
Site Address:	3 Bembridge Drive, Hayling Island, PO11 9LU		
Proposal:	Erection of 1No. 1bed ground floor flat.		
Application No:	APP/16/00971	Expiry Date:	23/11/2016
Applicant:	Miss Fitzgerald		
Agent:	Mr Critchley	Case Officer:	Heather Lealan
	Martin Critchley, Architect		
Ward:	Hayling East		

Recommendation: **REFUSE PERMISSION**

1 Site Description

3 Bembridge Drive, Hayling Island is a semi detached maisonette located on the corner of Bembridge Drive and Bembridge Court. The building is two storey with a pitched and hipped roof. Access to the ground floor flat is taken from an entrance door within the front elevation and to the first floor flat from external staircase and first floor door to the side elevation. The property has a small level of amenity space for both units.

The site lies partly within a flood zone 2.

2 Planning History

No previous planning permissions relevant to this application

3 Proposal

Erection of 1No. 1bed ground floor flat.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Local Plan (Core Strategy) March 2011

CS14	(Efficient Use of Resources)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

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)

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control

No adverse comments

Development Engineer

No adverse comments

Waste Services Manager

No concerns

Crime Prevention

No comments

Public Spaces

No comments

Environment Agency

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and recommend refusal on this basis for the following reasons:

Reason The FRA submitted with this application (dated September 2016; produced by Martin Critchley) does not comply with the requirements set out in paragraph Section 9 of the Planning Practice Guidance to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change or Policy CS15 Flood and Coastal Erosion Risk of the Havant Borough Council Core Strategy 2011

The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to:

1. Take the impacts of climate change into account
2. Consider how people will be kept safe from flood hazards identified
3. Consider the effect of a range of flooding events including extreme events and overtopping or breaching of the existing defences on people and property.
4. Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.

Sequential Test

Our response to this planning application is on the understanding that Havant Borough Council is satisfied that the Sequential Test has been adequately demonstrated to the requirements set out in the National Planning Policy Framework (NPPF) Paragraph 101 and Section 5, Paragraph 019 of the NPPF Planning Practice Guidance.

This means that before proceeding to a determination, Havant Borough Council must apply the Sequential Test; that is, it must consider whether the applicant has demonstrated and sufficiently justified that no alternative sites are available in a lower flood risk zone.

Our comments in relation to elements of the Exception Test do not negate the requirement to first undertake the Sequential Test. The NPPF Planning Practice Guidance makes it clear that flood resistance and resilience measures should not be used to justify development in inappropriate locations.

Flood Risk

The proposed development is located within flood zone 2. It is a new dwelling and so results in an increased vulnerability in the area.

The present day extreme sea level is 3.3mAOD, rising to 4.4mAOD with climate change in 2115. The proposed finished floor levels are below the 2115 design level and include no freeboard allowance. This does not appear to be considered in the submitted flood risk assessment.

It is not clear if the proposed development directly benefits from the coastal defences at Eastoke Point or if the 1 in 200 year standard of protection offered, is to present day levels or include an allowance for climate change. From the submitted location plan, the proposed development may be outside of the area of benefit from the Eastoke Point coastal defences.

Whilst internal property flooding from an extreme high tide is likely to be time limited, the flood risk assessment does not consider the flood risk should these defences breach or overtop. In these scenarios the onset of flooding is likely to be fast with no warning time and it is not clear what resilience measures are in place should this happen.

We would recommend that an emergency and flood response plan is produced for consideration by the local planning authorities emergency planners as the proposed development could be subject to a depth of internal flooding, with no dry internal space to retreat to. Access routes may also be subject to greater flood depths than the internal property, thus restricting movement of people. The emergency planners will need to determine if the risk over the lifetime of the proposed development and resistance/resilience measures are acceptable.

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Planning Practice Guidance to the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Coastal Engineering

I can confirm that the Eastern Solent Coastal Partnership (ESCP) have no objection to the proposed development.

The site is currently located within Flood Zone 2 (1 in 1000 year/0.1% annual probability of tidal flooding), and is expected to do so until at least the year 2055. As a result of predicted climate change, it is expected that the proposed development site will be located within Flood Zone 3 (1 in 200 year/0.5% annual probability of tidal flooding) by the year 2085.

The proposed ground floor slab level for the new buildings is 4.3m AOD, as outlined in the Flood Risk Assessment (FRA) submitted. This is above the predicted 4.1m AOD 1 in 200 year flood level for Chichester Harbour for 2085. Whilst the predicted 1 in 200 year tidal flood level for Chichester Harbour for the year 2115 is 4.5m AOD, the

progressive nature of tidal flooding means there should be sufficient warning for occupants of the property to safely evacuate in the event of extreme tidal flooding. It should be noted that at this location there is a risk of wave and spray overtopping of the beach and coastal defences. This has in the past resulted in surface water flooding of the road network including Bembridge Drive, Culver Drive and Southwood Road in the local vicinity to the site. Should a similar event occur it is likely that access to and from the property may be affected. More information on the extent of this flooding can be sourced from the Partnership for Urban South Hampshire Flood Risk Assessment and is contained within the Historic Flood Map layer (<http://maps.hants.gov.uk/push/default.aspx>).

Eastoke Beach Management Works:

The ESCP are in the process of updating coastal defences at Eastoke. Upon completion, the defences will offer a 1 in 200 year standard of protection (SoP) against tidal flooding, and will be of direct benefit to this development.

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: 14

Number of site notices: One

Statutory advertisement: Not applicable.

Number of representations received: 1

Summary;

a) It would be preferable not to have the flats at all but if it is permitted request that 1.8m CBF is installed along the rear boundary to prevent overlooking from the use of the footpath into No.5 Bembridge Court.

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 effect on the streetscene;
- (iii) Effect on neighbouring properties and amenities of future occupants
- (iv) Highway Implications
- (v) Flooding issues
- (vi) CIL and SRMP considerations

- (i) Principle of development

7.2 The site is within an urban area as identified by the Havant Borough Local Plan, therefore the proposal is acceptable in principle provided it meets the development criteria as considered below.

(ii) Appropriateness of design and effect on streetscene

- 7.3 The proposed dwelling is single storey in height and its roof form echoes that of the main building being hipped and pitched. The immediate locality has a mix of dwelling types from single storey to two storey/ detached to semi-detached plots, detached plots within Bembridge Court. As such it is not considered that the development would be detrimental to the amenities of the area or contrary to the Borough Design Guide and Policy CS16 (parts c and e) of the Havant Borough Local Plan (Core Strategy) 2011.

(iii) Effect on neighbouring properties and the amenities of future occupants

- 7.4 The proposal would result in new dwelling which will have access to a degree of shared amenity space with the other existing units within the plot. It is considered that the distances of separation from neighbouring properties are acceptable. Whilst concerns have been raised from the resident at No.3 Bembridge Court; it is considered that any issues of overlooking through the use of the shared footpath within the application site could be overcome through the provision of appropriate boundary screening. The only proposed window facing this neighbouring dwelling is one that serves a bathroom.

(iv) Highway Implications

- 7.5 The Council's Development Engineer has raised no objection to the proposal on the grounds of the information provided within the application form and the access and parking layout.

(v) Flooding issues

- 7.6 Part of the site is located within a flood zone 2 as identified on the Environment Agency flood zone map and the proposed development of an additional dwelling house is classified as a More Vulnerable Use by the EA. Paragraph 101 of the NPPF requires that Local Planning Authorities steer new development to areas with the lowest probability of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be undertaken by the LPA in this regard to decision making. The advice contained within the EA's Demonstrating the flood risk Sequential Test for Planning applications, has been followed to this regard to test the planning application subject of this report.
- 7.7 The Sequential Test does not need to be applied for individual developments on sites which have been allocated in development plans through the Sequential Test, or for applications for minor development, (for example extension to existing dwellings), or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site). However, the site subject of this report is categorised as a windfall site and the EA advise that, in the absence of a flood risk windfall policy it may be possible (where the data is sufficiently robust) for the LPA to apply the Sequential Test taking into account reasonably available sites, historic windfall rates and their distribution across the district relative to Flood Zones. Where historic and future trends evidence indicate that housing need in the district through windfall can be met largely/entirely by development outside high flood risk areas, this may provide grounds for factoring this into the consideration of 'reasonably available alternative sites at the planning application stage.

- 7.8 With regard to identifying future housing sites to meet the housing need within the Borough, the LPA has produced and published a Draft Local Plan Housing Statement (July 2016). The Statement has been subject to a public consultation process and is due to be considered by Cabinet in December 2016. It has been produced in light of the Objectively Assessed Housing Need Update and the South Hampshire Spatial Position Statement, both published by the Partnership for Urban South Hampshire (PUSH) on 7 June 2016 and in light of the requirements of the National Planning Policy Framework (NPPF), most importantly the key requirement that Local Planning Authorities must boost significantly the supply of housing. In order to achieve this, the NPPF also requires Local Planning Authorities to keep Local Plans up-to-date and review them to respond flexibly to changing circumstances, in this case a change in the need for new homes.
- 7.9 The Local Plan Housing Statement sets out the direction of travel for the preparation of the new Havant Borough Local Plan and how sustainable greenfield sites outside of the urban area will be considered prior to the adoption of the new Havant Borough Local Plan. Once adopted by the Borough Council, it also provides a clear position statement as to which sites the Borough Council considers constitute sustainable development under the NPPF. The housing statement provides a means for the Council and communities to manage housing need and react quickly to prospective planning applications and appeals.
- 7.10 In *Hunston (R (Hunston Properties Ltd) v SSCG and St Albans City and District Council* [2013] EWCA Civ 1610, the Court of Appeal held that it was improper to blame a local planning authority if the OAN produced a shortfall in the absence of an up-to-date Local Plan: "Planning decisions are ones to be arrived at in the public interest, balancing all the relevant factors and are not to be used as some form of sanction on local councils. It is the community which may suffer from a bad decision, not just the local council or its officers."
- 7.11 This approach has been reinforced by a Direction issued by the Secretary of State in the recent determination of an appeal at Sewell Park in Hertfordshire, (APP/B1390/A/12/2180486 & APP/B1930/A/13/2201728). In refusing outline planning permission for 116 dwellings and 72 bed care home, the Secretary of State agreed with the Sewell Park Inspector concluding "it will be for the local plan examination process to establish the accuracy, credibility and plausible nature of the assumptions applied" despite the Council being unable to demonstrate a five year supply of housing land. At paragraph 114, the Inspector also comments "... given the extent of the housing land supply available, this is not of great significance as there has been substantial progress in the production of the plan and a clear timetable towards adoption." (IR14).
- 7.12 With the adoption of the Local Plan Housing Statement, the Borough Council will be able to demonstrate at least 4.42 years supply of housing with the delivery of 'early release sites. As such, the Borough's only modest shortfall against the five year housing requirement together with the steps being taken to bring the Local Plan up-to-date must be considered in the overall planning balance in the determination of planning applications.
- 7.13 Therefore, the individual merits of development proposals must continue to be considered on a case by case basis having regard to the three mutually dependent dimensions of sustainable development: social, economic and environmental in accordance with paragraphs 8, 9 and 14 of the NPPF and the policies which apply

locally. It is considered that the provision of a further new dwelling within flood zone 2 cannot be justified in this case as there are sequentially better sites available, and the provision of housing within this site would not be sustainable with regard to the environmental impact. An exception test is not required as set out in table 1 and 3 of the technical guidance of the NPPF.

7.14 The Environment Agency has also objected to the submitted FRA as it they consider that it fails to fails to:

- 1. Take the impacts of climate change into account*
- 2. Consider how people will be kept safe from flood hazards identified*
- 3. Consider the effect of a range of flooding events including extreme events and overtopping or breaching of the existing defences on people and property.*
- 4. Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.*

The EA have requested that the lack of an acceptable FRA should form a reason for refusal.

7.15 The Council's Coastal Team have advised that the Eastoke Beach Management Works are in the process of updating coastal defences at Eastoke. Upon completion, the defences will offer a 1 in 200 year standard of protection (SoP) against tidal flooding, and the Coastal Team consider that this will be of direct benefit to this development. However, at this time the site remains within an identified flood zone 2 and the EA has stated that it is not clear if the works will change the designation of this site and so at this time this application is considered to be premature. The agent to the application has been advised of this matter.

(vi) CIL and SRMP considerations

7.16 The CIL rates to be applied to development are set out in the Havant Borough Community Infrastructure Levy Charging Schedule, which was adopted by the council on the 20th February 2013. This followed two public consultation exercises and an Examination into the Charging Schedule by an independent Examiner. The Examiners Report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provided an appropriate basis for the collection of the levy in the borough. The levy is charged at £100 per square metre (plus indexation) on new floorspace (measured as gross internal area).

7.17 It is considered that there is a CIL liability for this site. The agent has completed the CIL planning form and confirmed that the net additional gross internal floor space will be 43 sqm and as such this will require a CIL payment of £5,163.84. The applicant has been advised of this sum accordingly.

7.18 This development would increase the number of dwellings within the 5.6km zone identified as significant in potentially increasing recreational pressure on the Solent SPA. Natural England's advice in regard all new housing development within this zone is that it is likely to have a significant effect on the SPA. The measures of mitigation adopted by the LPA at the end of June 2014 requires a payment of £172 per dwelling to the Solent Recreation Mitigation Partnership. This application agent is aware of this payment and the applicant may choose to pay and enter into an agreement should they choose to appeal the decision.

8 Conclusion

- 8.1 The proposed development within the side garden area of 3 Bembridge Drive should be refused on the grounds of the flood vulnerability of the site and non-payment of SRMP contribution. The site is a windfall site situated within Flood Zone 2 and the development proposed is classified by the Environment Agency as a More Vulnerable Use. The National Planning Policy Framework requires that the Local Planning Authority undertake a Sequential Test to steer development to areas with the lowest probability of flooding. It is considered that there are sequentially better sites within the Borough and that the LPA is currently updating the Local Plan to establish an achievable level of housing supply. Therefore, there is no overriding justification for the development of an additional dwelling within the site which is defined as having a probability of flooding and would result in an unacceptable risk to life and property from tidal inundation. As such, the proposal would be contrary to the provisions of the National Planning Policy Framework and Policy CS15 and DM24 of the Havant Borough Local Plan (Core Strategy) 2011.

9 RECOMMENDATION:

That the Head of Planning be authorised to **REFUSE PERMISSION** for application APP/16/00971 subject to the following reasons

- 1 The site is a windfall site situated within a Flood Zone 2 and the development proposed is classified by the Environment Agency as a More Vulnerable Use. The National Planning Policy Framework requires that the Local Planning Authority undertake a Sequential Test to steer development to areas with the lowest probability of flooding. It is considered that there are sequentially preferable sites within the Borough and an acceptable Flood Risk Assessment has not been submitted. Therefore, there is no overriding justification for the development of an additional dwelling within a Flood Zone 2 which would result in an unacceptable risk to life and property from tidal inundation. In particular it has not been demonstrated that:
 - (1) the proposed development has a safe means of access and/or egress in the event of flooding. Consequently, there would be an unacceptable risk to the health and safety of the occupants in a flood event; and
 - (2) the site is currently not defended to the appropriate standard, taking into account climate change over the lifetime of the development, and no provision is made in the application to improve the existing defences to the required standard.As such, the proposal would be contrary to the provisions of the National Planning Policy Framework and Policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011.
- 2 The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Partnership, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority which seeks to ensure that the provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA. It is therefore contrary to

Policy CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.