

DELEGATED OFFICER REPORT

Application Ref: X/23/96591

Site Address: THE BRIGADIER GERARD, BOTLEY ROAD, HORTON HEATH, EASTLEIGH, SO50 7DQ

Case Officer: Rebecca Altman

Description: 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.

Particular Site Constraints?	Yes ☒	No ☐
• In the countryside • Near to Storey's Copse SINC and Ancient Woodland • Protected woodland to south and east • Public footpath to south of site • Great crested newt green zone • Airport safeguarding zone		

Planning History?	Yes ☒	No ☐
• F/20/87859 – Erection of 1No. detached 3 bedroom house with car parking – permitted 04/12/2020 • F/19/86328 – Construction of 4 No. three bedroom semi-detached dwellings with associated amenity space, parking, landscaping, ecological buffer and new access from Botley Road – permitted 08/01/2020		

Publicity:	Letters ☒	Site Notice ☐	Newspaper ☐
Representations:	3 representations received, raising objection on the following grounds: - Without a pathway, the access is dangerous; - Safety risk for pedestrians including children; - The footpath is essential for safety; - The verges are in poor condition / muddy. An additional representation was received but was disregarded at the request of the writer.		
Parish Council:	The Parish Council sees no justification to discharge the condition for the footway which was imposed as an improvement for residents.		
Highway Authority:	Objection. The development fronts a highly trafficked road and the agreed site plan required a footway leading from the site with a short stretch of footway leading north on Botley Road, where tactile paving and dropped kerbs would enable a safe crossing point for residents. Without this stretch of footway, residents are forced to stand in the site access junction and wait for a suitable time to cross, and therefore come into direct conflict with vehicles trying to enter and leave the site. This is not a satisfactory situation. The footway is required for highway safety purposes.		

Site Visit:	Yes ☒	No ☐
Details: 18 January 2024 – photographs on file.		

Policy: National Planning Policy Framework Planning Practice Guidance Development Plan: The <u>Eastleigh Borough Local Plan 2016-2036</u> The most relevant policies are DM1 and DM13.
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Assessment: Site, proposal and background The application relates to a development of 5 houses located to the south of the Brigadier Gerard public house, on the east side of Botley Road (B3354) in Horton Heath. The development has vehicle access directly from Botley Road, which is currently laid out as a simple verge crossing. When planning permission was granted for 4 of the houses in 2020 (ref. 19/86328), the approved access proposals as shown on Plan ref. 134.0005.003 indicated a priority bell mouth junction with a new section of public footway running north. A new pedestrian crossing point was also shown on the plans, incorporating dropped kerbs on each side of the road. A subsequent application for a single house was permitted later in 2020 (ref. F/20/87859), and this house has been constructed and uses the same access. Condition 8 of the planning permission sought to secure the access works as approved in the original planning permission, and stated: <i>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).</i> <i>Reason: To ensure satisfactory vehicular access.</i> Whilst details of the access were approved in accordance under Condition 8 on 3 December 2020 (ref. DC/20/87249), the works were not completed in accordance with the approved plans. The access currently comprises a simple verge crossing rather than a priority junction and no pedestrian footway or crossing points have been provided. This application seeks a variation to Condition 8 to allow the access to be retained as constructed and not to provide the associated footway and crossing points. Relevant policy Policy DM1 of the Eastleigh Borough Local Plan sets out general criteria for all proposed development, and includes the requirement to create accessible communities that cater for all (DM1, h). Policy DM13 relates specifically to transport and in relation to access proposals, states that: <i>'Access arrangements to the highway network must:</i>
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- 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.*

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.

Highway safety

The applicants have submitted a Highway Technical Note with the application, which seeks to justify the acceptability of the access as constructed.

By way of explanation, the applicants have noted in the Technical Note that when the access was constructed in 2020, the footway works were overlooked due to the Covid 19 pandemic. No other explanation has been provided as to why the footway works were not provided at that time.

The Technical Note seeks to justify why the originally designed access is no longer required. It notes that a priority junction, footway and crossing points would not normally be required for such a small scale site. An example of a nearby development of 14 dwellings is quoted (Braxells Farm, ref. 17/80382), which is served by a simple crossover access. However, the Highway Authority has pointed out that safe pedestrian access to the Braxells Farm development is provided by a separate pedestrian access point. In the case of this current application, there is no other pedestrian access to the site, other than via the vehicle entrance. The two sites are therefore not considered directly comparable.

The Technical Note also looks at the level of vehicle and pedestrian movements generated by the development and concludes them to be low, therefore not requiring any further access improvements to prevent conflicts. The Technical Note concludes that the access as constructed is safe and has been operating effectively without unacceptable impact on highway safety.

The Highway Authority has reviewed the situation and the submitted Technical Note, but does not concur with the conclusions. The Highway Officer notes that Botley Road is highly trafficked and without the originally approved section of pedestrian footway and crossing point, there is no safe access for pedestrians to the surrounding footway network. As currently constructed, pedestrians have no choice but to stand in the vehicle access in order to cross Botley Road, therefore putting them in direct conflict with any vehicles entering or leaving the site. During a site visit in January 2024, it was also noted that the verges either side of the access had been damaged by vehicles, making it difficult for pedestrians to even stand on the grass verges adjacent to the access.

The Highway Authority has concluded that the footway works are required for highway safety purposes and without it, the access is not acceptable. The proposal to vary Condition 8 to allow the access to remain as existing is therefore not acceptable.

In summary, the proposed access as constructed does not provide a safe access for pedestrians, resulting in conflicts between pedestrians and vehicles to the detriment of highway safety. The proposal therefore conflicts with policies DM1 and DM13 of the Eastleigh Borough Local Plan and paragraph 111 of the NPPF (2023).

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.

The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. The development as approved would have incorporated relevant measures to accord with the climate change objectives. The current proposal has no implications with respect to climate change.

Equalities Implications:

Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is noted in this case, that there is concern that the development as constructed does not ensure safe access for all.

Conclusion: 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).

Recommendation:	PERMIT ☐	REFUSE ☒
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