



Town and Country Planning Act 1990

Merok House Rest & Convalescent Home
46 New Brighton Road, Emsworth
Hampshire, PO10 7QR

Written Representations Appeal Statement of Case

Appellant: Caldwell & Beling Ltd
Local Planning Authority: Havant Borough Council

December 2013

The Loft, St Clairs Farm, Wickham Road, Droxford, Hampshire SO32 3PW
Tel: 01489 872929
Email: jeremy.heppell@wyg.com



Document Control

Project: Merok House, Emsworth

Client: Caldwell & Beling Ltd

Job Number: HP13065/A085064

Document Checking:

Prepared by:	Caroline Miles	Signed:	CM
--------------	----------------	---------	----

Checked by:	Jeremy Heppell	Signed:	JH
-------------	----------------	---------	----

Issue	Date	Status	Checked for Issue
1	02.12.13	Draft v1	Jeremy Heppell
2	03.12.13	Client comments	Client
3	06.12.13	Final	Caroline Miles



Contents Page

1. Introduction
2. The Appeal Site and Surroundings
3. Planning History
4. The Proposal
5. Relevant Planning Policy
6. The Case for the Appellant
7. Conclusion



1.0 Introduction

1.1 WYG Planning & Environment has been appointed by the appellant, Caldwell & Beling Ltd, to represent them in this planning appeal. The appeal is lodged against the decision of Havant Borough Council (HBC) to refuse full planning permission for internal alterations, a proposed replacement side extension (3 storey), a proposed replacement side/rear extension (2 storey) with new build addition and infill of the existing central courtyard to form a 30 no. bed care home, together with the closure of one existing vehicular access and the provision of additional parking at Merok House, 46 New Brighton Road, Emsworth under reference APP/13/00765.

1.2 The planning application was submitted to the Council on 2 August 2013 and was refused planning permission by the elected Members, despite a recommendation from the Planning Officers to grant permission. The decision notice is dated 18 September 2013. The one sole reason for refusal is as follows:

1. *The proposed development would result in an excessive building bulk adjacent to existing residential properties to the north, resulting in an unneighbourly and overbearing impact detrimental to the visual outlook and amenities of the occupiers of those properties. As such the proposal is considered to be contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.*

Structure of this Statement of Case

- 1.3
- Section 2 describes the existing site and surroundings.
 - Section 3 examines the planning history of the site.
 - Section 4 describes the proposals.
 - Section 5 outlines the relevant planning policy.
 - Section 6 sets out the appellant's case for granting planning permission.
 - Section 7 provides a summary of the benefits of the proposal and draws conclusions.



2.0 The Appeal Site and Surroundings

- 2.1 Merok House currently comprises an established care home located within the defined urban area, in the northern part of Emsworth, on the east side of New Brighton Road. The site covers a total site area of 0.19 hectares (ha).
- 2.2 The site is located in a primarily residential area and there are no Listed Buildings or Conservation Areas affecting or within close proximity to the site. To the south the site adjoins a large detached three storey dwelling at No.44 New Brighton Road and to the north lies a cul-de-sac known as Silvertrees, with 3 x two storey dwellings (Nos. 8, 9 & 10) adjoining the northern boundary of the site. The eastern (rear) boundary of the site adjoins existing two storey dwellings in the cul-de-sac known as Danbury Court. The opposite the side of New Brighton Road, to the west of the subject site, consists primarily of two storey dwellings.
- 2.3 Merok House was originally constructed as a large detached dwelling in the early 1900s. The property was subsequently converted into a rest and convalescent home in 1970 and various applications since this time have allowed the building to be gradually extended to provide 22 beds in 18 rooms, as well as ancillary facilities such as a kitchen and laundry. The height of the existing building varies from single storey to three storeys.
- 2.4 The proposed alternations and additions will provide more bed spaces, to meet the growing social need for high quality care homes for the elderly as a result of the increasing ageing population. It will also allow for significant refurbishment and remodelling to the existing building in order to address current significant internal layout issues including several changes in floor levels and to meet the required Care Quality Commission (CQC) standards, such as increasing the average room size.



3.0 Planning History

- 3.1 The planning history of the site comprises a number of historic applications demonstrating the long evolution of the site into the rest and convalescent home which exists today. The most relevant planning applications are detailed below.
- 3.2 **20809** – *Change of use from dwelling house to private nursing home.* Permitted 30/09/1970.
- 3.3 **20809/1** – *Alterations.* Permitted 16/02/1971.
- 3.4 **20809/2** – *Extension.* Permitted 19/12/1972.
- 3.5 **20809/3** – *Two storey extension.* Permitted 19/06/1973.
- 3.6 **20809/5** – *Single and two storey side extensions and alterations to provide additional bedroom accommodation and self contained flat.* Permitted 24/09/1979.
- 3.7 **20809/6** – *Single storey rear extension to provide bedroom accommodation, dining room, kitchen and sitting room for patients.* Permitted 17/05/1983.
- 3.8 **95/53834/003** – *Single storey rear extension and conservatory to provide four additional rest home bed spaces, conservatory addition to north (dining room) and associated parking revisions.* Refused 16/05/1996 dismissed on appeal.
- 3.9 **APP/13/00275** – *Refurbishment scheme to existing care home to include replacement three storey extension to south elevation; part single storey, part three storey extension to north elevation; part single storey, part two storey extension to east elevation and associated works. Closure of one existing vehicular access and provision of additional parking.* Withdrawn 09/05/2013.



4.0 The Proposal

4.1 The appeal proposal is discussed in detail within the Design and Access Statement that accompanied the application to Havant Borough Council and which has been submitted as part of this appeal. The Statement sets out matters with regard to the layout, amount, scale, appearance, materials, parking and access. Sections 4 and 5 of the Design and Access Statement also explain the changes that were made to the proposals as a result of pre-application feedback from the Council Planning Officer and following the withdrawal of the previous application in May 2013, particularly in relation to the amenity of the adjoining dwellings to the north.

4.2 The scheme proposes to demolish the existing extensions and construct new extensions to the building to improve the current layout and to increase the number of residents from 22 in 18 rooms, to 30 in 30 individual rooms. The proposals will result in 359 square metres of additional floorspace in total are summarised as follows:

- Replacement side extension (south) – the existing two storeys side extension will be demolished and replaced with a 2.5 storeys (upper level within roof space) extension including a lounge and dining room with bedrooms above and rear conservatory.
- Rear extension – the existing single storey kitchen / laundry extension and link will be demolished and replaced with a 1.5 storeys (first floor within roof space) extension, reducing down to single storey at the eastern end, providing a new bedroom wing.
- Side extension (north) – the proposals include a new 1.5 storeys (upper level within roof space) side extension located adjacent to the garages of Nos. 9 and 10 Silvertrees, to provide additional bedrooms, including removing the existing external staircase.
- Central extension – the existing courtyard will be infilled to provide a three storey extension consisting of a central service core, providing a lift tower and allowing for the relocation of the kitchen, laundry and plant away from the boundaries with adjoining dwellings which will remove significant existing amenity impacts associated with noise and smell.



- 4.3 The proposed extensions have been designed to complement the style and form of the existing building on the site and will be constructed using a palette of traditional red / orange brick at ground floor level and light coloured render above, with a projected brick detail to signify the change in material. The extensions include pitched roofs finished with slate to reflect the existing building. The new and replacement windows will be similar in style to the original windows on the site and adjoining property to the south, with large double sash windows enhancing the appearance of the building from the street.
- 4.4 It is also proposed to remove the existing access at the northern end of the site frontage and for access to the site to be only via the southern access from New Brighton Road. This will allow for the provision of two additional car spaces compared to at present (10 in total) in the front section of the site. The application is supported by a Travel Plan prepared by Motion which concludes that the development is in a highly sustainable location, accessible by a range of non-car modes, such that a development with a low dependency on the private car will be achieved.
- 4.5 The existing trees on the site will be retained as part of the proposals and the application is supported by an Arboricultural Impact Assessment prepared by Bernie Harverson which confirms that provided the methodology prescribed in the report is adhered to, the retained and off-site trees will readily survive the development works and the proposals are supportable.



5.0 Relevant Planning Policy

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, in the determination of planning applications, decisions are made in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 The Development Plan comprises the Havant Borough Local Plan (Core Strategy) adopted on 1 March 2011 and the saved policies of the Havant Borough District-Wide Local Plan adopted September 2005.

National Planning Policy Framework

- 5.3 The National Planning Policy Framework (NPPF) was published in March 2012 and establishes a presumption in favour of sustainable development, encompassing, amongst other things, building a strong competitive economy, delivering a wide choice of high quality homes and good design. It is a requirement that Local Planning Authorities positively seek opportunities to meet the development needs of their area (Paragraph 14).
- 5.4 Underpinning plan-making and decision-taking, the NPPF sets out 12 core planning principles at Paragraph 17. Of particular note these principles consider that planning should:
- Not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve places in which people live their lives;
 - Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
 - Always seek to secure high quality design;
 - Support the transition to a low carbon future;
 - Encourage the effective use of land by reusing land that has been previously



developed (brownfield land), provided that it is not of high environmental value; and

- Improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

- 5.5 Paragraph 19 advises that significant weight should be placed on the need to support economic growth through the planning system.
- 5.6 Section 6 on housing sets out that the Government is committed to increase the overall level of supply and mix of housing in order to meet local needs. The first bullet point at paragraph 50 states that to deliver a wide choice of quality homes and create sustainable, inclusive communities, local planning authorities should “plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community”, including the elderly.
- 5.7 Design is covered in Section 7, where the Government attaches great importance to the design of the built environment. This policy highlights that good design is a key aspect of sustainable development, that should be indivisible from good planning, which in turn should contribute positively to making places better for people.
- 5.8 Paragraph 60 stresses that decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles, but that it is proper to seek to promote or reinforce local distinctiveness. Paragraph 61 goes further in identifying that securing high quality inclusive design goes beyond aesthetic considerations, and as such decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. In determining applications, this policy attaches great weight to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 5.9 Paragraph 64 states how planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and



quality of an area and the way it functions. Paragraph 65 notes that local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.

5.10 Section 8 of the NPPF recognises the important role the planning system can play in creating healthy and inclusive communities. A key principle of paragraph 70 is to 'deliver the social, recreational and cultural facilities and services the community needs' and requires planning policies to:

- "Guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and
- Ensure an integrated approach to considering the location of housing, economic uses and community facilities and services".

5.11 In relation to decision making, paragraph 187 states that local planning authorities should look for solutions rather than problems. Local planning authorities should work proactively with applicants to secure development that improves the economic, social and environmental conditions of the area.

Havant Borough Core Strategy 2011 to 2026

5.12 The site lies within the administrative boundary of Havant Borough Council. On 1 March 2011, the Council adopted the Havant Borough Core Strategy which sets out the planning framework for the Borough until 2026. The following policies are considered to be of most relevance to the appeal proposal:

Policy CS7 – Community Support and Inclusion

Policy CS16 – High Quality Design

Policy DM7 – Elderly and Specialist Housing Provision

Policy DM10 – Pollution



Policy DM12 – Mitigating the Impacts of Travel

Policy DM13 – Car and Cycle Parking on Residential Development

- 5.13 Policy CS7 relates to community support and inclusion and states that planning permission will be granted for development that provides services for older people and other vulnerable groups, including extra care facilities.
- 5.14 Policy CS16 seeks high quality design and states that planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design responds to, draws inspiration from and respects local context, produces a positive relationship between buildings, street and spaces both existing and proposed, is inclusive by considering the needs of those with disabilities, ensuring safe and convenient access for all and adapts to the changing needs of the users and the changing climate over the lifespan of the building.
- 5.15 Policy DM7 provides that within the defined urban areas, development specific to the requirements of the elderly, people with disabilities or other forms of specialised supported housing provision will only be permitted provided that the following relevant criteria are met:
1. It is demonstrated that appropriate levels of on-site amenity space are accessible for residents' use which provides a satisfactory outlook for all residents.
 2. A setting for the building is provided which is in keeping with the surrounding area.
 3. Sufficient space for servicing is provided.
 4. Services that may generate noise and disturbance (such as laundry rooms, kitchens and refuse storage) are located and designed to avoid undue disturbance to the amenities of neighbouring properties.
 5. The development would not result in a concentration of such uses in one of the five areas of the borough or an over-concentration within each of these areas.
- 5.16 Policy DM10 relates to pollution and states that development that may cause pollution of



water, air or soil or pollution through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, heat, electromagnetic radiation and other pollutants will only be permitted where the health and safety of existing and future users of the site, or nearby occupiers and residents is not put at risk.

- 5.17 Policy DM12 requires new developments to mitigate their travel impact, including the environmental impacts of travel (such as noise, air and visual pollution) and impacts on amenity, health and climate change.
- 5.18 Policy DM13 confirms that residential development will only be permitted where it provides car parking and cycle storage in accordance with the standards set out in the Residential Car Parking and Cycle Provision Supplementary Planning Document.

Saved Policies of Havant Borough District-Wide Local Plan

- 5.19 The Havant Borough District-Wide Local Plan (HBDWLP) was adopted in September 2005 but since September 2008 only 'saved' policies from the HBDWLP have been taken forward as part of the transition to Havant Borough's Local Plan. The number of saved policies has gradually reduced since September 2008, being deleted when the content of the policies have been superseded by other policy documents such as the National Planning Policy Framework or the Havant Borough Local Plan (Core Strategy) March 2011.
- 5.20 The number of saved policies will continue to reduce as further Local Plan documents are developed. The remaining saved policies primarily relate to specific site allocations whilst the emerging Local Plan (Allocations) Development Plan Document (DPD) is currently being prepared.
- 5.21 The site is not identified as an allocated site in the saved policies of the HBDWLP or in the emerging Local Plan (Allocations) DPD.



Residential Parking & Cycle Provision Supplementary Planning Document

- 5.22 The Residential Parking and Cycle Provision SPD was adopted in March 2010 and at Table 6 sets out the car parking and cycle provision standards for nursing and rest homes, including 1 car space per 4 residents and 1 car space per member of staff, as well as 1 long stay cycle space per 6 staff and 1 loop/hoop per 4 units.



6.0 The Case for the Appellant

- 6.1 This section sets out the appellant's case in detail, with specific regard to the one sole reason for refusal of planning permission identified in Section 1.0 above, which is explored in detail below.

Reason for refusal

The proposed development would result in an excessive building bulk adjacent to existing residential properties to the north, resulting in an unneighbourly and overbearing impact detrimental to the visual outlook and amenities of the occupiers of those properties. As such the proposal is considered to be contrary to Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 6.2 In response to these concerns, the issues of the bulk of the proposals and the impact on the visual outlook and amenity of the occupiers of the adjoining properties to the north are addressed in this section, having regard to the provisions of Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

Bulk and visual outlook from adjoining properties to north

- 6.3 By removing the existing single storey kitchen extension at the rear of the property, the existing gable end that faces the adjoining dwellings at Nos. 8 and 9 Silvertrees would also be completely removed, which is considered to provide an improved relationship with and outlook from the adjoining properties.
- 6.4 In relation to the proposed rear extension, whilst it extends 10.5 metres further towards the rear boundary of the site compared to the existing extension, it has been carefully designed to reduce its scale and bulk in views from the adjoining properties. This includes being only single or 1.5 storeys in height, with a maximum ridge height that is the same as the existing rear extension, and a pitched slate roof that slopes away from the adjoining properties to a central flat roof in order to reduce the height of the extension as



much as possible.

6.5 In addition, the proposed rear extension is located either the same distance or further from the boundary with the adjoining properties (between 2.5 and 5.0 metres) compared to as existing, with the majority of the additional 10.58 metres length being only single storey in height in order to minimise its appearance when viewed from the adjoining properties.

6.6 The proposals also include a side extension located adjacent to the garages of Nos. 9 and 10 Silvertrees, which has been purposely designed as a dormer extension with the first floor located partly within the roof in order to minimise its overall height. This proposed extension will only be visible in oblique views from the ground and first floor windows of Nos. 9 and 10 Silvertrees, as the Officer's Report confirms at paragraph 7.11.

6.7 In relation to views of the proposed side extension on the northern side of the existing building from the adjoining properties in Silvertrees, paragraph 7.4 of the Officer's Report highlights the fact that the existing external fire escape on this elevation would be removed and confirms that the extension is of an appropriate design, would be seen in the context of the existing building to which it would be subservient and would not add significantly to the prominence of the building within the Silvertrees streetscene such that it is considered acceptable.

Privacy and overlooking

6.8 The rear extension only includes ground floor windows or roof lights at the upper level in order to address overlooking of the adjoining properties to the north.

6.9 Where the proposed windows in the dormer side extension on the northern side of the building face the adjoining properties in Silvertrees, they have been designed with deep internal sills and/or include obscure glazing to address overlooking.



Access to light

- 6.10 The Design and Access Statement (DAS) submitted as part of the application confirms that the design of the proposals has given due regard to the safeguarding of daylight to existing adjoining dwellings, including demonstrating compliance with the requirements of the BRE guidance document '*Site Layout Planning for Daylight & Sunlight*' (Littlefield 2011). It is noted that the matter of safeguarding daylight only applies to habitable rooms where daylight is required and does not apply to bathrooms, cloakrooms, stores or circulation.
- 6.11 A series of existing and proposed sun studies throughout the year were prepared as part of the application using CAD modelling (see Drawing Nos. 4963/1901-1908). In relation to No.8 Silvertrees, these studies confirm on March / September 21st and June 21st there will be no change to this property as a result of the proposals. On December 21st at 9am and 12pm, any shadows from the site remain below the ground floor sill height of the rear windows of this existing dwelling and are similar in extent to at present. At 3pm on December 21st, the two westernmost ground floor windows of No.8 Silvertrees are affected by additional shadow from the proposals but this is considered to be acceptable given that the adjoining windows are unaffected for the remainder of the day during winter and are unaffected at all other times of the year.
- 6.12 The Officer's Report also confirms at paragraph 7.10 that *"...the rear elevation of No.8 Silvertrees lies to the east of the extension and the extension, which is of single storey eaves height, is not considered to result in significant impact regarding outlook and light."*
- 6.13 In relation to No. 9 Silvertrees, Section C of Drawing No. 4963/1400 Revision E submitted with the application demonstrates that following the removal of the existing gable end associated with the rear kitchen extension, there will be an overall improvement in the level of daylight to the rear windows of the adjoining property in the wall facing the development. The sun studies also demonstrate that on March / September 21st and June 21st, there will either be no change or an improvement to this property as a result of the



proposals. On December 21st, there will be some additional overshadowing of the east-facing rear window of No.9 Silvertrees (perpendicular to the site) at 12pm only. Given that at all other times of day and year there is no significant change, this is considered to be acceptable. The Officer's Report confirms at paragraph 7.10:

"Whilst the proposed extension would have a greater length than the kitchen extension to be demolished, it has been designed with a hipped roof, which would replace the existing gable facing No.9. The submitted sunlight studies and sections illustrate that the impact on day light is not detrimental and in respect to sunlight the main impact is limited to the winter months in the afternoon. The proposed extension will therefore result in some detriment in terms of loss of sunlight, however, daylight levels are not significantly impacted."

- 6.14 In relation to No.10 Silvertrees, on March / September 21st and June 21st none of the habitable room windows are affected by additional shadow as a result of the proposals. On December 21st, the only change as a result of the proposals is that the easternmost upper rear window will receive additional shadow at 9am only. Again, given that at all other times of day and year there is no significant change, this is considered to be acceptable. The Officer's Report confirms at paragraph 7.10 that:

"...the extension as demonstrated by the sunlight studies would result in some loss of sunlight to the bedroom window in the morning in the winter months. In conclusion there would be some limited loss of outlook, daylight and sunlight but taking account of the extension to be demolished the impact would not be so great as to support refusal."

In relation to the impact of the side extension in particular on Nos. 9 & 10 Silvertrees, the Officer's Report concludes at paragraph 7.11 that *"...there would be some limited impact*



on sunlight but not to such an extent as to be unacceptable."

- 6.15 Paragraph 7.12 of the Officer's Report confirms that the proposed extension in the central part of the site is separated from the adjoining properties by the existing building and will not result in any detriment. Overall, Section 8 of the Officer's Report concludes that:

"The proposed extensions, whilst representing a significant increase in accommodation, building bulk and site coverage can be easily accommodated without unacceptable detriment, and in addition provide significant improvements in terms of the relocation of the service area and associated venting to the centre of the building..."

Noise, Smell and Lighting

- 6.17 In response to previous comments from the Council's Environmental Health Officer, the proposals would have the benefit of relocating the existing kitchen, laundry and plant room to the centre of the site and therefore moving any associated noise and / or smell away from the boundary with the adjoining residential properties to the north, as well as improving the outlook from these dwellings towards the site by removing the unsightly extract system associated with the existing kitchen.
- 6.18 The proposed rear extension will replace these rooms with ground and first floor bedrooms, including four new ground floor windows facing the adjoining dwellings to the north. Whilst the Officer's Report acknowledges at paragraph 7.13 that there is potential for some noise and disturbance from the use of these bedrooms, this is considered to be offset by the relocation of the kitchen and laundry uses (including associated ventilation) to the central core of the building.
- 6.19 It is therefore considered that the proposals would address any issues associated with noise and smell from the site and any potential impacts on the amenity of the adjoining



dwellings to the north in Silvertrees. This position is supported by the Planning Officer at paragraph 7.13 of their report.

- 6.20 The Officer's Report recommends that any consent for the proposals should be subject to conditions in respect to the issues of light and noise nuisance as set out by the Council's Environmental Health Officer and the appellant is willing to accept these conditions as set out in Section 9 of the report.
- 6.21 Having regard to all of the above in the context of the Council's reason for refusal, it is submitted that the proposals accord with the provisions of Policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 by providing a high quality design that reflects the original characteristics of the existing building and ensures that the proposed extensions will appear as well-integrated and will not have a significant impact on the amenity of the adjoining properties, whilst at the same time resulting in improvements to the accommodation and accessibility of the occupants of the care home to meet current standards.



7.0 Conclusion

- 7.1 The proposed development will enable the extension of an established care home to provide additional beds and help meet the social need for high quality care homes for the elderly with the advance of an ageing population, in accordance with Policy CS7 of the Local Plan.
- 7.2 The proposals will also provide for the significant refurbishment and remodelling of the existing care home to ensure it meets the Care Quality Commission (CQC) Standards, including addressing current internal layout and accessibility issues and increasing the average room size.
- 7.3 The proposed extensions have been carefully designed in order to minimise any adverse impacts on the outlook and amenity of the adjoining properties to the north, including taking into consideration the comments made from the Council's Environmental Health Officer and relocating the existing kitchen and laundry (and associated noise / smell nuisances) away from this boundary.
- 7.4 The design of the current proposals has also responded to the feedback provided by the Council Planning Officer as part of the pre-application discussions and in relation to the previously withdrawn application. The sun studies submitted with the application demonstrate that any changes to the existing access to light for these dwellings is restricted to only one time of day / year, with the remainder of the day / year unaffected, and are therefore considered to be acceptable. It is the appellant's contention that these negligible impacts are outweighed by the other benefits that the proposal will provide.
- 7.5 It is submitted that the proposals accord with the National Planning Policy Framework and Havant Borough Council's Local Plan and will offer significant benefits to the existing and future occupants of the care home, as well as to the outlook and amenity of the adjoining properties to the north. It is therefore respectfully requested that this appeal is allowed.