
Site Address:	8 Langstone Road, Havant, PO9 1RE		
Proposal:	Variation of Conditions to Planning Permission APP/13/00315 relating to amendments to existing vehicle access.		
Application No:	APP/14/00682	Expiry Date:	12/10/2015
Applicant:	Mr M Holman	Team:	Team 1
	Holman Reading Partnership		
Agent:		Case Officer:	Heather Lealan
Ward:	St Faiths		

Recommendation: **REFUSE PERMISSION**

1 Site Description

- 1.1 No. 8 Langstone Road was a large house that was set in substantial grounds. However, the plot has been previously been divided in accordance with Planning Permission APP/13/00315.
- 1.2 The site, which is located approximately 400m south of the A27, lies within a primarily residential area, adjoining the residential cul-de-sacs of Brookmead Way to the north and The Mallards to the south. The original house, Southbrook, is a large Victorian dwelling house constructed of sand coloured brick with a slate roof. This is located to the north of the site, with the remaining garden area to the southern site section the subject of recent construction activity associated with the development of two detached dwellings and double garages.
- 1.3 The overall site including the two new dwellings under construction is bounded by a mixture of fencing, walling and hedging, and supports a number of mature trees which are covered by a Tree Preservation Order.

2 Relevant Planning History

APP/13/00315

Erection of 2No. 5 bed detached dwellings with garages and associated parking with new access to existing dwelling. (Revised application). Permitted and under construction

APP/14/00331

Variation of Condition 11 and 12 of Planning Permission APP/13/00315 to allow for removal of highway tree to facilitate construction of new vehicular access. The requirement for this application arose when the highway works were commenced and it was identified that a highway tree had been plotted incorrectly on the plans and the RPA would be within the splay of the highway access. HCC Highways then advised that they would only be satisfied for this tree to be removed if appropriate mitigation planting were proposed.

3 Proposal

- 3.1 Variation of Conditions to Planning Permission APP/13/00315 relating to amendments to existing vehicle access. One of the dwellings is now understood to be occupied and the other is still for sale.

- 3.2 The effect of the application is to seek permission for a widened vehicular access to the site from Langstone Road, moving away from the shared access approved under APP/13/00315 with curved boundary wall returns to a wider paired access with squared return walls.
- 3.3 The application is also supported by a tree report addressing tree losses arising from the implementation of APP/13/00315 to date and proposing additional tree planting within the site.

4 Policy Considerations

National Policies

The National Planning Policy Framework

Core Strategies 2011 forming part of the HBLDF

CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
CS9	(Housing)
DM13	(Car and Cycle Parking on Residential Development)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

HCC, Arboricultural Officer -

The submitted tree report is acceptable.

Development Engineer -

I have no adverse comment to this application but the Highway Authority must obtain the permission of the Highway Authority to carry out works on the Highway. A suitable transport scheme for the deed of variation would be CMS 2448 Langstone road cycle link to Hayling Billy.

HBC Solicitor

A deed of variation would be required to ensure an appropriate binding arrangement remains to require the retention of the HCC contribution and the HBC monitoring fee

HCC Developer Contributions Monitoring

Confirmation that the HCC transport payment has been paid.

HBC Developer Contributions Officer

Confirmation that the associated monitoring fee has been paid.

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: 32

Number of site notices: One

Statutory advertisement: Not applicable.

Number of representations received: 1

(a) Widening the access and retaining the curved wall on either side of the entrance would probably interfere with nearby trees. It is important that the widening of the entrance is not permitted, however designed, if it would damage any trees, as so many have been felled in the course of developing the whole site, including Southbrook.

(b) The curved brick wall here is part of the overall quality of the design and should be retained.

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) Protection of Existing Natural Features
- (iii) Parking and Highway implications
- (iv) Design and impact on streetscene
- (v) Other Matters

(i) Principle of development

7.2 The principle of the development of two dwellings within the curtilage of Southbrook has been established through previous planning permission APP/13/00315. The application subject of this report is made under S73 of the Town and Country Planning Act and seeks to vary previous conditions to allow for the redesign of the access into the site to enable a paired access for the dwellings, and will result, in effect, in a new permission for the site if approved. In principle the development of two dwellings on the site remains in accordance with policies CS9 and CS17 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012, subject to the development management considerations below.

(ii) Protection of Existing Natural Features

7.3 The mitigation planting of two new trees to replace others lost in the construction process, of a size and specification as detailed in the submitted tree report of the 12 June has been considered acceptable by the HCC Arboriculturalist.

(iii) Parking and highway implications

7.4 The development engineer is satisfied with the revised access and parking arrangements .

(iv) Design and impact of streetscene

7.5 It is considered that the revised driveway layout will not have a substantial impact on the visual amenities of the streetscene. The changes to the front boundary wall, which incorporate an increase in the aperture of the opening and the use of square, not curved returns, would not be sufficiently detrimental to the amenities of the streetscene to warrant a refusal of this application.

(v) Other Matters

7.6 The original application, which the application the subject of this report seeks to vary under S73 of the Town and Country Planning Act, was subject to a S106 obligation that required a highway contribution for 2 additional new dwellings, total sum to pay £10,914 (indexed linked) with a HBC monitoring fee of £327.42. An acceptable legal agreement was entered into by the owner of the site prior to the determination of the 2013 application. Since the granting of consent for the original application the Borough has adopted CIL, however under the transitional arrangements associated with a S73 application, the requirement for the Transport and Monitoring payments are still necessary to make the development acceptable. (If the applicant were to submit a new full planning application, (rather than the submitted variation of plans), such a proposal would become CIL liable).

7.7 In accordance with planning legislation, a new legal agreement for the application the subject of this report is therefore necessary under S73. This is required so that the obligation can be maintained and attached to what would become a new stand alone planning permission. This can be administered through a Deed of Variation to the original S106, such a Deed must be signed by all parties with an interest in the land. The applicant and agent have been made aware of this requirement but have not provided details of all the current owners of the land and also have not confirmed with the case officer their intentions with regard to proceeding with this matter. The case officer sent both the Applicant and Application Agent an email on the 25 January requesting the new owner details and the signing and returning of a further Post Application Agreement. This was chased with a telephone call to the agents office and a response was requested by no later than Monday 1 February 2016. No response has been received and therefore, as the previously agreed extension of time expired on the 18 December 2015, it must be assumed that there is no longer an intention on the part of the applicant to pursue the S106 Deed of Variation. As such, this application must be recommended for refusal on the grounds that an appropriate binding obligation has not been entered into for this Variation of Condition application.

7.8 Hampshire County Council have confirmed that their records show that the monies, (which were due on commencement of development), have now been paid . It is considered that this contribution is not currently refundable as the applicant has not implemented a previously permitted variation to the plans. The first permitted variation application (APP/14/00331) was submitted to vary the plans with regard to a highway tree; it is considered however that application APP/14/00331 has not been implemented because the highway tree was not planted within the agreed timescale. Furthermore, the revised driveway layout (the subject of the current application) did not form part of this permitted variation. Therefore, it must be concluded that only the original planning permission APP/13/00315 has been implemented, albeit in breach with regard to the revised driveway layout.

7.9 In all other aspects the application is considered to be acceptable.

8 Conclusion

- 8.1 The application is recommended for refusal as the applicant has not entered into an appropriate binding agreement to secure the future retention of the now settled HCC transport contribution and the HBC monitoring fee, which is necessary in connection with this S73 application which in effect seeks to retain the two dwellings constructed on site in association with revised driveway arrangements.
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9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **REFUSE PERMISSION** for application APP/14/00682 for the following reasons:

- 1 The proposal seeks a variation of conditions attached to planning permission APP/13/00315, which was granted permission subject to a Section 106 agreement that secured a Hampshire County Council Transport Contributions Policy payment and associated monitoring fee. If permitted the proposal the subject of this decision would become a stand alone planning permission and, as such, an appropriate binding Deed of Variation to the original Section 106 is required - however, no such Deed of Variation has been pursued by the applicants.

Therefore, the proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Hampshire County Council Transport Contributions Policy, is contrary to the Council's Policy on contributions towards transport infrastructure, under which the original planning permission was granted, which seeks to ensure that the provision is made from new development towards improvements to the transport infrastructure. It is therefore contrary to policies CS21 and DM12 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.