

24th April 2024

Lesley Wells
Planning Department
Havant Borough Council
Civic Centre Road
Havant
PO9 2AX

Sent via email: Lesley.Wells@havant.gov.uk;

Dear Lesley Wells

Planning Application Reference: APP/23/01078 - Demolition of existing dwelling and replacement with 4No 2bed, 8No 3bed and 3No 4bed dwellings at Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH

Union4 Planning acts as the planning advisor to the Applicants. It was a pleasure to meet you (albeit virtually) when we discussed the status of the application.

The architect, Matt Swanton of Re-Format, is the Agent for the application. Re-Format is dealing with the application and any LPA required amendments/further information.

This letter responds to statutory and third-party comments made during the LPA consultation process, which has now closed. We would be grateful if you would take our comments fully into account when reaching your conclusions and recommendation on the above application.

This letter also confirms that the Applicants are proposing no development in the blue line land, owned by the Applicants.

Statutory Consultee Responses

The following statutory consultees have made comments. The Applicants comments where necessary are also set out below:

Childrens Services – No Objection – No contribution required.

Building Control – No objection

Comments are made in relation to the public sewer (applicant aware and scheme has considered), building regulations relating to solid waste storage not being shown (it is shown on the application drawings), fire authority access/turning facilities and waste collection vehicle access.

The Applicants can now confirm that, the access via Curlew Close has been removed and tracking for fire and refuse has been fully demonstrated within the application site. Refuse and cycle parking has also been shown on the submitted plans.

In addition, the Applicants can confirm that the above issues have been fully considered and will be complied with at the appropriate planning/building regulation stage.

Hampshire Countryside Service (as Highway Authority in respect of PROW and Commons Registration Authority) – No objection subject to detailed design

The response states that *'The Service supports, in principle, the proposed 'footpath to waterfront' shown in the Proposed Site Plan, that would connect to FP56. Should this application be approved by the planning authority a condition should be added requiring the applicant to supply the Service with a specification for the footway where it is proposed to connect to the PROW, for the Service's approval. This should include, but may not be limited to, details of the width, surface composition and drainage layout of the footway, as well as any structures proposed to be installed at the junction with FP56. However, on this last point, the applicant is advised that the Service would be most supportive of a gap being left here, and indeed along the length of the footway into the housing area of the site, to enable ease of access to the PROW for all users, including those with mobility needs. Subject to the above condition, the Service raises no objection to this application.'*

The Applicants have considered this matter in detail and decided not to propose a footpath through the site for all the reasons set out in the Footpath through the site section of this letter below.

Landscape Team – Havant Borough Council – No Objection

The consultee Landscape Architect has no objection in principle to the proposal and importantly concludes that the scheme will not have a negative impact on the Chichester Harbour AONB, stating:

'Given the proposals are all set back from the shoreline, behind the existing building lines and are only 2 storeys the proposals are not deemed to have a negative impact on the AONB.'

The Applicants considers that this comment should be given significant positive weight when balancing the various planning issues.

Some other comments are made, which we respond to below:

'We would want to see an increase in biodiversity, and we require all felled trees to be replaced with UK native species that are appropriate for this coastal location.'

The Applicants can confirm that more trees than are felled will be planted. Conditions would be acceptable to the Applicant.

The Applicants can also confirm that material palettes will be agreed with the LPA either during the course of the application or more normally, by condition, as requested.

Further comments are made regarding open space and improving biodiversity. No works are proposed in the blue land as part of this application, but the land will be left open and it will therefore provide private open space and biodiversity, as it does now.

The Applicant remains open to agreeing to a clause with the LPA in the section 106 agreement to ensure that the land stays open, if the LPA wishes to take up this offer.

Ramblers Association

The Ramblers Association support the proposals subject to a Public Footpath through site via Section 106 agreement – low hedging either side requested.

The Applicants are not in agreement with this, for the reasons set out below under Footpath through the site, as set out below.

Hampshire Police

Hampshire Police make comments on the application, which are referred to below under Footpath through the site.

The Applicants have fully taken the comments into account in reaching the conclusion to not provide a footpath.

Footpath through the site

The Planning Statement made a reference to the path being public. The Design and Access Statement did not refer to it being public, and the plans did not also. The application was not clear on the point and, therefore, the Applicants have considered the matter in more detail.

Comments have been made by the Ramblers Association, Emsworth Residents Forum and some local residents in support of a public footpath through the site.

Hampshire Police has various concerns with the proposed path, if made public. They state that:

'The plans show a footpath lined with hedging connecting the residential area with the beach. The footpath will allow members of the public to enter / leave the beach via the new development. There is very little natural surveillance of the footpath from the dwelling, this will reduce further after dark, and the hedging will provide for entrapment. These attributes increase the opportunities for crime and disorder. To reduce the opportunities for crime and disorder this access should be controlled, perhaps gated at the beach end of the footpath. Some consideration should be given to the requirement for the footpath and, if required, only provide the footpath.'

'Lighting is known to reduce crime and disorder and reduce the fear of crime. A lighting plan is not supplied with the application. However, the design and access statement describes the lighting thus: "Low level down lighters are to be used through the site to gently light the street without causing light nuisance to residents, neighbours and the existing ecology on the site especially nocturnal pollinators etc." It is not clear whether "low level" refers to low intensity light or low in height, such as bollard lighting.'

For the following reasons bollard lighting is not considered crime prevention lighting:

- *The light is not at the correct level to provide for facial recognition*
- *The route is not evenly lit, the light is provided in a pool about the bollard with dark areas between the bollards*
- *The bollards can be easily damaged especially by moving motor vehicles*
- *The light from the bollards can be obscured, by planting or parked motor vehicles Havant Local Plan, Policy CS8, advises that development should provide well-lit footpaths, cycle ways and roads.*

To reduce the opportunities for crime and disorder and reduce the fear of crime, lighting throughout the development should conform to the relevant sections of British Standard (BS) 5489-1:2020.'

The Emsworth Neighbourhood Plan 2019-36 states:

'c) New residential developments on or adjacent to the waterfront should safeguard public access to the waterfront and, where appropriate, incorporate the access into the design and layout. Proposals which would have an unacceptable impact on public footpaths and other public access will not be supported.' *(my emphasis)*

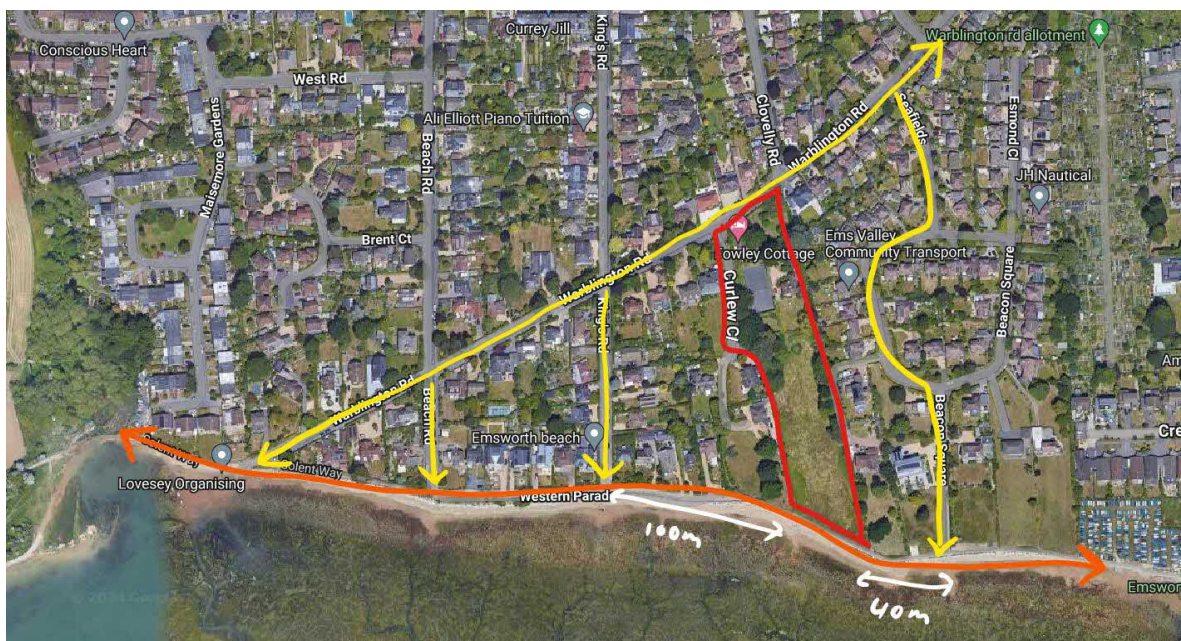
There is no exact policy requirement in the Local Plan. The Housing Delivery Position Statement March 2022 - Decision Making Principle 5 – Development Quality states:

'd) Create new and improve existing pedestrian and cycle route linkages which connect to all parts of the development and facilitate easy and safe access to education, employment, and the natural environment for all users;....'

The Applicants have considered the proposal further in these respects and have concluded that a footpath (public or private) will not be provided.

The main reasons as to why it would not be appropriate are that:

- 1) There are already four existing public access points to the waterfront from Warblington Road within close proximity to the site (please see plan below); one from Beacon Square, one from Beach Road, one from Kings Road and one from the end of Warblington Road. The distances between our site and those other access points are small. There is no *real* need for a further PF in this location. The Neighbourhood Plan aspiration for public access, '*where appropriate*', is quite right, but it is not appropriate to require it on this relatively small site, where very good alternative public access to the waterfront is easily available.



- 2) If a public footpath is proposed, it could lead to parking congestion/blocking existing/prospective residents driveways at the Warblington Road end. Additional parking congestion is already a concern in representations.
- 3) Hampshire Police concerns are real; in order to avoid security risks, a footpath would need to be made far more open, with stronger/higher lighting/lower hedges etc. This site is too narrow, with houses too close to the footpath, to accommodate these changes feasibly and reasonably.
- 4) Due to the required changes to the path to make it safe and acceptable from all parties perspectives, including Hampshire Police, the proposed houses and their occupants would be compromised unduly and unacceptably in terms of loss of privacy, safety, security and amenity.
- 5) There is no public access through the site at present.
- 6) The red line application site does not abut the waterfront/PROW.
- 7) There is a concern expressed by some that if a public footpath is not proposed, this will lead the development to be a 'gated community'. The Applicants are prepared to agree to not have high gates/railings around the whole site by condition. Gates and fences would be needed within the development to ensure no public thoroughfare through the site, but these can be agreed with the Local Planning Authority, and it would not be a gated community.

For the above reasons, the Applicants consider that the proposal to not provide a public footpath through the site is fully justified. The plans have, therefore, been changed to show no footpath.

HBC Principal Ecologist

The Council's ecologist is content with the ecology survey and proposed mitigation in terms of bat protection.

Comment is also made as follows:

'In terms of other ecological constraints, the report includes some sensible measures to ensure that potential impacts on other protected and notable species are avoided.'

Comment is made about the opportunity for imaginative landscaping at the site, which the Applicant agrees with. The applicant is content with detailed landscaping being agreed by planning condition.

The Applicant is also content to agree to:

- 1) Ecological Mitigation, Compensation and Enhancement Strategy,
- 2) Lighting Strategy, and
- 3) Construction Environment Management Plan conditions, as requested.

HBC Developer Contributions

Community Infrastructure Levy (CIL) is applicable, and several other Section 106 contributions are requested. The Applicant agrees to the various requests made in principle. This agreement is subject only to agreement on the actual amounts required in each case, which we await from the Council at your earliest convenience please.

Chichester Harbour Conservancy – No Objection

Chichester Harbour Conservancy has no objection subject to the planning obligations and planning conditions previously set out for APP/20/00376, in the Conservancy's response dated 13 July 2020.

The Applicants have no comments on this matter.

Hampshire County Council Lead Local Flood Authority (HCCLLFA)

The HCCLLFA have replied to the application as follows:

'In order for us to provide a substantive response, the following information is required:

- Confirmation of sufficient existing capacity in the surface water sewer, and allowable discharge rates into the sewer; or*
- Provision of a new private surface water sewer and sufficient storage for if the outfall is submerged.*
- Flow control orifices to be larger to reduce the risk of blockages (>50mm).*
- Revised calculations/layout as necessary.*
- Flood exceedance flow routes on a plan.*
- A full assessment of suitable mitigation for the runoff pollution hazard.*
- Maintenance information for all parts of the drainage system is required, including flow control devices and any additional SuDS required.*

We require this further information before we can make a decision on whether to recommend to the Local Planning Authority that planning permission is granted.'

The Applicants have sought further advice and responses to the above points from the flood consultant, Bellamy Roberts, and the required information is being provided to the Local Planning Authority.

Environment Agency

We understand that no response has been received to date but as discussed hope that you can chase this response up ASAP, which is already beyond the permitted response time.

The Applicants have submitted further information (Bellamy Roberts letter and plan dated 13th March 2024) to inform the decision relating to flooding on the site. The Bellamy Roberts letter (supported by detailed Flood Risk Assessment already submitted) and Applicants position is that the proposed amended plans show that the development of houses and gardens are not at risk of flooding from either present day, or future year flooding (PUSH SFRA 2115). They do not encroach within the existing or future year 2115 topographical based flood line and are, therefore, acceptable in flooding terms, subject to reasonable planning conditions. No sequential test is required, as confirmed by the Bellamy Roberts letter.

Southern Water

Southern Water requests a condition relating to the public sewer and a condition requiring details of foul and surface water disposal to be submitted, which the Applicant is content with. Other requirements are dealt with via separate legislation.

Natural England

Natural England request that HBC carry out a Habitats Regulations Assessment (HRA) and refer back to Natural England for comment. They state that:

'Provided that the applicant is complying with the policy and the Bird Aware Definitive Strategy, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s) and has no objection to this aspect of the application.'

The Applicant agrees to the contributions required to mitigate recreational disturbance – Solent Protected Areas.

HBC Arboricultural Officer

The HBC Arboricultural Officer has made detailed points and is unable to support the proposals as it stands. The Applicants have consulted with their arboricultural consultant and amended plans are being submitted to address this concern.

Emsworth Residents Forum (ERF) comments

Emsworth Residents Forum does not object to the application and makes various supportive comments which should be given appropriate positive weight.

These include the following:

'This proposal is carefully thought through and achieves an appropriate balance between the site context and surrounding urban form, and the density of development proposed. Achieving this by a gradual decrease in density from the north to the south of the site respects the proximity of the coast and the view of the site from the coastal path.'

'The mix of housing proposed with both flats and larger houses is strongly supported as is the element of affordable housing. The smaller properties could encourage some down-sizing from larger properties elsewhere in Emsworth, freeing larger properties to the local market, which is a process which is required, as evidenced by recent housing needs analyses.'

Several comments are however made, including in a further submission on 05 March, as set out below with the Applicants comments following:

'The views of the eastern elevation from neighbouring properties in Beacon Square may need further consideration since they present as relatively tall buildings with a bland uniform appearance.'

The Applicants consider that the proposed buildings are of a high quality, having been carefully considered by the scheme architects to ensure that they are attractive and appropriate for this site. Please see the Design and Access Statement for further justification for the design.

'The application makes extensive useful reference to the Design Checklist within the Neighbourhood Plan, although reference to resource efficiency, as set out in Policy D6 is less specific. Whilst car-charging points are included, other resource-saving measures are presumably covered by the Energy Efficiency Building Regulations, though there is no evidence of e.g. solar panels in the elevations submitted within the application.'

The Applicants can confirm that they are committed to an energy efficient development. Solar panels will be used at the site. The exact configuration has not yet been confirmed, but they will be shown on the plans at the appropriate stage of the process, as required by the Local Planning Authority.

The ERF supports a public footpath through the site. The Applicants have considered this matter in detail and decided not to propose a footpath through the site for all the reasons set out in the Footpath through the site section of this letter above.

The ERF support boat storage on the site. The Applicants can confirm that boat parking/storage will take place at the owners' properties or on other land within the application site/owners control.

'2 We would ask that a detailed assessment of the impact of the development on Warblington Road and adjacent roads should be obtained to take account of possible overflow parking from the development and visitors accessing the foreshore via the pathway through the development.'

The Applicants and their transport consultants have considered the matters raised in the evolution of the scheme. Parking congestion associated with visitors accessing the footpath will not occur as no footpath is now proposed (see Footpath through the site 2) above).

'3 We understand that access via Curlew Close, giving access to the properties to the south of the site, needs to be negotiated and may not be possible. If that proves to be the case, it would have a material impact on the design as currently proposed. We would ask that in that event, any amended designs are made available for further consultation.'

The Applicants are no longer providing access via Curlew Close.

The ERF has requested public access to the waterfront and public benches. The Applicants have considered this matter in detail and decided not to propose a footpath through the site for all the reasons set out in the Footpath through the site section of this letter above.

The Applicants own the blue land and are committed to putting benches on their land adjacent to the PROW separate to this planning application, when the application is being implemented should it be approved.

'Additionally, our previous comment referring to the need to assess the impact of the development on the neighbouring properties in Beacon Square should be extended to include the visual impact on 44 Warblington Road.'

The Applicants architect has met with both adjoining owners and other local people and as a result, amended plans are being submitted, taking into account those comments made.

'Finally, we have been disappointed that there was no engagement with the local community during the preparation stages of the design, since the NPPF sees such engagement as an essential process to ensure community acceptance of any proposal (Paras 131 and 137).'

The Applicants have taken into account the previous applications on the site and the many local resident views expressed in relation to those applications.

A pre-application submission to Havant BC was also made and the comments received were also considered and addressed in finalising the proposals.

The Applicants have facilitated access to the site for various local resident meetings, including with the planning officer, where the applicants were not present (at the residents' request). The comments made have been communicated to the Applicants and considered. The Applicants architect has also had meetings with adjoining and other nearby residents, where comments have been made. In addition, comments made by the Emsworth Residents Forum have been fully taken into account, as set out above.

As a result of the above process, amended plans are being submitted, addressing those comments that the Applicants can reasonably accommodate.

Local resident comments

In addition to the above statutory consultation replies and Emsworth Residents Forum comments, many letters of support, comment and objection have been made and are on the Havant BC website.

This letter above deals satisfactorily with many of the issues raised in the letters.

The support letters make many material planning points that should be given material positive weight::

- 1) The significant need for housing (current deficit in housing supply/no 5 year housing supply),
- 2) The proposal is modest compared to many developments, which will put less pressure on infrastructure; any more would be unacceptable,
- 3) Care has been taken over the design, layout, energy efficiency, green space and parking,
- 4) The proposal strikes the right balance between sensitive development and overdevelopment, as well as density and character
- 5) The design is very attractive and would provide a sensible number of houses,
- 6) 30% affordable provision is made,
- 7) The development would be sustainable,
- 8) The flood line has been respected by setting back the homes,
- 9) 'The development is extremely well thought through and would serve the local area well. The design looks to be of very high quality and will suit the surroundings perfectly.'
- 10) Benches on waterfront would be welcomed,
- 11) A significantly more fitting solution than the original plan for 40 houses,

- 12) 'I think it's crazy how up in arms complainants are about this planning proposal. This area is obviously going to need to be developed on one day, so for just 15 homes to be built in keeping with the very respectable local vernacular - rather than potentially a lot more houses - and with an area at the foreshore sectioned off with benches for public use, it is a no brainer this should go ahead. I really hope this proposal gets a lot more support. The supporters need to become as loud as these complainants as they are far more numerous. That's certainly the sentiment in my neighbourhood and my networks, who walk past this area regularly during foreshore walks.'
- 13) It provides a varied and healthy mix of 2-, 3- and 4-bedroom dwellings/flats that is too rarely seen,
- 14) Would provide a significant Community infrastructure Levy for the benefit of the local community,
- 15) A refreshing contemporary manner with well scaled forms and appropriate materials will mitigate its impact on the neighbourhood,
- 16) Mature trees and building line have been respected,
- 17) The flats are of a sensible number and would help deliver some lower price options for those on lower salaries, and
- 18) The scheme complies with Council policies.

The objection letters relate to many of the matters already dealt with above in this letter, the following further matters are raised, which are responded to in each case in brackets:

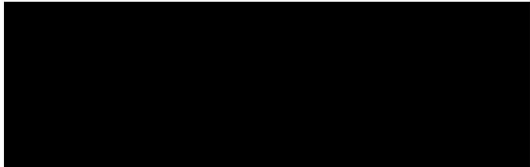
- 1) Out of character - (the design is fully justified in the Design and Access Statement, including that the Emsworth Neighbourhood Plan is complied with in this respect),
- 2) Overdevelopment – (the density is in accordance with HBC requirements – approx. 40 dph in the red line, far less if the blue line land is included – the blue line should be included in respect of assessing whether overall density on the red/blue line is acceptable in character terms),
- 3) Impact on AONB – (the statutory consultee in this respect, Havant BC Landscape officer, has no objection),
- 4) Shouldn't be developed – (The Union4 Planning Statement details the planning history of allocation of the site and continued HBC support in principle for the development of 40dph/20 dwellings in the Housing Delivery Position Statement 2022),
- 5) Traffic and parking congestion inside/outside the site – (there is no statutory objection in this respect – not having a public footpath will assist to reduce congestion),
- 6) Should be no flats – (a housing mix is required by HBC policy/there is a need for smaller units),
- 7) Should be no affordable housing on-site – (On-site affordable housing is in accordance with policy. Off-site affordable housing would only be considered where no realistic AH Housing Association offer is forthcoming),
- 8) Impact on/loss of trees – (the Arboricultural team comments are being addressed. More trees will be planted than felled. Most mature trees are retained),
- 9) Should be a landscaping plan with replacement trees – (a detailed landscaping plan will be required by HBC planning condition),
- 10) Noise and light pollution – (HBC can control these matters where necessary by condition, but no adverse impacts are anticipated),
- 11) 'The plan shows a public footpath through the new 'estate'. This is not necessary because there are already 5 access points to the foreshore between the end of Warblington Road and the sailing club. Another footpath will encourage disruption, noise and vandalism especially in the summer months and will exacerbate the parking issue on Warblington road. This footpath should be removed or maintained as private to the new estate.' – (no footpath is now proposed),
- 12) Drainage – (this matter is being addressed as per the statutory consultee responses referred to above),
- 13) Historic 1930's house should not be demolished – (the existing house is not of a sufficiently high quality to warrant retention; it is not listed or protected),
- 14) Impact on neighbouring properties – (this matter has been carefully considered and as referred to earlier in this letter, meetings have taken place with neighbours to understand concerns and amended plans are being submitted amending the proposals to address concerns, where realistically possible), and
- 15) Room sizes too small – (Room sizes comply with those set out in the nationally described minimum room size standards).

As requested at the beginning of this letter, please take full account of the comments in this letter when reaching your conclusions and recommendation on the application.

Should you have any queries or need further information, I or Matt Swanton would be more than happy to discuss them with you to ensure that the submitted information and plans meet your needs.

Otherwise, we hope that you will be convinced by the application documents, plans, further submitted information and plans and comments above to the extent that you can recommend approval to the application.

Yours sincerely,

A large black rectangular box used to redact the signature of Andy Stallan.

Andy Stallan

Director