

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

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**(Land adjacent to 8 Westbourne Close,
Emsworth, PO10 7QY)**

**Local Planning Authority Reference:
APP/14/00497**

**Planning Inspectorate Reference:
APP/X1735/A/14/2226044**

HAVANT BOROUGH COUNCIL



TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL BY MR LONG AGAINST THE DECISION OF HAVANT BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR ERECTION OF 1NO. ONE BEDROOM BUNGALOW AND DETACHED GARAGE WITH ACCESS FROM WESTBOURNE CLOSE. (REVISED APPLICATION INCORPORATING AMENDMENTS TO PLANNING PERMISSION APP/13/00228).

Planning Inspectorate Reference: APP/X1735/A/14/2226044

LPA REF: APP/14/00497

1.0	<u>THE APPEAL SITE AND ITS SURROUNDINGS</u>
1.1	The appeal site lies in a residential area at the junction of Westbourne Avenue and Westbourne Close near to Emsworth's local facilities including a bus route, railway station and shops. The former road is characterised by mainly two storey detached houses whilst the latter road contains mainly bungalows, apart from the two detached two-storey houses accessed from the track running off the Close at the site's southern boundary.
1.2	The site consists of a narrow strip of land which sits adjacent to No. 8 Westbourne Avenue, on the corner of Westbourne Avenue and Westbourne Close. The length of the strip of land runs parallel with Westbourne Close and the site is enclosed by a 0.6m high wall.
2.0	<u>PLANNING HISTORY</u>
	<u>APP/10/00430</u>
	Erection of 2 bed detached dwelling house with new access from Westbourne Close. Refused. 20/09/10
	<u>APP/13/00228</u> Erection of 1No. 3 bed detached house with access from Westbourne Close. Refused by Committee on 20/06/14 for the following reason: <i>The design and appearance of the proposed dwelling would result in a contrived and cramped form of development, incompatible with the existing surrounding development. The proposal would therefore result in an incongruous form of development, detrimental to the character of the street scene and amenities of the area. The proposal would therefore be contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.</i> An appeal was lodged against the Council's decision and this was allowed in January 2014. A copy of the decision notice is attached.
3.0	<u>THE APPLICATION</u>
3.1	The application subject of this appeal is for the erection of 1No. 1 bedroom

	bungalow and a detached garage with access from Westbourne Close (revised application incorporating amendments to planning permission APP/13/00228)
3.2	The application seeks to add 1.5m to the length of the bungalow, which would result in it being 12.5m in length. The width of 4.75m and height of 4.3m would remain unchanged. The proposal also adds a detached garage to the southern corner of the site (there was no garage in the approved development APP/13/00228). This would taper in width from 6m to 3m and would be 5.3m in length and 3.8m in height and would be capable of housing one car, bins and bicycles, with driveway space for a second car. The site appears to be very slightly smaller than in the previous scheme by removal of a wedge of land, approximately 1m at its widest, at the southern apex of the site. The block plan can be found at Appendix A.
3.3	The application was heard at the Development Management Committee on 17 July 2014 at the request of the ward Councillor due to local interest and the previous appeal Inspector's decision which referred to "no further development". The Officer's recommendation was to grant planning permission subject to planning conditions and the provision for the payment of the Solent Disturbance Mitigation Disturbance contribution, a requirement which had been introduced for new dwellings from May 2014 onwards. The application was refused at the Development Management Committee by Members for the following reason:
3.4	<i>"The siting, design and appearance of the proposed dwelling and garage would result in a reduction in space around the buildings on the site, compared to the scheme approved under Planning Permission APP/13/00228, and as a result would constitute an overdevelopment and cramped form of development, incompatible with the existing surrounding development. The proposal would therefore result in an incongruous form of development, detrimental to the character of the street scene and amenities of the area. The proposal would therefore be contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011, and the National Planning Policy Framework 2012".</i>
4.0	<u>PLANNING POLICY</u>
4.1	The application has been determined against national planning policy statements, and planning guidance and local planning policy. With regards to local planning policy, the application was determined against relevant policies from the Havant Borough Core Strategy 2011, which was adopted on 1 March 2011 and forms part of the Local Development Framework. The relevant policy is CS16 (High Quality Design)
4.2	Policy CS16 (High Quality Design), advises that development proposals would only be permitted where it can be demonstrated that they respect the local context and use characteristics of the locality to help inform the design of new development including heights, massing, existing building lines, plot widths and depths, materials and proportions of doors and windows. Development proposals should avoid causing detrimental impact on the neighbouring properties.
4.3	The Local Plan (Allocations) identifies sites for specific uses including, housing, employment, retail, recreation and green infrastructure up to 2026. Only development which conforms to the distribution strategy of the adopted Core Strategy is considered in the Allocations Plan. The Local Plan (Allocations) was adopted by Council on 23 July 2014.

4.4	Policy DM24 of the Local Plan (Allocations) refers to Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development. The policy states that planning permission will be granted for residential developments that avoid or mitigate a likely significant effect on the SPAs, caused by recreational disturbance through the in-combination effect of net additional dwellings. This mitigation can be provided through: a) A financial contribution. b) A developer provided package of measures associated with the proposed development designed to avoid or mitigate any significant effect on the SPAs subject to meeting the tests of the Habitats Regulations. c) A combination of measures in (a) and (b) above. Where these measures cannot be provided development proposals will be refused, unless the applicant can show, subject to meeting the tests of the Habitats Regulations, that there would not be an adverse effect on the integrity of the SPAs.
4.5	On the 14 December 2011, Havant Borough Council adopted the Borough Design Guide Supplementary Planning Document. This document supplements Policy CS16 of the Havant Borough Core Strategy and aims to raise the standard of design across the borough. It sets out the council's design expectations with regard to new development and helps to identify and define the distinctive character and qualities of the borough that should be respectfully improved and enhanced through development.
4.6	National planning policy guidance is contained in the National Planning Policy Framework (NPPF). Of relevance is Section 7 (Requiring Good Design).
4.7	Under the Council's more recently introduced Community Infrastructure Levy (CIL) a financial contribution of £5,000 would required, although the applicant has claimed exemption under Government self-builder rules. Whether or not a CIL payment would be required, is not a consideration in assessing the planning merits of the proposal. The requirement or non-requirement is prescribed nationally and therefore it is not referred to in the decision notice.
5.0	<u>REPRESENTATIONS</u>
5.1	The application which is the subject of this appeal was published in accordance with the Council's adopted publicity procedures and 9 neighbour notification letters were sent. In addition one site notice was posted. A total of 4 letters of comments were received by the Planning Authority regarding the planning application. Copies of the representation replies have previously been forwarded to The Planning Inspectorate. A summary of the objections are as follows: 1. The Inspector's decision states no extensions or garages to be erected and has attached a planning condition. 2. A tree has been felled and burnt recently, causing pollution contrary to condition 8 of the previous approval. 3. Previous applications for a garage have been refused; the proposed garage will not allow two cars to fit. 4. The appeal inspector stated that neighbours should not have to endure excessive noise during development: a JCB was used during recent site clearance. 5. Any additional land obtained by the applicant since the appeal is small, perhaps a

	matter of inches and not worthy of consideration. 6. Is there a required minimum distance to the eastern boundary – the boundary is denoted by a metal fence and not the wooden fence.
6.0	<u>PLANNING CONSIDERATIONS</u>
6.1	Having regard to the relevant policies of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and the reasons for refusal given in the Decision Notice dated 20 June 2013, it is considered that the main issues for consideration are:
6.2	i. Appeal Decision relating to Planning Application APP/13/00228 ii. Appropriateness of the Design and Effect on the Street scene iii. Impact on Designated Areas for Nature Conservation
6.3	i. <u>Appeal Decision relating to Planning Application APP/13/00228</u>
6.4	Planning Application APP/13/0028 proposed the erection of 1No. 3 bed detached house with access from Westbourne Close. It was refused by Committee on 20/06/14.
6.5	An appeal was lodged against the Council's decision and this was allowed in January 2014. The Inspectors decision can be found at Appendix B.
6.6	In his decision, the Inspector said that the main issues were the effect of the proposal on the character and appearance of the area and the living conditions of neighbours. He found that the bungalow had been set sufficiently far away from the boundary with No.8 Westbourne Avenue to the west and from No. 1 Westbourne Close on the east side of the street. He commented that: <i>"Although this plot is smaller than those around it, the proposed bungalow could be satisfactorily accommodated on it without detriment to the area's character or appearance and without adversely affecting the living conditions of neighbours"</i> . He said that the size and design was entirely appropriate for the site.
6.7	On the matter of possible future development, he said:
6.8	<i>"I agree that a restriction on Permitted Development [PD] rights for extensions and garages is appropriate to ensure that adequate open area and garden is retained and in order to prevent overlooking of the neighbours"</i>
6.9	Accordingly he withdrew PD rights for extensions, including those to the roof (such as dormer windows) and for garages.
6.10	ii. <u>Appropriateness of the Design and Effect on the Street scene</u>
6.11	Under the previously permitted scheme (planning application APP/13/00228), the position of the bungalow gave an average front garden length to the Westbourne Avenue frontage, of 11.8m. The development subject of this appeal, with the increased length of the bungalow and it's reposition within the site, would reduce its garden length to 9.8m. This is 2.4m shorter than the length of the neighbouring front garden at No.8 Westbourne Avenue immediately to the west. This erodes some of the spaciousness at the street frontage, which is particularly important, given that this is a narrow plot in a prominent corner position, where any loss of space is readily visible. The block plan for planning application APP/13/00228 can be found at Appendix C.

6.12	The average length of the area of rear garden was 6m under the previous scheme. This space lay between the french doors on the rear wall, and the edge of a driveway which was to provide parking for two cars in tandem, a further strip of garden of average 3m length, lay beyond this driveway, where the site tapers to a point. The main part of the garden also contained a bin store/cycle shed. The development subject of this appeal results in less rear garden space overall, this is due the loss of the narrow strip at the tapering southern end of the site and due to the size and position of the garage.
6.13	Although the Inspector found the development subject of planning application APP/13/00228 acceptable, in that the bungalow could be satisfactorily accommodated on the site without detriment to the area's character or appearance, it is considered that the development subject of this appeal is a step too far. It is considered that the siting, design and appearance of both the proposed dwelling and garage would result in a reduction in space around the buildings on the site which as a result would constitute an overdevelopment and cramped form of development, incompatible with the existing surrounding development. The proposal would therefore result in an incongruous form of development, detrimental to the character of the street scene and amenities of the area.
6.14	The increase in this size of the dwelling along with the addition of a large detached garage would result in a reduction in space around the buildings on the site which as a result would constitute an overdevelopment and cramped form of development of this narrow and prominent site. It is noted that the Inspector restricted Permitted Development rights for extensions and garages to ensure that adequate open area and garden was retained.
6.15	The National Planning Policy Framework states that "It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes".
6.16	The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
6.17	iii. <u>Impact on Designated Areas for Nature Conservation</u>
6.18	Policy DM24 of the adopted Local Plan Allocations document 2014 acknowledges the collective impact which all new dwellings in the Borough have on the ecology of areas designated within the Solent area under European Species and Habitat Directives and the derived UK Regulations. It adopts the approach recommended by Natural England that a contribution is made on a per-dwelling basis towards a mitigation project 'Solent Disturbance Mitigation Project'. For all new dwellings a sum of £172 and small administrative/monitoring fee is collected prior to or at the point of approval via a simplified undertaking under S106 or at the point of commencement of development via a less simplified S106 unilateral undertaking or bi-lateral agreement. The applicant has paid the financial contribution to the Council on 14/07/14 and as such this matter was not included as a reason for refusal.
7.0	<u>CONCLUSION</u>

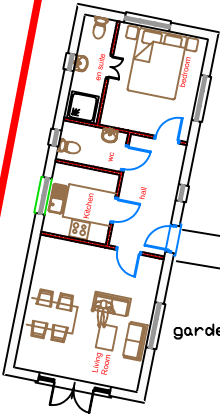
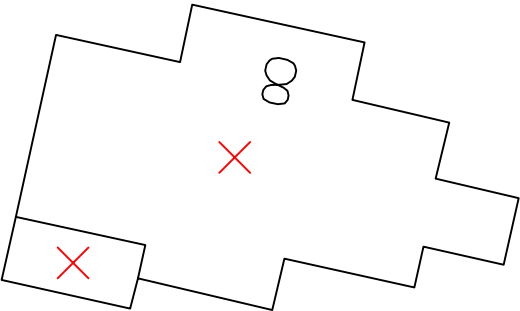
7.1	In summary, for the reasons set out above, it is considered that the siting, design and appearance of the proposed dwelling and garage would result in a reduction in space around the buildings on the site, compared to the scheme approved under Planning Permission APP/13/00228, and as a result would constitute an overdevelopment and cramped form of development, incompatible with the existing surrounding development. The proposal would therefore appear incongruous, detrimental to the character of the street scene and amenities of the area. The proposal would therefore be contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the Havant Borough Design Guide Supplementary Planning Document 2011, and the National Planning Policy Framework 2012".
7.2	The Inspector is therefore respectfully requested to dismiss this appeal. Should, however, the Inspector be minded to allow the appeal and grant permission for the proposal, the Council would request that the planning conditions set out in Appendix (D) are attached to any permission.
<u>APPENDICES</u>	
(A)	Block Plan
(B)	Appeal Decision - relating to Planning Application APP/13/00228
(C)	Block Plan - relating to Planning Application APP/13/00228
(D)	Suggested conditions

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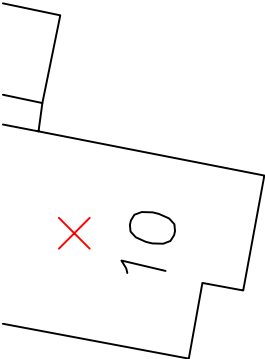
WESTBOURNE AV

WESTBOURNE CLOSE



garden

3.8m



Appeal Decision

Site visit made on 9 December 2013

by Nick Fagan BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 January 2014

Appeal Ref: APP/X1735/A/13/2202188

Land to east of 8 Westbourne Avenue, Emsworth, Hampshire PO10 7QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr B Long against the decision of Havant Borough Council.
 - The application Ref APP/13/00228, dated 7 March 2013, was refused by notice dated 20 June 2013.
 - The development proposed is the erection of 1 No. one-bedroom bungalow with access from Westbourne Close.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 No. one-bedroom bungalow with access from Westbourne Close at land to east of 8 Westbourne Avenue, Emsworth, Hampshire PO10 7QY, Ref APP/13/00228, dated 7 March 2013, subject to the conditions at the end of this decision.

Procedural Matter

2. A third party objector disputes the size of the site described in the application. The size of the site is however clear from the scheme drawings and I was able to verify this during my site visit.

Main Issues

3. The main issues in this case are the effect of the proposal on the character and appearance of the area and the living conditions of neighbours.

Reasons

4. The appeal site lies in a residential area at the junction of Westbourne Avenue and Westbourne Close near to Emsworth's local facilities including a bus route, railway station and shops. The former road is characterised by mainly two-storey detached houses whilst the latter road contains mainly bungalows, apart from the two detached two-storey houses accessed from the track running off the Close at the site's southern boundary.
5. The site itself, as described by the Inspector in the recent appeal decision for a two storey house fronting towards Westbourne Avenue¹, is a vacant piece of open land within the urban area. The appeal was dismissed because the Inspector considered the two-storey house would have appeared as a cramped

¹ APP/X1735/A/11/2166421 dated 16 May 2012

form of development when viewed from the junction because it was very close to 8 Westbourne Avenue's boundary and too close to the footway in Westbourne Close.

6. The proposal is for a one-bedroom bungalow whose front elevation would face Westbourne Close that has been set back further than the 2012 appeal proposal from 8 Westbourne Avenue's boundary and from Westbourne Close. Although this site is not nearly as deep as the surrounding plots I consider these substantial changes in the design of the new dwelling are sufficient to ensure it would comfortably fit into the local street scene. Sufficient open garden area would be retained at the corner of the junction to maintain its open character and the footprint of the new house would not breach the regular building line along this part of Westbourne Avenue.
7. Concern has been raised both by the Council and neighbours that the dwelling would appear contrived because it would be much smaller in footprint than other houses in the area. Whilst this would clearly be so, I consider its size and design would be entirely appropriate for this site, which would otherwise continue as an unused piece of land potentially at odds with the adjacent well maintained residential garden plots.
8. The lounge, hall and bedroom windows of the bungalow would look towards 1 Westbourne Close but there would be ample separation between these windows and No.1's habitable room windows because of the road and the depth of No.1's front garden and there would be no harm to the living conditions of the occupiers of that property.
9. Havant Core Strategy [CS] Policy CS16 requires that development should use the characteristics of the locality to help inform the design of new development including heights, massing, building lines, plot widths and depths. Although this plot is smaller than those around it the proposed bungalow could be satisfactorily accommodated on it without detriment to the area's character or appearance, and without adversely affecting the living conditions of neighbours. The proposal would therefore comply with Policy CS16 and with Table 4.1 of the Council's *Borough Design Guide Supplementary Planning Document*.

Other Matters

10. CS Policy CS21 contains a requirement for contributions to be made towards infrastructure provision, including transport. This Policy states that a Supplementary Planning Document [SPD] will be prepared to set out the mechanism to be used for taking such contributions together with details of the types and priorities of infrastructure provision but the Council have provided no details of any such SPD and I presume it has not therefore been written or will be superseded by the Council's Community Infrastructure Levy.
11. CS Policy DM12 states that new developments will be required to mitigate their travel impact, including the environmental impacts of travel and impacts on amenity, health and climate change by ensuring that adequate provision is made for integrated and improved transport infrastructure or appropriate mitigation measures, through S106 contributions in accordance with Hampshire County Council's Transport Contributions Policy. However, I have no details of this Contributions Policy. So although I have been provided with details of a signed unilateral planning obligation providing a contribution of £1,980 plus the

Council's monitoring fee I do not know exactly what this contribution would be spent on, or whereabouts in the Borough it would be spent, or the means by which it has been calculated. I am therefore unable to determine whether it would be necessary to make the development acceptable, directly related to it, or fairly and reasonably related in scale and kind and so it appears that such a contribution does not meet the tests in Regulation 122 of the Community Infrastructure Regulations. I have not therefore given this contribution any weight and it is not a reason for allowing this appeal.

12. Concern has been expressed about the potential conflict between vehicles exiting the tandem parking spaces at the rear of the site next to the access to Nos 9 and 10 Westbourne Close. However there is no objection to this parking arrangement from the Highway Authority and I agree with the previous Inspector, based on my own observations at the site concerning the alignment of the road and the speed of traffic in Westbourne Close, that such an access would neither be out of character with the area nor give rise to highway danger.
13. There is no objection from the Council to the effect of the proposed development on the Horse Chestnut tree at the south-western corner of the site and there are no reasons to disagree with the Council on this matter, despite the concerns of some of the neighbours. I am aware of concerns about a foul sewer running under this site but the Council have not raised any objection to this matter and the statutory undertaker has in any case separate powers to prevent building over certain sewers, meaning that any such sewer may have to be diverted at the expense of the appellant. I am also aware of concerns raised about the inadequacy of surface water drainage in Westbourne Close but I have no evidence of any such drainage problems. None of these matters alter my conclusion on the main issues.

Conclusion and Conditions

14. For the reasons set out above, and having regard to all other matters raised, I allow this appeal subject to the conditions below.
15. A condition listing the drawings is necessary in the interests of good planning and for the avoidance of doubt. A condition requiring the agreement of samples of external materials is necessary to ensure the bungalow's appearance harmonises with the appearance of neighbouring dwellings.
16. I agree a restriction on permitted development rights for extensions and garages is appropriate to ensure adequate open area and garden is retained and in order to prevent overlooking of the neighbours. I also agree that a condition requiring the dwelling to comply with Level 3 of the Code for Sustainable Homes is necessary in order to comply with Council policy to ensure sustainable construction.
17. A condition requiring parking space is required to ensure the development meets the Council's standards, but only one space is required for this – two spaces are unnecessary since any additional parking requirement can satisfactorily be accommodated on the adjacent Westbourne Avenue, which is very lightly parked.
18. A levels condition is necessary to ensure the height of the proposal is no higher than that of the nearby bungalows in Westbourne Close. And given the

constraints of the site, I agree a Construction Management Plan should be agreed with the Council prior to commencement of work, in order to ensure minimal disruption to neighbours during the construction process.

Nick Fagan

INSPECTOR

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Sheets 1, 2, 3A, 4 & 10.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwelling (including to the roof) or garages shall be erected on the site.
- 5) The dwelling shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 6) The dwelling shall not be occupied until space has been laid out within the site for at least one car to be parked and such space retained for this purpose.
- 7) No development shall take place until the height of the building in relation to a nearby fixed Ordnance Datum shall have been submitted to and agreed by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel washing facilities
 - v) measures to control the emission of dust and dirt during construction



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