GROUNDS OF APPEAL

Appeal By: Mrs M. Fairclough
Local Planning Authority Ref. No: F/12/70363

Re: Erection of detached stable & store
Upton Lodge, Blundell Lane, Bursledon, Southampton, SO31 1AA

1.0 Introduction

1.1 This appeal is made in response to the decision of Eastleigh Borough Council to refuse planning permission for the above development. The reason given by Eastleigh Borough Council is detailed below:

1.2 *"The proposed structure by reason of its location, size and massing would be out of keeping with the pattern of development in the locality. As such the proposed structure is considered to harm the character and appearance of both the countryside and Local Gap setting. Accordingly the development is considered contrary to saved policies 1.CO, 3.CO, 9.CO and 59.BE of the Eastleigh Borough Local Plan Review (2006-2011)."*

1.3 The Council's decision centres around three main issues: location; size and massing and that the proposal would be out of keeping with the pattern of development. The grounds of appeal will demonstrate that there is a functional need for the proposed development and that the size and location is appropriate as well as being dictated by the use. The statement will also show that the proposal has paid due regard to the main planning considerations for a development of this nature. Contrary to the refusal reason it will be shown that the development would not materially harm or be out of keeping with its countryside location (within a Local Gap) and instead demonstrates that the Council's decision to refuse this application was wholly unfounded and unreasonable.

2.0 Site Description and Character

2.1 The appeal site comprises a large detached two storey dwelling, with large residential curtilage, set within the countryside and designated Local Gap. The site benefits from two vehicular accesses. The first is a secure access on the corner of Dodwell Lane and Blundell Lane and the second is a steep access (that can be secured) off Blundell Lane, positioned at the bend in the road (used as a delivery

access). There are two detached outbuildings within the gravelled area between the dwelling and Blundell Lane. The first is a timber structure used for light storage and gardening (historically the local dance hall). The second building is of brick construction and is likely being late Victorian/Edwardian stables for the site. The building has storage within the roof space for hay. Paddock land adjoins the residential curtilage which is used by the appellant's two horses.

2.2 The surrounding area is rural in nature with a small grouping of residential buildings, with various outbuildings. Most of the properties are set within large land plots and benefit from good natural screening. Blundell Lane is a narrow derestricted road with no footpath. Whilst properties on the opposite side of Blundell Lane (to the appeal site) are mostly level with the road the appeal site is elevated by approximately 1m plus.

2.3 The properties to the north of Blundell Lane are more visible and apparent from the streetscene, as are the outbuildings, some of which are positioned close to the front boundary. In contrast the majority of the appeal site is well screened and can only be glimpsed through the current vegetative screening along Blundell Lane. It is only when you reach the bend in Blundell Lane that the dwelling is visible with the timber outbuilding sat prominently on the front boundary of the site, as it has done since around the 1930's.

3.0 Proposal

3.1 Planning permission is sought for the erection of a single storey stable/store to accommodate the site owner's two private horses which are currently kept on-site. The stables would be an essential facility for the appellant's horses as would the ability to store the hay required for the horses at ground level and the equipment needed to maintain the substantial grounds within the ownership of the appellant. A tractor store is also provided for the appellant's vintage tractor, which is currently being stored off site and is proving to be very costly.

3.2 The stable/store would be located in the northern part of the appeal site and would be sited midway between the paddocks used by the appellant's two horses and the Victorian/Edwardian stable building. The proposed stable/store would be some 33m from the dwellinghouse known as Upton Lodge. The proposed site of the stables benefits from a close source of electrical and water supply which are essential facilities for the horses being stabled.

3.3 The proposed stable building would be L-shaped and would be of timber construction with external log store to the east side of the new stable building. The proposed stable building would be sited adjacent to the existing Victorian/Edwardian garage/store on site and despite the level changes within the site would be well screened from the public domain by the existing hedge and tree screening within and around the site. The positioning and height (under 4m) of the proposed stable building has been carefully considered so as to take every opportunity to reduce its visual impact, whilst meeting minimum requirements in terms of spacing and height for the horses. It is pertinent to note that the dimensions of the building accord with that allowed under the permitted development for the site (Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2008).

4.0 <u>Permitted Development</u>

4.1 Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2008 allows.

The provision within the curtilage of a dwellinghouse of -

a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

Development not permitted

E.1 Development is not permitted by Class E if -

(a) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
Comment: The proposal would not exceed 50% of the total area of the curtilage.

(b) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

Comment: Due to the design and layout of the dwelling and its positioning within the site it is not clear which part of the building would be seen as the principal elevation. It is pertinent to note that the Council has not offered an opinion on this either. However, upon professional advice it is considered that the principal elevation would be that containing the front door and facing the long driveway into the site from the junction of Dodwell Lane and Blundell Lane. A detailed explanation on this approach is provided below and was put forward with the application. Having regard to this assessment the proposed stable building would be sited forward of a wall forming the principal elevation of the original dwellinghouse. Planning permission would therefore be required on this basis.

(c) the building would have more than one storey;
Comment: The proposal does not have more than one storey.

(d) the height of the building, enclosure or container would exceed—
(i) 4 metres in the case of a building with a dual-pitched roof,
(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
(iii) 3 metres in any other case;
Comment: The proposed structure would have a dual pitched roof with a height of 3.95m. In terms of its height the building would therefore be acceptable for the purposes of Class E. However as the building is sited forward of the principal elevation its positioning in relation to the boundary is somewhat of a moot point. Subsequently the current positioning between 1.5m and 2m from the front boundary of the site result in a failure on d(ii) above. However this could have been easily overcome with a minor revision to the siting of the building had it made a difference to how the building would have been interpreted for Class E.

(e) the height of the eaves of the building would exceed 2.5 metres;
Comment: The height to eaves level is 2.45m and would not therefore exceed the 2.5m threshold given above.

(f) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
Comment: The proposal is not within the curtilage of a listed building.

(g) it would include the construction or provision of a veranda, balcony or raised platform;

Comment: The proposal does not include the construction or provision of a veranda, balcony or raised platform.

(h) it relates to a dwelling or a microwave antenna; or

Comment: The proposal does not.

(i) the capacity of the container would exceed 3,500 litres.

Comment: N/A

E.2 In the case of any land within the curtilage of the dwellinghouse which is within—

(a) a World Heritage Site,

(b) a National Park,

(c) an area of outstanding natural beauty, or

(d) the Broads,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would not exceed 10 square metres.

Comment: The site does not fall within any of these land classifications

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 1(5) land, development is permitted by Class E if any part of the building, enclosure, pool or container would not be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

Comment: The dwellinghouse is not on article 1(5) land.

4.2 **Ancillary Use – Schedule 2 Class E:**

Consideration was given as to whether the development proposed fell within permitted development entitlement for the site, especially with regard to its intended use. Class E sets out the rules on permitted development for buildings etc. within the curtilage of a dwellinghouse. Buildings should not be attached to the house and should be built for purposes incidental to the enjoyment of the house. Paragraph E.4 of Class E indicates that purposes incidental to the enjoyment of the house includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic

needs or personal enjoyment of the occupants of the house. As the building would be used for the owners own private horses (two), the hay required for those horses and equipment to maintain the site within the ownership of the applicant it is considered that the building would meet the test of being ancillary for the purposes of Class E.

4.3 **Principal Elevation – Schedule 2 Class E:**

This restriction means that any development that is in front of a principal or side wall that fronts a highway will require an application for planning permission.

4.4 In most cases, the principal elevation is that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.

4.5 There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation (such as the appeal dwelling), a view will need to be taken as to which of these forms the principal elevation. On this point it is considered, conservatively, that the principal elevation for Upton Lodge would be the one that fronts the extended driveway, with the front door in (west elevation). On this basis the proposed structure would be sited forward of the principal elevation and as such would not be permitted development. However, the main architectural features of the dwelling are on a different elevation from the main door, it is therefore requested that during the determination of this appeal that the Inspector provides a judgement on the principal elevation for this dwelling.

4.6 **Summary of Schedule 2 Class E**

In summary the structure is of a scale that could be allowed under permitted development (Schedule 2 Class E). Regard would need to be given to its positioning within the site and its proximity to the boundary but the scale and use of the development proposed would be acceptable. This would therefore provide a firm ‘fall back’ position for the site; a consideration that the Council has failed to take account of in its determination.

5.0 Relevant Policies of the Eastleigh Borough Local Plan Review (2001-2011):

5.1 **Policy 59.BE**

There are ten criteria specified in policy 59.BE of the Local Plan, which is detailed below. However only part (i) is relevant to the consideration of this development, although part (iv) could be if a landscaping scheme was considered necessary.

5.2 Development proposals which are in accordance with the other policies in this plan will be permitted provided they meet all the following criteria:

(i) they take full and proper account of the context of the site including the character and appearance of the locality or neighbourhood and are appropriate in mass, scale, materials, layout, density, design and siting, both in themselves and in relation to adjoining buildings, spaces and views, natural features and trees worthy of retention;
(ii) they make the most efficient use of the land;
(iii) they incorporate an appropriate mix of dwelling type and land-use where appropriate;
(iv) they provide a high standard of landscape design and appropriate planting where required. Development should use native plants in landscape schemes to benefit biodiversity. Development adjacent to or within the urban edge must not have an adverse impact on the setting of the settlement in the surrounding countryside;
(v) they have a satisfactory means of access and layout for vehicles, cyclists and pedestrians including appropriate links to surrounding footpaths, cycle ways and public transport services;
(vi) include, where appropriate, provision for the secure storage of bicycles;
(vii) they are an appropriate use for the locality and avoid unduly interfering, disturbing or conflicting with adjoining or nearby uses, especially in terms of noise, fumes, dust, overlooking, loss of daylight, loss of outlook, vibration, or from floodlighting or security lighting;
(viii) they make adequate provision for the storage and collection of refuse and where appropriate include facilities for the collection of recyclable materials;
(ix) they include, where appropriate, measures which provide shade and protection from the sun; and
(x) new development should reduce the potential for criminal activity and anti-social behaviour by the use of appropriate design.

5.3 The appeal site is within the countryside, it is also located within a Local Gap. As the appeal relates to the provision of an ancillary stable/store building it can be

considered as an extension of an existing residential dwelling within the countryside and Local Gap. The only policy therefore relevant to the consideration of this application is policy 9.CO of the local plan. Nonetheless the Council has in their decision notice relied on policies 1.CO and 3.CO; although they are not considered to be strictly applicable.

5.4 **Policy 1.CO**

The above policy aims to protect the countryside within the Borough and states that *"development will not be permitted outside the urban edge unless for agriculture, forestry, horticulture, outdoor recreation, essential public utilities* ***or meets other criteria*** *within the Local Plan."* This is why policy 9.CO below is more relevant.

5.5 **Policy 3.CO**

The above policy aims to visually and physically protect the Local Gap with development only permitted if it cannot be located elsewhere or will not diminish the Local Gap.

5.6 It is not considered that the stable/store would diminish the local gap and is sited in the most functional place allowing for good screening of the structure whilst being located close to the associated paddocks and in an area that has a fresh water supply and electrical supply (essential for the stable accommodation). Further, the function of the stable/store is an essential facility for the two horses on site and is required for their health and well being and overall care. This has been confirmed by the owners vet (see Appendix 1).

5.7 The tractor store is also an important element of the development as the appellant is currently paying for storage of a vintage tractor. The development would allow for its secure storage which is essential for its long term maintenance following its recent restoration (this is confirmed at Appendix 2).

5.8 **Policy 9.CO**

When dealing with applications for extensions to existing lawful dwellings in the countryside policy 9.CO of the Eastleigh Borough Local Plan Review (2001-2011) lists four criteria that must all be used if the extensions are to be allowed; the criteria for which is listed below:

"i. the dwelling is not subject to an agricultural occupancy condition;

ii. the development is not likely to facilitate the subdivision of the property into more than one dwelling;

iii. the extension does not result in the dwelling becoming disproportionate in size to neighbouring properties or disproportionate in relation to its plot; and

iv. the design of the extension does not materially worsen the impact of the dwelling on its immediate surroundings or the countryside in general."

5.9 In respect of points i and ii the dwelling is not the subject of an agricultural occupancy condition and it would not facilitate the subdivision of the plot, even though the Council appear to express concern regarding this matter within the officer report (Assessment of Proposal – Impact upon the Countryside - final sentence). Nonetheless this would constitute a material change of use and would require planning permission in its own right, which the Council would have control over. It is not considered therefore that this is relevant to the determination of this appeal.

5.10 With regard to point's iii and iv the stable/store would be appropriate to its location as well as providing an essential facility for the horses kept on site (owned by the applicant). Further the appellant would be able to store her vintage tractor, which is currently being stored off site and is proving very costly. The proposed use is therefore ancillary to the residential use of the site.

6.0 <u>Justification for the Stable/Store</u>

6.1 The British Horse Society and the Home of Rest for Horses produce a leaflet called 'Guide to Horse Care and Welfare'. Within the leaflet they provide general information on how to look after your horse. Pages 11 - 14 of this leaflet provide details on 'Requirements for Stabled Horses and Ponies' (a copy of this section and the front cover of the leaflet can be found in appendix 3). The advice clearly states that *"The main considerations in planning the construction and layout of stables are the safety and comfort of the horses, adequate drainage and ventilation, and ease of access. The building must be constructed soundly, with no exposed surfaces or projections likely to cause injury to horses."* ('Guide to Horse Care and Welfare', page 11, paragraph 3, 2001). The advice goes on to say that *"Roofs must be high enough to provide good air circulation and there must be a minimum clear space of 60-90cm above the ears of the horse in its normal standing position. There should be adequate lighting, to permit the inspection and safe handling of the animals, particularly in event of emergency (e.g. if the horse becomes cast or ill)"* ('Guide to Horse Care and Welfare', page 11, paragraph 5, 2001).

6.2 When dealing with stable size in addition to the height requirements, detailed above, advice within the 'Guide to Horse Care and Welfare' states *"the horse must have sufficient room to lie down, stand-up and turn around in comfort, without the risk of injury. The recommended minimum box sizes are 3.66m x 3.66m for horses and 3.05m x 3.05m for ponies"* ('Guide to Horse Care and Welfare', page 13, paragraph 1, 2001).

6.3 The appellant owns one larger horse and one smaller horse. The development would provide 28.64m² for the two horses. The minimum requirement, based on the above figures, is 26.8m². It would not therefore be possible to reduce the accommodation for the two horses without affecting their welfare.

6.4 In addition to the stabling the development makes provision for a tack room, hay store, general store, storage area for a vintage tractor and log store. The tack room is a necessary facility for a stable building and is to be found in all good quality stables. The hay store allows for the easy, secure, dry storage of the hay at ground level. As mentioned earlier the hay is being stored in the roof void of the Victorian/Edwardian stable building. There is a hatch in the flank elevation at first floor level where the hay is delivered to. However, modern techniques mean that the hay arrives in bales that are particularly heavy and difficult to move. In the past stooks of hay would have been forked in by hand. The existing hay store is therefore no longer fit for purpose as it is difficult to access (via a wooden ladder) and move hay around. The storage area will be for the garden machinery for the site and general storage; much of which is found within the Victorian/Edwardian stable. Once the items have been moved from the Victorian/Edwardian stable the appellant will be able to use the Victorian/Edwardian building to garage her car. The site does not have a garage at present. This will negate the need to construct one and will put to use a building that is not fit for its original stable purpose due to the dimensions, layout and dated condition. An important fact with stabled horses is that they must be able to see each other which is not possible in the Victorian/Edwardian stable. The tractor store is for the owner's vintage tractor which is currently being stored off site and is very costly. The size of the tractor store is dictated by the size of the vintage tractor and the ability to store and manoeuvre the lawn tractor without having to move the vintage tractor in and out of the store. The log store will enable the appellant to store logs in a dry manner, which will be used for firewood for the dwelling.

6.5 The above information clearly demonstrates why the building is of the scale that is proposed. It would not be possible to reduce the scale of the building and still provide the required space. It was considered that to provide a single structure that fulfilled the needs of the appellant was more desirable than a number of smaller scale individual buildings scattered around the site. This approach enables one building to be accessed and one building to be provided with water and electricity. Further the scale of the building is not luxurious in terms of space for its requirements and has been designed to meet minimum space standard requirements in order to keep the bulk to a minimum. As mentioned above the building falls within the tolerances that would be allowed under the permitted development entitlement for the site.

7.0 Statement of Case

7.1 Working through the Council's reason for refusal and breaking up the main components, the Council claims that the proposal is harmful because of its location and because of its size and massing. This is claimed to be out of keeping with the pattern of development in the countryside.

7.2 Having regard to the above information it is contended that the position of the stable building, adjacent to the main paddock and close to the Victorian/Edwardian stable would be wholly appropriate. It would avoid sporadically located buildings and instead concentrates them in a well screened, small cluster. The benefits of doing this mean that the new stable/store building is easily accessed from the main dwelling, in the interests of the welfare of the horses and the security of the machinery. In addition this part of the site benefits from easy access to an electricity and fresh water supply, which are both essential facilities for the horses. It is therefore contended that the location of the stable/store is not only appropriate in terms of its function but also positioned in a manner that aids in reducing its presence as this section of the site benefits from excellent screening, particularly along the site boundary and to the south. This location would mean that the impact of the development on the surrounding area is kept to a minimum. It is however, important to note that a stable/store of this nature is wholly appropriate to a rural location, with the need for the building generated by its location within the countryside and the activities associated with owning horses and a sizeable land plot.

7.3 It has been demonstrated above that the scale of the building has been dictated by its function. The space for the horses it is at the minimal levels recommended, the space to store hay has to be of a reasonable scale to meet the feeding requirements

of two horses. The tractor store is dictated by the size of the vintage tractor it will accommodate and the need to manoeuvre the lawn tractor within the same space and the general garden store dictated by the use and size of the existing garden store. In respect of the size and massing not only is the building dictated by the intended use it is important to note that the dimensions meet with those allowed under the permitted development entitlement for the site. Ultimately the structure could be relocated elsewhere on the site and could be the same scale. It is therefore considered that this is a crass reason for refusal and completely unjustified in planning terms. The only reason for not relocating the building elsewhere on site is because the proposed site is the ideal place to meet its functional requirements, especially in respect of access, facilities and security.

7.4 With regard to the pattern of development there is no evidence of a particular pattern or style of development in the area. Dwellings and outbuildings are sporadically located around this section of Blundell Lane. There are clear examples of buildings on the boundaries of this site and neighbouring sites that have more of a street presence than the proposed stable store. It is not understood therefore how the development is harmful to the pattern of development.

7.5 It is contended that it is expected to find stable buildings in countryside locations the building is therefore entirely appropriate to its surroundings and is a form of development that is to be expected in rural locations such as this.

8.0 Conclusion

8.1 In conclusion it is contended that the above policy background, justification for the development and development allowed under Schedule 2, Class E all provide a firm policy context in support of the proposed development. The Council has failed to have regard to any of the information put forward in support of the development and instead rely on policies that are not relevant and an assessment that is unfounded. It is recognised that impact on character is a judgement, however there is no escaping the fact that the development would be well screened and that you could in fact drive past the site before realising it was there. The existing topography of the land and screening afforded to the site clearly result in limited views of the site and the proposal severely reducing any impact on character. Further the development proposed is of a type that should be expected in a countryside location. This is a clear failing of the Council's own assessment.

8.2 The Council has not acknowledged that the development is appropriate to its location or serves a functional purpose. In addition they have not recognised that the scale of the building accords with the parameters allowed under the permitted development entitlement for the site. The decision to refuse the application was therefore unsound and has resulted in an unnecessary appeal that has delayed the works and resulted in additional cost to the appellant.

8.3 In respect of the above information the Inspector is respectfully requested to allow this appeal and to award full costs to the appellant for the reasons detailed within the costs claim.