7 6BG**

**Local Planning Authority Reference:-APP/21/00639
Planning Inspectorate Reference:-
APP/X1735/W/21/3287248**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY Construction Southern AGAINST REFUSAL of Construction of 1No. one bedroom bungalow to rear of 65 Andrew Crescent

AT 65 Andrew Crescent, Waterlooville, PO7 6BG

Planning Inspectorate Reference: APP/X1735/W/21/3287248

LPA Ref: APP/21/00639

1.0 INTRODUCTION

- 1.1 The officer's report already forwarded with the appeal questionnaire sets out the position of the Local Planning Authority and is considered sufficiently detailed to form the basis of the LPA's Statement of Case. This appeal statement will not duplicate, but will simply provide an update on relevant issues, in particular with regard to Policy, Housing Five Year Supply, the Habitats Regulations, and commentary on the Appellants Grounds of Appeal.
- 1.2 The Borough Map and 1:1250 Location Plan are provided at **APPENDIX A**.

2.0 PLANNING POLICY UPDATE

The Havant Borough Local Plan (emerging Plan)

- 2.1 The Inspector is respectfully advised that The Havant Borough Local Plan was withdrawn from examination on 16 March 2022 (please see Regulation 27 Statement of Fact Document contained in **Appendix B**) and work has started on a new Local Plan for Havant Borough. Therefore, the policies referred to within the officer's report and decision notice as "emerging" are now withdrawn and no longer relevant.
- 2.2 It is considered that the key adopted policies relevant to this appeal, namely CS15, CS16, CS11, CS21 and DM24, contained in the Havant Borough Local Plan (Core Strategy) 2011, and Havant Borough Local Plan (Allocations) 2014, are broadly consistent with the NPPF's approach to climate change and flooding, character and design, contributions, and the natural environment, and as such should still be afforded great weight in accordance with paragraph 219 of the NPPF.

3.0 HOUSING FIVE YEAR SUPPLY AND PLANNING BALANCE UPDATE

- 3.1 Since the planning application was determined in October 2021, the Borough's five-year housing land supply has further decreased. Following receipt of the Inspector's interim findings into the Examination of the Submission Havant Borough Local Plan, some of the sites have been removed from the Council's anticipated supply. The Council's Five-Year Housing Land Supply Update at November 2021 indicates the Borough's housing land supply position has therefore fallen to 3.9 with 20% buffer applied. See latest published document:

[Related studies and strategies | Havant Borough Council](#)

- 3.2 This shortfall engages Paragraph 11d) of the NPPF and its presumption in favour of development in principle. However, because the development would affect internationally designated habitats sites (see section 4 below), then footnote 7, is also engaged such that any impact on the habitat sites can provide a clear reason for refusing development.
- 3.3 It is nevertheless noted that the proposal for a single dwelling, within the main urban area of Waterlooville, would only make a modest contribution to housing supply and this benefit of the appeal proposal must be afforded limited weight in the overall planning balance. It is contended that the adverse impacts of the development on local character, neighbouring amenity, drainage and nature conservation, as per the decision notice, would significantly and demonstrably outweigh the modest housing supply benefit of a single dwelling when assessed against the policies of the NPPF as a whole.

4.0 HABITATS REGULATIONS UPDATE

- 4.1 Within Havant Borough Council are several European Designated Nature Conservation Sites including the Chichester and Langstone Harbour SSSI and SPA, and the Solent Marine SAC and Ramsar site. In order to comply with Regulation 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 the development requires a Habitats Regulations Assessment (HRA), including Appropriate Assessment (AA) as the proposal is likely to have a significant effect on several Solent European Sites due to both the increase in recreation and the decrease in water quality that would result from the proposed development of one new residential unit.
- 4.2 Due to the recommendation for refusal on other grounds, this HRA AA was not undertaken at planning application stage and therefore Natural England were not consulted – there was no HRA AA on which to consult them.
- 4.3 As the Inspector will be aware, since the refusal of this application, on 16 March 2022 Natural England updated their advice regarding Water Quality and achieving Nutrient Neutrality. There is now a new National Generic Nutrient Neutrality Methodology and updated Nutrient calculator. Therefore, the Nitrogen Budget submitted at application stage is now out of date and no longer uses the most up to date scientific information.
- 4.4 Havant Borough Council has updated its Position Statement and Mitigation Plan for Nutrient Neutral Development, May 2022, and is now offering updated off-site mitigation at Warblington Farm. Please see the LPAs website for the latest updates and relevant updated documents on Nutrient Neutrality:

[Nutrient neutrality - what developers need to know | Havant Borough Council](#)

- 4.5 As Competent Authority it will be for the Inspectorate to now ensure the likely significant effects on the Solent European Sites arising from the appeal scheme are adequately mitigated to comply with the Conservation of Habitats and Species Regulations 2017 (as amended).
- 4.6 It is the opinion of the LPA that the development, without appropriate mitigation packages secured via Unilateral Undertaking, would adversely affect the integrity of the Habitats sites and as such, in accordance with paragraph 182 of the NPPF the presumption in favour of sustainable development does not apply. Footnote 7 of criteria (i) of paragraph 11 (d) of the NPPF also includes Habitat sites. The lack of mitigation for these Habitat sites remains, giving a clear reason for refusing development as per paragraph 11 d) (i), and as such the fourth reason for refusal is considered to remain relevant to the appeal and has not been overcome.

5.0 COMMENTARY ON GROUNDS OF APPEAL

- 5.1 The Appellant has only provided brief responses to each of the reasons for refusal. With respect to the first reason concerning character of area, it is alleged that the site was occupied by a prominent garage – but in fact, by looking at the history photos on Google maps, it is clear that the garage was a modest flat roofed structure, set back, typical of the garages in the area. It had a car port structure erected in front, but was not a prominent feature, rather an appropriately subservient ancillary building.



- 5.2 The appellant acknowledges that the proposed dwelling would be sited just 1m from the SE and SW boundaries. However, other dwellings in the area are generally more spaciouly sited in a linear fashion, whereas the footprint of the appeal dwelling would be pushed into a rear corner of the site. This corner siting, within 1m of the site's boundaries would give the impression of being squeezed in, and at odds with the more traditional pattern and layout of spacious linear development in the area.
- 5.3 The LPA acknowledges that the architectural design of the proposed dwelling demonstrates strong characteristics of the surrounding dwellings, and visually would be likely to be appropriate on a different, more spacious plot in the area. It is the severed plot and its resultant small size that requires the dwelling to be sited in a corner, that cumulatively results in a cramped and confined development that is considered out of character with the local context, and contrary to policy CS16 clause c).
- 5.4 With respect to the second reason for refusal the appellant has alleged there would be sufficient distance to mitigate disruptive noise. The LPA is of the opinion that in standard linear development the different uses of dwellings and garden areas are generally aligned i.e. back doors and patio areas are roughly side by side, representing compatible uses, with the rear garden beyond providing an open aspect and quiet outlook over ancillary outbuildings, sheds etc. The proposed siting would jar with this arrangement and introduce a new dwelling, with its bi-fold dining room doors, patio area and associated activity, adjacent the middle and rear section of number 67's garden.
- 5.5 As such the outlook from, and quiet amenity of number 67, would be affected, particularly as the appeal site is slightly higher, resulting in a dominant structure and use adjacent a shared boundary that currently has an open aspect. The LPA are of the view that the juxtaposition of layout and uses would result in a mass and bulk of development that would be overbearing and enclosing and result in noise and disturbance harmful to the amenity of, in particular number 67, contrary to policy CS16, clause e).
- 5.6 The third reason for refusal relates to drainage matters and, had the application been acceptable in all other matters, would have required further drainage details to be submitted before any permission could be issued. This is considered a fundamental issue in its own right that cannot be left to condition. Therefore, the appellants statement that a 'detailed drainage plan would be produced to ensure compliance' – presumably aimed at Building Regulations, is not considered sufficient. The site needs to first be investigated to check for the presence of the potential drainage channel before any development that might increase surface water flooding elsewhere is considered. There may well be a technical solution to the drainage issue, but it may affect the siting or deliverability of the development, and as such the issue is considered an appropriate reason for refusal.
- 5.7 The fourth reason for refusal relates to the absence of the Habitats mitigation, see section 4 above, and requires an up-to-date nitrogen budget and occupancy calculator to inform an HRA and AA, with resultant appropriate financial mitigation paid with accompanying Unilateral Undertaking. None of this has been undertaken and an ecologist and biodiversity report alone, as suggested by the appellant, would not suffice to mitigate the likely significant effect from the increased recreational pressure and harm to water quality.
- 5.8 Generally the LPA considers its comments within the delegated report are sufficiently detailed to cover the 4 issues raised by the 4 reasons of refusal, and the Inspector is respectfully requested to refer to that report.

6.0 CONCLUSIONS

- 6.1 In the absence of any significant new information submitted at appeal stage, the LPA consider their original delegated report covers all the necessary issues. Together with the updates provided above, this brief statement is considered sufficient to represent the LPA's statement of case.
- 6.2 The four reasons for refusal in the decision notice dated 22/10/21 cover the 4 main issues relating to character of area, residential amenity, drainage and Habitats Regulations. It is considered that there is identified harm within each issue that is contrary to the relevant adopted policies and NPPF. Since one of the issues cover areas and assets of particular importance as defined by

footnote 7 of paragraph 11 d), (i.e., habitats sites) then the presumption in favour of permission is negated by the identified clear reasons for refusing the development. Paragraph 182 of the NPPF is clear that in such circumstances where there is no up to date Appropriate Assessment then the presumption in favour of sustainable development does not apply.

- 6.3 The Inspector is therefore respectfully requested to dismiss the appeal. In the event that the Appeal is allowed, a list of recommended conditions is provided.

APPENDICES

- (A) Borough Map and 1:1250 Location Plan
- (B) Regulation 27 Statement of Fact Document