

Planning Appeal

Appellants Statement of Case

Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

Appeal by

Imperial Homes Southern Counties Ltd

Site at

Land adjacent to
The Brigadier Gerard
Botley Road
Horton Heath
Hampshire
SO50 7DQ

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1.0 Introduction

- 1.1 This appeal is submitted against the refusal of a Planning application reference: X/23/96591 by Eastleigh Borough Council (LPA) for the Variation of Condition 8 of planning permission ref. F/19/86328 to authorise amended vehicle access design. Original application description: Construction of 4No. Three bedroom semi-detached dwellings with associated amenity space, parking, landscaping, ecological buffer and new access from Botley Road at Land adjacent to The Brigadier Gerard, Botley Road, Horton Heath, Hampshire, SO50 7DQ
- 1.2 Vivid Design Studio Ltd was first appointed by the appellant to act on their behalf at the Planning application stage, and we prepared all the application documentation. We monitored the application through its consultation period and to its final determination.
- 1.3 The Planning application was registered by Eastleigh Borough Council on the 3rd January 2024. The application was recommended for refusal by the planning officer and subsequently refused planning permission through delegated powers on the 2nd February 2024. The LPA refused the application for the following reasons:
 - 1) *The access as constructed fails to provide safe pedestrian access, resulting in conflicts between pedestrians and vehicles entering and leaving the site, contrary to highway safety. The proposal to vary Condition 8 to authorise the access as built is therefore not acceptable and is contrary to policies DM1 and DM13 of the Eastleigh Borough Local Plan (2016-2036) and Section 9, paragraphs 110 to 112 of the National Planning Policy Framework (NPPF, 2023).*
- 1.4 The following sections of this Appeal Statement will describe the appellant's case and the grounds for the appeal. It will describe the site, outline the previous planning history in relation to it and the surrounding area and suggest why the appellant disagrees with the LPA's decision in the context of Planning Policies and other material considerations.

2.0 Site Description and Planning History

- 2.1 The site is located along Botley Road within the village of Horton Heath and has been developed to provide 5 dwellings on the site. The site has a prominent street frontage and has an existing vehicular access onto Botley Road. The dwellings have been occupied for over 3 years and are well supported through the local amenities and facilities available within the surrounding towns.
- 2.2 The application site measures 1500sqm/0.15hectares/0.37acres and the existing 5 dwellings have been constructed under planning permissions ref. F/19/86328 (4 units) and F/20/87859 (1 unit). The site has a vehicle access to the front onto Botley Road which provides access to car parking areas to the existing 5 dwellings. The access have been constructed as a cross over junction with a shared surface.
- 2.3 The location of the development is adjacent to The Brigadier Gerard which is a Public House and Restaurant and has a large car park to the north of the appeal site. The dwellings sit on the edge of the settlement within an area of ancient woodland which depicts a semi-rural character.
- 2.4 Condition No.8 of planning permission ref. F/19/86328 stated:
8. No development shall start until details of the access, including the proposed pedestrian footway and associated drop kerb pedestrian crossing points, have been submitted to and approved in writing by the Local Planning Authority. The access shall be designed to ensure the retention of the highway Oak tree (Tree 1) and details of the protection measures required to protect this tree during construction shall be submitted to, and agreed by, the Local Planning Authority, prior to access works commencing. The development shall not be occupied until the approved details have been fully implemented [unless agreed in writing by the Local Planning Authority]
- 2.5 The approved drawing 202 can be seen within appendix B, which shows the access layout as approved and discharged under condition No.8.

3.0 The Appeal Proposals

- 3.1 The proposals involve a change to the design of the existing vehicular access to a simply cross over with shared surface and removal of the pedestrian crossings. The existing access as built has been in place since completion of the development in 2020 therefore there is no justification for the original access design.
- 3.2 The proposals aim to provide a more simple access approach and to create a more rural style environment in keeping with the location of the appeal site. The appeal proposals are supported by a full Highways Consultants Report and Appeal statement which have been prepared by Nick Culhane and are included with this appeal.

4.0 Planning Policy

- 4.1 The Planning Policy documents of relevance include, Government Guidance, Regional Guidance and Local Development Plans.

4.2 National Planning Policy Framework

The National Planning Policy Framework, Section 9, sets out the national policy guidance for transport related matters.

Paragraph 110 sets out the requirements for assessing developments, which includes in bullet point (b) ensuring that: ‘safe and suitable access to the site can be achieved for all users’.

Paragraph 111 states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Paragraph 112 (c) further states that developments should create places that are safe, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

4.3 Eastleigh Borough Local Plan (2016-2036)

Policy DM1: General criteria for new development

1. All new development should (as relevant):

a. not have an unacceptable impact on, and where possible should enhance:

i. residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;

ii. biodiversity (avoiding significant adverse impacts); and

iii. the significance of heritage assets;

b. make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;

c. take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and

siting, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;

d. not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of equivalent or enhanced value, (recognising that some species and habitats may be irreplaceable);

e. include a landscape scheme covering the design and layout of external space;

f. protect and enhance public rights of way and National Trails and provide fully connected green infrastructure that interlaces the development and connects into the wider network;

g. provide satisfactory management arrangements for all landscape, green infrastructure and biodiversity enhancement;

h. incorporate provision for people with disabilities and create accessible communities that cater for all;

i. incorporate design measures to inhibit criminal and anti-social behaviour;

j. incorporate provision for on-site waste management; and

k. include provision for public art associated with new large scale development in accordance with the Council's adopted Public Art Strategy.

Policy DM13: General development criteria – transport

1. All new development must have safe and convenient access to the highway network and make provision for access to, and by, other transport modes including public transport and cycle and pedestrian routes as appropriate. Access arrangements to the highway network must:

a. meet national and local guidance and standards with all highway improvements meeting the standard required to be adopted by the Highway Authority;

b. not cause or increase danger to road users or have a significant detrimental impact on the operation or safety of the highway network; and

c. be provided without unacceptable environmental impact.

2. All new development will be assessed to establish whether it should contribute to off-site improvements to transport infrastructure in accordance with Hampshire County Council's Transport Contributions

Policy, to the extent that these are necessitated by the development and proportionate to the scale of development.

3. Development proposals that will generate vehicle movements likely to have an adverse impact on traffic conditions beyond the immediate vicinity of the development site must be subject to Transport Assessment and will be required to incorporate and implement mitigation measures such as:

- a. provision of/contribution towards on and off-site highway improvements such as junction improvements and potentially new road links*
- b. on-site pedestrian, cycle and public transport infrastructure*
- c. contributions towards relevant off-site sustainable transport infrastructure, public rights of way and service improvements where appropriate*
- d. on-site measures aimed at increasing uptake of non-car travel options (e.g. Travel Plans⁴⁹) to reduce car use.*

4. New development intended to serve or accommodate large numbers of people will only be permitted in locations that as well as having adequate road access, or will have as a result of the development, are or can be served by means of transport other than the private car, including bus, train, cycle and pedestrian access

5.0 The Case for the Appellant

- 5.1 In accordance with the refusal notice there is just a single reason for refusal of the Planning application. The LPA suggest that the proposals are contrary to policies DM1 and DM13 of the Eastleigh Borough Local Plan (2016-2036) and Section 9, paragraphs 110 to 112 of the National Planning Policy Framework (NPPF, 2023). As such these are the only policy grounds to be considered under this appeal.
- 5.2 For clarification the policies identified within the reason for refusal are general policies that have a number of different sections. As referred to within the planning officers report the specific reasons are identified as DM1 part (h) and DM13 part 1 (a, b and c). This statement will concentrate on these main issues as the appeal proposals do not relate to other items within the policies.
- 5.3 The aim of the proposals is to change the access to a simply cross over junction and use a shared surface for vehicles and pedestrians. This is not dissimilar to various accesses along Botley Road where there is no pavement to one side of the highway and shared accesses are used with cross over junctions. (see appendix C)
- 5.4 Therefore the proposals are not contrary to policy DM1 and specifically part h as the proposals as built provide adequate access for all users. The existing dwellings served by the access have been using the access as built for over 3 years and have not raised any issues. The nature of a shared access means vehicles and pedestrians can safe use the access and make the development accessible for all.
- 5.5 The neighbouring public house The Brigadier Gerard to the north of the appeal site has an existing vehicle access with no pavement and a cross over junction which is used by a large number of vehicle and pedestrians on a daily basis. More recently planning permission has been granted for an extension to the existing car park to the public house with no requirement to improve the access arrangements. (see appendix D)
- 5.6 The attached Highway Reports and Appeal Statement prepare by Nick Culhane provide the technical details and evidence to support the appeal proposals. It is argued that the findings of these reports support the appeal proposals and therefore they are not contrary to policy DM13 specially a, b and c.

- 5.7 The changes to the access provide a more semi-rural feature that is more suited to the location of the development on the edge of the settlement. All visibility splays can be provided in accordance with the standards and can be achieved without affecting the adjoining tree covered by a TPO.
- 5.8 The development consists of 5No. three bedroom dwellings which are of a small scale nature. The original design for the access is considered to be over engineered when viewed against the number of dwellings and movements associated with the development. There are numerous shared accesses along Botley Road serving single and multiple dwellings and therefore it is evident that simple shared surfaces with cross over junctions can be integrated into the highway network safely.
- 5.9 It is suggested that the proposed development will cause no unnecessary impact on the local area or any further inconvenience to local residents. The proposals merely seek to change the access arrangements. This follows the guidance within the NPPF and draws attention to reforming the planning system by promoting sustainable development and considering a presumption in favour of development approach.

6.0 Conclusion

- 6.1 It can be concluded that the proposals under the planning application will provide a satisfactory vehicle access to the already established development of 5 units. All 5 units have been occupied for over 3 years and there has been no objection from the residents of these units or the local community parties for this period of existing use. There has also been no reports of any accidents or incidents involving pedestrians and vehicles using this access.
- 6.2 The access arrangements provide suitable access to the site and will provide the required parking provision on site. All facilities such as bin stores and cycle's stores have been provided to the new dwellings and can be accessed safely. There is also adequate pedestrian access from the surrounding footpaths and public footpaths to the site. The site has good accessibility to public transport and local services at present and is within comfortable walking distance of the local public amenities.
- 6.3 The vehicle access meet's all highway standards and is deemed a satisfactory access to the development as detailed within the Highway statements. The existing condition of Botley Road is historical and in fact has been and is clearly used satisfactorily for the purposes of access, including for emergency services. Inconvenience to other road users and local residents will not significantly increase due to the change in the access design.
- 6.4 For all the above reasons, it has been demonstrated that the above appeal proposals do not constitute an unsafe access as constructed and does not fail to provide safe pedestrian access, resulting in conflicts between pedestrians and vehicles entering and leaving the site, contrary to highway safety. The access design respects the semi-rural nature of this area of Horton Heath being on the edge of the settlement.
- 6.5 The attached Highways Report and Appeal statement prepared by Nick Culhane clearly justify the proposals from a Highways perspective and the development follows all the key objectives set out under the current development plan and government guidance. The third party representations do not provide significant evidence to suggest that the proposed development is contrary to the suggested policies and therefore should not be given sufficient weight.

- 6.6 It is suggested that the council have failed to consider the merits of the application in context with current policies and planning guidance. It is therefore respectfully requested that this appeal is allowed and Planning Permission granted for Variation of Condition 8 of planning permission ref. F/19/86328 to authorise amended vehicle access design. Original application description: Construction of 4No. Three bedroom semi-detached dwellings with associated amenity space, parking, landscaping, ecological buffer and new access from Botley Road at Land adjacent to The Brigadier Gerard, Botley Road, Horton Heath, Hampshire, SO50 7DQ.

7.0 Appendices

7.1 Appendix A (Photographs of existing access)



View of existing access to appeal site



View of existing access to appeal site looking south



View of existing access to appeal site looking north



View of existing access and existing 5 dwellings

7.2 Appendix B (Approved access drawing)

7.3 Appendix C (Examples of other accesses)



View of existing access to the adjoining PH The Brigadier Gerard



View of single shared accesses along Botley Road with no pavement



View of single shared accesses along Botley Road with no pavement



View of multiple shared accesses along Botley Road with no pavement



View of recently built shared accesses along Botley Road with no pavement



View of recently built shared accesses along Botley Road with no pavement

7.4 Appendix D (Car park extension at PH The Brigadier Gerard)

**Town and Country Planning Act 1990
The Town and Country Planning (Development Management Procedure) (England)
Order 2015**

Application No. F/22/94243

In pursuance of their powers under the above Act and in accordance with your application received on Monday 21 November 2022 the Council, as Local Planning Authority hereby Permit the following :

Description: Construction of car park extension for the purpose incidental to the existing use of land
Site: THE BRIGADIER GERARD, BOTLEY ROAD, HORTON HEATH, EASTLEIGH, SO50 7DQ

