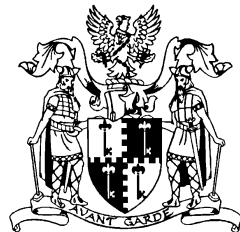


**TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

**STATEMENT OF
HAVANT BOROUGH COUNCIL**



**41-49 Frogmore Lane
Waterlooville
PO8 9QN**

**Local Planning Authority Reference:
APP/15/00228**

**Planning Inspectorate Reference:
APP/X1735/W/15/3127989**

HAVANT BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY Driftstone Developments Ltd against the refusal of Outline Planning Permission for the construction of 4no 3 bed detached chalet style bungalows with approval for access and layout with all other matters reserved, at 41-49 Frogmore Lane, Waterlooville, PO8 9QN

Planning Inspectorate Reference: APP/X1735/W/15/3127989

LPA Ref: APP/14/00228

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The application site is located to the rear of 41 to 49 (odd) Frogmore Lane and currently comprises the rear gardens of these properties. The frontage dwellings are semi-detached single storey properties of traditional character and design, located within long plots on the north-west side of Frogmore Lane.
- 1.2 The parallel rear gardens of further properties in Frogmore Lane lie to the north-east of the site and beyond this, at approximate right angles, the rear gardens of dwellings in Yoells Lane. The rear gardens of dwellings in Yoells Crescent are to the north-west of the site – this road is angled such that garden lengths vary across the dwellings adjacent to the site. Willowside runs to the south-west of the site and the layout of the proposal is such that it would appear as an extension to that road, with dwellings provided to the north-west side of the extended access road and garaging and parking to the south-east side.
- 1.3 The parts of the gardens forming the application site tend to be informal in character and have a variety of boundary treatment. The land in this area slopes down from west to east, with the result that the floor levels of the proposal would sit at a point between those of the existing dwellings in Yoells Crescent and the Frogmore Lane frontage.

2.0 PLANNING HISTORY

- 2.1 The development of Willowside, adjoining the appeal site, was subject to a number of planning applications. The current application site was included in a larger site subject of APP/11/00204, for outline permission for the erection of 6No. houses and 8No. flats, with associated garage blocks and parking. This application related to the rear gardens of 41 to 55 (odd) Frogmore Lane, and was refused for the following reasons:

1: The proposed development, by reason of the height and massing of proposed buildings and the comparatively low proportion of remaining garden space or undeveloped space, would result in a form of development which is out of character and harmful to the predominantly spacious character of much of the established development of the area. Furthermore the elevated position of the buildings relative to existing development in Frogmore Lane would give rise to a dominant and heavily built-up appearance. The proposal is therefore out of keeping with the character of both Frogmore Lane and the surrounding area, contrary to policy CS16 of the Havant Borough Core Strategy 2011,

which forms part of the Local Development Framework and Planning Policy Statements 1 and 3.

2: The proposed development, by reason of the height, massing and proximity of the proposed buildings to the boundaries of No's 6-14 Yoells Crescent, would result in an overbearing and oppressive form of development, and would give rise to overlooking from the first floor, rear facing windows to the detriment of the occupiers of these properties and is therefore contrary to policy CS16 of the Havant Borough Core Strategy 2011, which forms part of the Local Development Framework and Planning Policy Statements 1 and 3.

3: The proposed development, by reason of its relatively high density and proximity to the boundaries of No's 6-14 Yoells Crescent and with small rear gardens, would impact upon the quiet enjoyment of the occupiers of existing residents by reason of increased noise disturbance and activity as a result of the intensification of development at the site. The proposal is therefore contrary to policy CS16 of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and Planning Policy Statements 1 and 3.

4: The proposal, without completion of the appropriate binding arrangements, is contrary to the Council's approved policies which, in accordance with Planning Policy Guidance 17, seek to secure an appropriate provision of play space for new development or alternatively making financial contributions to the provision of improvement of playing space off-site. The development proposed would not provide satisfactory provision of play space, either on the site or off the site, to meet the needs of the new residents. The proposal is therefore contrary to saved policy R17 of the Havant Borough Local Plan 1996-2011 and policies CS1.3 and CS21 of the Havant Borough Core Strategy 2011, which forms part of the Local Development Framework and Planning Policy Statement 1 and Planning Policy Guidance 7.

5: The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Hampshire County Council Transport Policy, is contrary to the Council's Policy on contributions towards transport infrastructure which seeks to ensure that the provision is made from new development towards improvements to the transport infrastructure. The proposal is therefore contrary to policies CS21 and DM12 of the Havant Borough Core Strategy 2011, which forms part of the Local Development Framework and Planning Policy Guidance 17.

6: The proposal does not make any provision for affordable housing and it is not considered that a compelling case has been put forward to justify this lack of provision. As such the proposal contrary to policy CS9 of the Havant Borough Core Strategy 2011, which forms part of the Local Development Framework.

2.2 An appeal against the refusal of the planning application was subsequently dismissed (PINS reference: APP/X1735/A/11/2167404). It should be noted that the contributions subject of refusal reasons 4 and 5 would now be subject of the Community Infrastructure Levy (CIL). In respect of refusal reason 6, the scale of the current proposal is below that for which affordable housing contributions would be sought.

2.3 A current outline planning application (reference: APP/15/00728), for the construction of 4No. detached 3 bed chalet style bungalows on the smaller current appeal site, with approval for access, appearance, layout and scale, and with landscaping reserved, is

currently due to be considered by the Council's Development Management Committee on 3 September 2015. The likely officer recommendation is that the application should be approved. The proposal is fundamentally the same as that subject of this appeal, with further information and commentary provided with a view to overcoming Committee Members' previous concerns.

3.0 THE APPLICATION

- 3.1 The application subject of this appeal was submitted on 24 February 2015, and sought outline planning permission for the construction of 4No. detached 3 bed chalet style bungalows with approval for access and layout with all other matters reserved. The application was refused by the Council's Development Management Committee on 29 May 2015, for the following reasons:

1: The proposal would result in an undesirable form of backland development out of keeping with the character of the locality and detrimental to the amenities of the area. It is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

2: The proposal would result in backland development which is undesirable because of the unsatisfactory access and because of the adverse effect on the occupiers of neighbouring property. It is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

3: The proposed development would constitute an undesirable over-intensive use of the site which would have an adverse effect on the amenities of occupiers of adjoining properties. It is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

4: The proposed development would be likely to result in the loss of acknowledged ecological features, without appropriate mitigation measures having been identified. It is therefore contrary to Policy DM8 of the Havant Borough Local Plan (Core Strategy 2011) and the National Planning Policy Framework 2012.

4.0 PLANNING POLICIES

4.1 National Policies

National Planning Policy Framework (NPPF)

4.2 Havant Borough Local Plan (Core Strategy) March 2011

CS9: Housing

CS11: Protecting and Enhancing the Special Environment and Heritage of Havant Borough

CS16: High Quality Design

CS17: Concentration and Distribution of Development within the Urban Areas

CS20: Transport and Access Strategy

CS21: Developer Requirements

DM8: Conservation, Protection and Enhancement of Existing Natural Features

DM13: Car and Cycle Parking on Residential Development

4.3 Havant Borough Local Plan (Allocations) July 2014

AL1: Presumption In Favour of Sustainable Development

AL2: Urban Area Boundaries and Undeveloped Gaps between Settlements

DM24: Recreational Disturbance to Special Protected Areas from Residential Development

4.4 Supplementary and other Planning Documents

Residential Parking and Cycle Provision (2010)

Housing (2011)

Borough Design Guide (2011)

Developer Contributions: Draft Guide (2013)

5.0 REPRESENTATIONS

Statutory Consultation Responses

5.1 Environment Agency

No bespoke comments.

5.2 Portsmouth Water Company

Consulted but no response received.

5.3 Crime Prevention

Consulted but no response received.

5.4 Arboriculturalist

The supporting arboricultural evidence is comprehensive although generic in bulk content and outlined in the following points:

Some tree loss G1 and G3 containing cypress, acacia and fruit trees is required to facilitate this development. The trees proposed for removal are all of low value and grading and some could have been removed for sound arboricultural reasons regardless of any redevelopment proposals.

From a review of the Tree Protection Plan (TPP) there are a number of trees shown as replacements which should adequately mitigate the loss of any current trees from this site. These trees must be substantial in size – Standards and of a species to be agreed via condition.

Provided that the methodology prescribed in the Arboricultural Method Statement and TPP report is conditioned and strictly adhered to, and the site monitoring exercise is undertaken, I would expect the retained trees to survive the development unscathed and to continue to grow on in the future. Therefore I have no objections to this scheme in arboricultural terms.

5.5 County Ecologist

(A) Initially requested further information regarding proposed translocation of reptiles to the Alver Valley Nature Reserve, Gosport.

(B) Summary of response to further information provided: Previous concerns summarised as follows:
further details of the proposed receptor site are required; and
the agreement of the third party are required;
if the Local Planning Authority is to have confidence that animals will be translocated to a suitable site.

Noted that revised report provided useful information in addressing first concern.

Unfortunately, this information appeared to demonstrate that Alver Valley is not suitable for the reptile population proposed for translocation. At this stage, with the information available, could not recommend that impacts on protected species have been sufficiently addressed.

The Reptile Survey Report identified a slow worm population at the proposed receptor site. As set out in Standing Advice and HGBI Guidance (cited by the Reptile Survey Report), sites with existing populations of the species to be moved are not suitable as translocation sites, as fundamentally translocation should result in no net loss of sites.

The use of Alver Valley as a receptor is considered to result in the currently unjustified net loss of sites and the suitability of the proposed receptor site to support the additional slow worms has not been demonstrated.

5.6 Development Engineer – Highways

No adverse comment. However, would suggest the Local Planning Authority place a condition that the use of the garages be tied to each property. As it appears the road is not to be adopted, consideration should be given to the detailed construction of the road and turning head will and how it will be maintained. Details of the street lighting also need to be provided.

5.7 Landscape Team

Recommend the following landscape conditions:

Submission of detailed planting plans to identify proposed grass areas, tree and shrub planting species, size specification and planting density, together with specification proposals for implementation and after care maintenance.

Submission of proposed tree planting pit details to demonstrate sufficient growing medium volume for successful tree establishment and prevention of future root disturbance to adjacent underground services and hard surfaces.

Replacement of soft landscape material if it dies, declines or is otherwise removed (for 5 years post completion).

Community Involvement

- 5.8 The planning application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications.

5.9 Number of representations received

64 Objections from 59 Addresses

2 Multi-Party Objections covering 20 Addresses (including duplication of the above)

1 Letter of Support

1 Anonymous Objection

5.10 Summary of Objection Issues

- Parking and highway safety
- Noise and disturbance (including during construction)
- Inappropriate height
- Out of character with locality
- Loss of green space/gardens
- Development targets already met in locality
- Overlooking of neighbouring properties
- Overbearing sense of enclosure
- Loss of outlook
- Overdevelopment/intensification
- Visual impact
- Impact on ecology
- No provision for affordable homes or infrastructure
- Outline only so details can be changed
- Flood risk
- Access would have to be via a private road
- Precedent for further development

5.11 Comments on Issues raised

As noted above, the proposal is below the threshold for which affordable housing provision or contributions are required. Infrastructure requirements for the development could be addressed through CIL (at Full or Reserved matters stage) and a Solent Disturbance Mitigation Project contribution (an appropriate Deed and Payment have been received). The site lies within Flood Zone 1 and the proposal should not therefore create a significant flood risk. The need to gain access via a private road, and noise and disturbance during construction, are matters governed by other legislation, and are not therefore material planning considerations. The other issues raised were considered by the Council in determining the planning application.

6.0 PLANNING CONSIDERATIONS

6.1 Having regard to the relevant policies of the development plan and the reasons for refusal of the outline planning application, it is considered that the main issues arising from this appeal are:

- Impact on the character of the locality and amenities of the area.
- Impact on the occupiers of neighbouring properties.
- Impact on acknowledged ecological features.

Impact on the character of the locality and amenities of the area

6.2 It is acknowledged that the development of Willowside altered the previous character of the locality by establishing a line of development to the rear of Frogmore Lane. Furthermore, these dwellings are visible from dwellings to the east and through gaps in houses along Frogmore Lane, as well as those on Lensyd Gardens and Youells Crescent to the rear. The current proposal would consist of buildings that, although of a lower height, would nevertheless have a significant bulk and massing with additional accommodation incorporated within the roof spaces. The buildings would also have limited separation between one another.

- 6.3 The proposal would therefore extend the visually prominent development at Willowside and, in combination with it, would dominate the low-level development along Frogmore Road and materially alter the character of the area. In determining the 2011 proposal, the Inspector considered the then proposed development would significantly further urbanise the area. The current proposal would have the same effect – it is acknowledged that this urbanisation would occur to a lesser degree than with the 2011 scheme, but it would nevertheless still be at a detrimental level.
- 6.4 Furthermore, the existing development in Willowside forms a relatively short individual spur off Ash Copse. The proposed scheme would extend further into the backland of Frogmore Lane properties, where it would become enclosed by dwellings to the rear on Youells Lane and form a lengthy section of road, further dissecting the large combined garden areas leading towards Youells Crescent to the east. The increased length and limited separation of the overall development in the effectively extended Willowside would exacerbate the contrast with the rhythm and grain of properties along the Frogmore Lane frontage.
- 6.5 In 2011, the Inspector concluded that the benefits arising from the then proposed development would not outweigh the harm it would cause to the character and appearance of the area, arising from increased urbanisation and visual intrusion and the consequent conflict with development plan policies in this regard. These policies seek to ensure that proposals respond to and draw inspiration from the local context using characteristics of the locality to inform their design. Whilst it is acknowledged that the current proposal would be of a lesser scale, it is considered that the degree of impact would still be detrimental in this regard.
- 6.6 In summary, the proposal fails to meet the criteria of Local Plan Policy CS16 (1/1c) in that it fails to respond to, draw inspiration from and respect local context and does not use the characteristics of the locality to help inform design.

Impact on the occupiers of neighbouring properties

- 6.7 The rear elevations of the proposed dwellings would face towards the rear gardens and elevations of properties in Youells Crescent. Development plan policy seeks to ensure that proposals do not cause unacceptable harm to the amenity of neighbours. The Borough Design Guide SPD sets out minimum back to back separation distances and garden depths, to protect residents from overlooking and overbearing development. It is acknowledged that the current proposal would comply with these criteria. However, the SPD contains technical standards that cannot be considered in isolation of the local context. This approach was confirmed in a recent appeal decision relating to another site in Waterloo (PINS reference: APP/X1735/W/15/3004757).
- 6.8 In the case of the current appeal, despite slightly lower ground levels, the proposed dwellings would be substantial buildings with rooms at first floor level potentially looking out towards the relatively small gardens and rear windows of existing dwellings in Youells Crescent. The SPD acknowledges the need to consider internal layouts to address overlooking and in this case, being in outline, the application did not provide sufficient information to demonstrate that overlooking would not occur to a detrimental level. In any case, the siting and suggested bulk of the proposed dwellings are considered likely to have a detrimental impact on the outlook of neighbouring properties.

- 6.9 Furthermore, the effective extension of the private road and parking areas to provide access to the development would, through noise and general disturbance, lead to an unacceptable degree of impact on occupiers of existing dwellings in Willowside and Frogmore Lane.
- 6.10 In summary, the proposal fails to meet the criteria of Local Plan Policy CS16 (1e) in that the development would cause unacceptable harm to the amenity of neighbours through the loss of privacy and outlook, and through noise and overlooking.

Impact on acknowledged ecological features

- 6.11 In their Grounds of Appeal (paragraph 4.8) the Appellant appears to suggest that specialist ecology advice was not available at the time of the Committee's consideration of the planning application. The comment referred to at 5.5(A) above had been received prior to preparing the Committee report, and confirmed that, at that stage, insufficient information had been provided by the Applicant on this point. However, by the time of the Committee meeting, further comments had been received, pursuant to the submission of further information. From these comments (at 5.5(B) above) it is clear that the suitability of Alver Valley as the then proposed receptor site for slow worms recorded on the appeal site had not been demonstrated.
- 6.12 The proposal therefore failed to meet the criteria of Local Plan Policy DM8 in that the development would not protect or enhance local habitat (in this case with a protected species recorded in situ) through appropriate adaptation or mitigation measures.
- 6.13 Notwithstanding this, it is noted that a drawing showing proposed on site measures has been submitted in support of the appeal. Whilst this did not form part of the original application submission, it does reflect information contained on a drawing submitted with the current undetermined application. The County Ecologist is content with this current proposal, subject to a suitable condition. In the event of the appeal being allowed, a similar condition should overcome the Council's concerns on this point.

7.0 COMMENTS ON THE APPELLANTS SUBMISSION

- 7.1 The Council has no further comment beyond the above.

8.0 CONCLUSIONS

- 8.1 The planning application, subject to this appeal, did not satisfactorily address the likely resultant loss of acknowledged ecological features arising from the proposal. However, this concern could now be overcome by way of a planning condition.
- 8.2 Notwithstanding this, the proposal would result in an undesirable form of backland development out of keeping with the character of the locality and detrimental to the amenities of the area. It is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 8.3 The proposal would also result in backland development which would be undesirable because of the unsatisfactory access and because of the adverse effect on the occupiers of neighbouring property. It is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 8.4 Furthermore, the proposed development would constitute an undesirable over-intensive use of the site which would have an adverse effect on the amenities of occupiers of adjoining properties. It is therefore contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 8.5 It is therefore respectfully requested that the appeal be dismissed.

APPENDIX A

Suggested Conditions

Notwithstanding the contents of this appeal statement, should the Inspector be minded to allow this appeal and grant planning permission for the proposal, the Council would suggest that the following conditions would be appropriate:

- 1 The development hereby permitted shall be begun before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved.
Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 Approval of the details of the scale and appearance of the proposed development, and the landscaping of the site, hereinafter called "reserved matters" shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: In order to secure a satisfactory development.
- 3 Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of the grant of this planning permission.
Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:

14001 SK 05 K (Site Layout, Location Plan and Street Elevation)
14001 SK 06 D (Site Sections)

Reason: - To ensure provision of a satisfactory development.
- 5 No development hereby permitted shall commence until plans and particulars specifying the alignment, width, gradient and type of construction of the proposed access road, parking areas and turning head (including all relevant horizontal cross and longitudinal sections) and the related provision to be made for street lighting and for surface water disposal, and a programme for the implementation and making up of the same have been submitted to and approved in writing by the Local Planning Authority. The implementation and making up of the same shall be completed in full accordance with such plans, particulars and programme as are thus approved by the Authority.
Reason: To ensure that they are constructed to satisfactory standard and, where appropriate a standard which will enable them to be taken over as publicly maintained highways and having due regard to policies CS16 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 6 No development hereby permitted nor any related site clearance shall commence until plans and particulars specifying the finished levels (above ordnance datum) of both the ground floors and ridges of the proposed buildings and the surrounding ground levels, in relation to existing ground levels have been submitted to and approved by the Local Planning Authority.
Reason: To safeguard the amenities of the locality and occupiers of nearby dwellings and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 7 Notwithstanding the provisions of any Town and Country Planning General Permitted Development Order, no extension, building, or structure permitted by any such Order shall be erected within the curtilage of the site without the prior written approval of the Local Planning Authority.
Reason: To safeguard the amenities of the locality and occupiers of the dwellings hereby approved and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 8 The development shall not be brought into use until the garages and spaces for the parking of vehicles has been provided within the site, and surfaced and marked out in accordance with the approved details and any other details subsequently agreed in writing with the Local Planning Authority. Such garages and spaces shall thereafter be retained and used solely for those purposes, solely in connection with the Plots (and their visitors) as annotated on the drawings hereby approved.
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 2012.
- 9 The development shall be carried out in full accordance with the Arboricultural Impact Appraisal and Method Statement prepared by Barrell Tree Consultants on 13 February 2015 and received by the Local Planning Authority on 24 February 2015. All protection measures contained therein shall be undertaken and fully adhered to at all times, whilst such implementation is in progress. Any such tree which is nevertheless seriously damaged during that implementation shall be replaced within 6 months of the occurrence of such damage by another of the same species in the same position and of not less than Extra Heavy Standard when planted.
Reason: To safeguard the continued health and presence of such existing vegetation and protect the amenities of the locality and having due regard to policies CS16 and DM8 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and National Planning Policy Framework, March 2012.
- 10 No development shall commence on the site until details of the design, depth and type of building foundations and the layout, with positions, dimensions and levels, of service trenches, ditches, drains and other excavations on site, insofar as they may affect trees and hedgerows on or adjoining the site, have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard against undue damage to existing trees and/or other vegetation at the site and having due regard to policies CS11.2 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.
- 11 Prior to the commencement of development, a detailed written scheme of reptile mitigation, compensation and enhancement measures (to include but not necessarily be restricted to: details of habitat clearance; handling of reptiles; fencing; ongoing management or refuge area) shall be submitted for approval to the Local Planning Authority. All reptile mitigation, compensation and enhancement features shall be retained and maintained in perpetuity in accordance with the agreed details.
Reason: To protect and enhance biodiversity and having due regard to policies CS11 and DM8 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and National Planning Policy Framework, March 2012.

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Havant
BOROUGH COUNCIL

Title:

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41-49 Frogmore Lane
Waterlooville

Drawn By:

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Drawing No:

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