

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

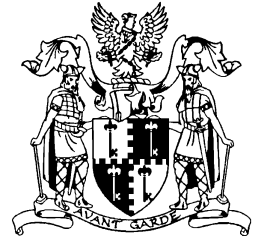
**STATEMENT OF
HAVANT BOROUGH COUNCIL**

Tamarisk, Ferry Road, Hayling Island, PO11 0DG

Local Planning Authority Reference: APP/15/01355

**Planning Inspectorate Reference:
APP/X1735/W/16/3158213**

HAVANT BOROUGH COUNCIL



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MRS LISA MONTAGUE AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE - Demolition of existing dwelling and construction of new dwelling with associated landscaping and improvements to sea-defences at Tamarisk, Ferry Road, Hayling Island, PO11 0DG

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LPA REF: APP/15/01355

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The site lies in West Hayling at the western end of Ferry Road and comprises a vacant 2 bedroom single storey dwelling with a water frontage to the north. It is the last in a line of mainly 2 storey development beyond which lies the compound and offices to Langstone Harbour Board. To the south lies the Ferry Boat Inn, public toilets and car park with Sinah Common and the golf course beyond. The site is located outside of the urban area for Development Plan purposes, and within the Coastal Zone and Flood Zone 2 and adjacent to the Langstone Harbour Site of Special Scientific Interest (SSSI), the Chichester and Langstone Harbours Ramsar and Special Protection Area (SPA) and the Solent Maritime Special Area of Conservation (SAC).
- 1.2 The existing bungalow sits back from the road on a long and narrow, slightly wedge shaped plot of some 0.07 ha. It has a chain link fence and gates to Ferry Road and a tall concrete panelled wall along its western boundary to the boatyard. Onto the harbour, it has a slipway situated between the Hampshire County Council pontoon to the west and a privately owned pontoon serving the neighbouring house immediately to the east.
- 1.3 The adjacent dwelling to the east comprises the Deck House, a two storey dwelling constructed under planning permission 03/61550/004. This property has its main aspects to the front and rear and incorporates front and rear balconies.

2.0 PLANNING HISTORY

- 2.1 None for application site

The Deck House APP/03/61550- replacement dwelling. Permitted 2003

3.0 THE APPLICATION

- 3.1 The application the subject of this appeal seeks permission for the demolition of existing dwelling and construction of new dwelling with associated landscaping and improvements to sea-defences.

3.2 The application was determined by committee on the 4 may 2016 for the follow reason;

The proposed development would result in excessive building bulk adjacent to an existing property, detrimental to the visual outlook and amenities of the occupiers of this property by reason of overbearing impact, loss of light to ground floor accommodation and loss of privacy to private amenity space. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

4.0 PLANNING POLICY

4.1 The Development Plan comprises the Havant Borough Local Plan (Core Strategy) 2011 and the Havant Borough Local Plan (Allocations) 2014. In addition the National Planning Policy Framework sets the national framework for the consideration and determination of planning applications.

4.2 The following policies of the Havant Borough Local Plan (Core Strategy) 2011 (HBLP (CS) 2011) are considered relevant:-

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)
DM9	(Development in the Coastal Zone)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

And to be particularly relevant to the determination of this appeal is:

CS16 1e) Which states:-

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

More details in relation to the relevance of this policy will be provided in part 6 of this appeal statement.

5.0 REPRESENTATIONS

5.1 The application which is the subject of this appeal was published in accordance with the Council's adopted publicity procedures, including neighbour notification letters

and a site notice was posted. Copies of the representations received have been forwarded with the questionnaire.

5.2 Consultations were carried out and consultation replies were received from the following:

Natural England Government Team

Chichester and Langstone Harbours SPA and Ramsar Site and Solent Maritime SAC: In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- the proposal is not necessary for the management of the European site
- that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment

SSSI: No objection – with conditions

Protected Species: We have not assessed this application and associated documents for impacts on protected species.

Environment Agency

No objection in principle to the proposed development; condition recommended relating to adherence to submitted Flood Risk Assessment.

The proposed development has been considered a replacement dwelling of a single residential property with another single residential property. The proposed development is located within flood zones 2 and 3. The proposed development raises finished floor levels from 3.01mAOD to 3.70mAOD and so, provides betterment with respect to flood risk mitigation.

However, it must be noted that the predicted sea level for 2115 is 4.5m AOD. Therefore, over its lifetime the proposed development could experience flood depths of 1.77m. Safe refuge against the predicted 2115 sea level is available within the property, however, safe access and egress is unlikely. The applicant proposed use of flood warning procedures and an evacuation place but may wish to consider further flood resistance and resilience measures.

Langstone Harbour Board

The Board's Planning Sub Committee has considered this application and has no objections to the proposals but request that major construction work takes place outside the wintering bird season (Oct – March inc).

Officer comment: This would be covered by the conditions requested by Natural England.

Engineer

No comments received

County Minerals

No comments received

Hampshire Wildlife Trust

No comments received

Royal Society for the Protection of Birds

No comments received

Building Control

Unprotected areas on the east elevation would exceed permitted limits due to the timber cladding.

Officer comment: The timber cladding on the east elevation would be treated with a suitable flame retardant and fire protection coating to meet Building Control requirements

Coastal Engineering

I can confirm that the Eastern Solent Coastal Partnership has no objection to the above proposal. The improved coastal defences, raised floor levels and other resilience and resistant measures mitigate the flood risk appropriately. It should be noted that access to the site via Ferry Road may be limited during an extreme tidal flood event (in particular the locality adjacent to 'the Kench').

County Ecologist

Protected and notable species within 50m

The application site is immediately adjacent to Langstone & Chichester Harbours SPA and Ramsar, the Solent Maritime SAC and Langstone Harbour SSSI. As such there is potential for any construction-related activities to impact upon these sites e.g. through disturbance of overwintering bird species, deposition of dust, waterborne pollutants etc. Any application documents will need to provide sufficient information to demonstrate that these issues have been understood and addressed.

The proposals entail the demolition of the existing dwelling. Although unlikely, there may be potential for legally-protected species such as bats and birds to occur and be affected. Suitable information should be provided. In common with other similar areas on Hayling, any garden grassland may support populations of notable plant species such as orchids.

A Phase 1 ecological survey of the site: this including an assessment of the potential for the site to support protected species is required.

Officer comment: A preliminary Ecological Appraisal, comprising the Phase 1 survey and desktop study, has been undertaken to ascertain the potential for protected habitats and species to be present within the site. Additionally a Phase 2 reptile survey was undertaken to establish the status of these species on the site. The report concludes that the site supports habitats of low ecological value. There is limited suitable habitat for nesting birds; the results of the reptile survey suggest reptiles are absent from the site. The site offers no suitability for any other protected species.

Development Engineer - Highways

No adverse comments

Waste Services Manager

I have no concerns over waste collection regarding this planning application.

- 5.3 Copies of the consultation replies have previously been forwarded to The Planning Inspectorate.

6.0 PLANNING CONSIDERATIONS

- 6.1 The planning application raised a number of considerations which are set out in the committee report, however, having regard to the relevant policies of the development plan, and the reason for refusal given in the Decision Notice dated 4th May 2016, it is considered that the main issue for consideration in respect to the appeal is:
- 6.2 Whether the proposed development would result in an adverse impact on the amenities of the adjacent dwelling to the east at the Deck House and in particular overbearing impact, loss of light to ground floor accommodation and loss of privacy to private amenity space.
- 6.3 The Deck House comprises a two story dwelling built under planning permission APP/03/61550 (replacement dwelling. Permitted 2003). The existing windows in the west elevation of The Deck House facing the application site comprise a bathroom and toilet window. These windows serve no-habitable rooms and as such the impact on these rooms is considered acceptable.
- 6.4 The windows to the main habitable rooms face the front and rear and comprise at ground floor an open plan living area to the rear and a study to the front, with bedrooms at first floor. Both the living area and the study sit beyond the roof overhangs to a balcony and porch respectively.
- 6.5 In terms of the impact of the appeal development the main impact relates to the ground floor habitable rooms, the first floor rear balcony and the rear amenity area.
- 6.6 The proposed dwelling would be of contemporary design with the main living accommodation located at first floor to take advantage of the sea views. It would be sited between 1m and 1.5m from the side boundary with the Deck House, and the length of 2 storey development along this boundary would be in the order of 20m. Whilst this is similar to the overall length of the Deck House, the western part of the Deck House adjacent the boundary with the appeal site is set in from the boundary. The appeal proposal's east elevation onto the Deck House is unbroken and would form a continuous length of construction which would extend beyond both the front and rear of the western elevation of the Deck House with a further projection at single storey of 4 m to the rear. The height of the two story element would be 6.6m and that of the single storey element would be 3.6 m. The Deck House has a two storey height of approx. 4.9m. Hence the proposed 2 storey element would be 1.7m higher than the eaves of The Deck House (equivalent to half a storey higher) and that of the single storey element would be only 1.3m below that of the two storey eaves height of the Deck House. Additionally the eastern elevation incorporates a substantial chimney which has a height of 7.7m, i.e. nearly 3m above the eaves of the Deck House. It is these dimensions for both the appeal proposal and the Deck House, together with the associated raised floor level at first floor and the upside down nature of the proposed development which are relevant in respect to the impact on the amenities of the Deck House.
- 6.7 In terms of the impact in respect to outlook the appeal development owing to its length, height and projection beyond the west elevation of the dwelling at the Deck House would have an overbearing impact on that property. The residents of the Deck House in their day to day occupation of the dwelling would be conscious of the extensive built form of the proposed east elevation. This would be particularly apparent from the rear balcony and the amenity area below it and beyond, where this would replace the current open outlook to the west. As such the proposal would

result in unacceptable harm to the amenities of the neighbouring properties from loss of amenity contrary to Policy CS16 1e)

- 6.8 In respect to privacy this relates to the impact of the proposed balcony on the amenities of the Deck House. It is noted that the depth of the balcony has been reduced, the main area lies to the west and the stairs relocated. However, the rear area would be located only 4.5m from the side boundary with the Deck House and would allow direct overlooking of the balcony and rear amenity area to the Deck House from an elevated level. Whilst it is noted that the rear balcony is of relatively modest depth, its depth which is similar to that of the balcony to the Deck House would allow for outdoor furniture and given the upside down layout of the appeal proposal with the living room leading onto the balcony the use of the proposed balcony would be more than occasional and the impact on privacy would be detrimental. As such the proposal would result in unacceptable harm to the amenities of the neighbouring properties from loss of amenity contrary to Policy CS16 1e)
- 6.9 In terms of the impact in respect to light, the windows in the west elevation serve non-habitable rooms and the impact is considered acceptable. In respect to the ground floor habitable room windows, the main source of light to the living rooms is from the rear facing windows. The design of the Deck House is such that light entering this window is impacted by the overhang of the balcony, and consequently the living area is relatively dark. It is noted that the standard 45 degree test is satisfied, however, both the Deck House and the proposed dwelling can be considered non-standard in that the ground floor windows to the Deck House are located below an overhanging balcony and the proposed dwelling has high eaves levels. The proposed 2 storey eaves height is 1.7m higher than that of the Deck House and the proposed single storey eaves would be only 1.3m below that of the two storey eaves height of the Deck House. Given this relationship the 45 degree guide whilst useful cannot be applied in isolation of the details of the proposal and the context. The proposed development would extend 2.5 m at 2 storeys and a further 4m at single storey beyond the living room windows. Given the height of development and this projection the impact on light would be significant, especially given the already low level of light entering the living room, and as such would be detrimental to the amenities of the Deck House. As such the proposal would result in unacceptable harm to the amenities of the neighbouring properties from loss of amenity contrary to Policy CS16 1e)
- 6.10 Similar considerations apply to the study, but in this case the projection of the proposed development is greater, extending 15m forward of the study window.

COMMENTS ON THE APPELAANT'S STATEMENT

- 7.1 Paragraph 4.8 refers to the planning conditions in respect to the Deck House, and whilst these required a screen to the balcony and tree planting, these have not been provided and could not now be enforced.
- 7.2 Paragraph 5.9 and 6.4 The comparison of foot print and volume needs to be related to proximity and height as set out in the Council's statement to provide a full assessment of the impact.
- 7.3 Paragraph 6.3 refers to the proposed eaves being below the ridge of the deck house. Whilst this is noted, the Deck House has a shallow hipped roof sloping away from the boundaries and of limited bulk and therefore a more relevant comparison is the eaves heights which are considered in the Council's statement.

8.0 CONCLUSION

- 8.1 It is considered that the proposal, which seeks permission for demolition of existing dwelling and construction of new dwelling with associated landscaping and improvements to sea-defences, for the reasons set out above would be detrimental to the amenities of the Deck House and would not accord with policy and CS16.1e) of the Local Plan.
- 8.2 The Inspector is respectfully requested to dismiss the appeal



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List of Suggested Conditions:

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

Proposed site location plan and block plan 1505-PP-100-RevA
Existing site plan 1505-PP-110
Proposed site plan 1505-PP-150 Rev A
Proposed ground floor plan 1505-PP-200-RevA.
Proposed first floor plan 1505-PP-201-RevA.
Proposed ground roof plan 1505-PP-202-RevA.
sections 1505-PP-300-RevB.
East and west elevations 1505-PP-400-RevB,
North and south elevations 1505-PP-401-RevB

Reason: - To ensure provision of a satisfactory development.

- 3 The development shall not be occupied until further details of the landscaping works shown on the approved plans have been submitted to and approved in writing by the Local Planning authority. The landscaping shall be carried out in accordance with the approved details and in accordance with any timing / phasing arrangements approved or within the first planting season following first occupation of the development hereby permitted, whichever is the sooner. Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become 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 to those originally required to be planted.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11, CS16, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 No part of the development shall be first occupied until details of the type, siting, design and materials to be used in the construction of all means of enclosure including boundaries, screens or retaining walls, have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details. The structures shall thereafter be retained.
Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 5 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extension or building alterations shall be constructed within the curtilage of the site without the prior approval of the Local Planning Authority.
Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 6 The car parking, servicing and other vehicular access arrangements shown on the approved plans to serve the development hereby permitted shall be made fully available for use prior to the development being first brought into use and shall be retained thereafter for their intended purpose.
Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 7 Notwithstanding any description of materials in the application no above ground construction works shall take place until samples and / or a full specification of the materials to be used externally on the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Only the materials so approved shall be used, in accordance with any terms of such approval.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 8 The development hereby permitted shall not be first occupied unless and until the existing dwelling has been demolished and all resultant materials removed from the site unless otherwise approved in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.
- 9 Notwithstanding the submitted plans the rear balcony/first floor terrace hereby permitted shall not be brought into use unless and until details of a 1.8 metre high screen to the eastern side has been submitted to and agreed in writing by the local planning authority and subsequently erected in accordance with the approved details. The screen shall thereafter be maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning

Authority.

Reason: To protect the amenities of adjoining residents and uses having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 10 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) October 2015 (reference 2398) which was prepared by Ambiental for John Pardey Architects and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set at 3.7m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason To reduce the risk of flooding to the proposed development and future occupants and having due regard to policy CS15 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 11 No percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) shall be undertaken during the bird overwintering period (i.e. October to March inclusive).

Reason: To ensure the conservation status of the Chichester and Langstone Harbours SPA and SSSI, and Solent Maritime SAC and having due regard to policy CS11, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 12 Prior to the commencement of the development hereby approved, a Construction Environmental Management Plan over seen by a qualified ecologist shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of dust, pollution of the harbour and waste disposal resulting from the site preparation, groundwork and construction phase of the development. Once approved, the Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To ensure the conservation status of the Chichester and Langstone Harbours SPA and SSSI, and Solent Maritime SAC and having due regard to policy CS11, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 13 Any works to the sea wall shall not encroach on to the SPA, both in final design nor during construction

Reason: To ensure the conservation status of the Chichester and Langstone Harbours SPA and SSSI, and Solent Maritime SAC and having due regard to policy CS11, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Borough of Havant

