

Mr Stephen Bartle
The Planning Insectorate
Room 3B Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Application	X/23/96591
Please ask for	Rebecca Altman
Direct dial	023 8068 8266
Working hours	Tues 9am-3pm; Wed-Fri 9am-5pm
Email	rebecca.altman@eastleigh.gov.uk

Wednesday 26 June 2024

Dear Mr Bartle

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

Appeal ref:	APP/W1715/W/24/3341606
Application No:	X/23/96591
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.
Site:	THE BRIGADIER GERARD, BOTLEY ROAD, HORTON HEATH, EASTLEIGH, SO50 7DQ

Further to your letter dated 28 May 2024, this letter sets out the Local Planning Authority's (LPA) Statement of Case in relation to the above referenced appeal.

The LPA is of the opinion that the main issues raised by the Appellant within their Statement of Case have been addressed within the officer's delegated report, which was forwarded to the Inspectorate with the Appeal Questionnaire. This letter will therefore focus on a response to specific matters raised within the Appellants

Statement of Case that have either not previously been addressed, or for which further information is required.

Reason for Refusal

The appeal scheme was refused for the following reason:

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).

Response to Appellants Statement of Case and Transport Technical Note

The appellant seeks to argue that the access as constructed is of an appropriate design for the location and suitable in terms of highway safety. To support the appeal, a Transport Technical Note is provided by Nick Culhane (Highway Consultant), which expands on the information submitted with the planning application. In response to some of the specific points raised by the appellant, the LPA would comment as follows.

Length of time that the access has been in place:

- In paragraph 3.1 of the appellants Statement of Case, they note that the access as constructed has been in place since 2020 (with the development occupied since 2021), and there is therefore no justification for the original design. However, the fact that the unauthorised access has been in place for a number of years does not negate the highway safety concerns relating to its operation. The Highway Authority has confirmed that the access as constructed has not received S278 approval.

Breach of condition:

- It is acknowledged by the appellant and can be confirmed by the LPA that the access design details for the discharge of Condition 8 of the original planning permission were approved on 3 December 2020 (Conditions application ref. DC/20/87249). The approved access works accorded with the proposals submitted for the application, including the pedestrian footway and crossing points. A copy of the letter confirming the plans and details approved under Condition 8, and a copy of the most relevant approved plan is included at Appendix 1. The appellant does not provide any clear justification to explain why the access was not constructed in accordance with those approved

details. In paragraph 3.5 of the Transport Technical Note it is stated that the construction of the access was commenced in 2020 and the footway and tactile paving for the crossing points were simply 'overlooked'. Reference is made to the Covid 19 pandemic and difficulties communicating with the Highway Authority. However, the Highway Authority is not aware of any communication issues during that time and LPA does not see any correlation between the Covid 19 pandemic and the inability to complete the access as per the approved plans.

Visual appearance of the access:

- In paragraph 5.7 of their Statement of Case, the appellant comments that the access as constructed provides a more semi-rural feature that is more suited to its location at the edge of the settlement. However, in the assessment of the original planning application (ref. F/19/86328), there were no concerns raised by the LPA about the visual appearance of the access. Notwithstanding the appellant's comment on this matter any visual improvements to the nature of the access would not overcome the highway safety harm that the LPA have identified in the reason for refusal and evidenced in the officer's delegated report.

Suitability of the access as constructed:

- The access design as approved was considered necessary to ensure safe and convenient access to and from the site for both vehicles and pedestrians. There is no pedestrian footway on the east side of Botley Road south of the Brigadier Gerard Public House, therefore the access proposals included a section of new footway and crossing points to allow a safe connection to the existing pedestrian network. These elements of the access design were agreed during the course of the planning application following specific advice from the Highway Authority. A copy of the officer's delegated report for the original application and the Highway Authority comments dated 17 September 2019 and 14 October 2019 are enclosed at Appendix 2.
- To justify the access as constructed, which excludes the footway and crossing provision, the appellant notes that there are similar shared access designs along Botley Road and refers to other recently approved sites with similar access designs. The LPA would note that the majority of the accesses along Botley Road on the stretch referred to in section 6 of the Appellants Transport Technical Note, have a direct connection to the existing public footway and are therefore not comparable to the situation at the application site.
- Regarding other developments, the appellant's Highway Consultant refers specifically to a development at Braxells Farm (permission ref. F/17/80382). As explained in the officer's report, this is not considered to represent a

comparable situation, as there was a separate pedestrian access provided for that scheme.

- The appellant also highlights that the vehicle access to the Brigadier Gerard Public House does not have a direct link to the public footway and that when the car park was recently extended, there was no requirement to improve the access. This is also not considered to be a comparable situation, as the public footway comes close to the public house entrance on the east side of Botley Road and anyone arriving by car would have no need to cross Botley Road to access the pub once parked in the car park.
- The Transport Technical Note refers to a number of other factors that are considered to justify the acceptability of the access as constructed, including a lack of accident data in the area in the last 5 years, the limited number of dwellings that the access serves, and the limited number of vehicle movements associated with the access.
- The LPA would comment that the Highway Authority were fully aware of the size of the development when they provided their advice on the suitability of the access design in the original application. Had the Highway Authority considered a more simple access to be acceptable, this would have been advised and agreed at the time of the application.
- The appellant concludes that the access has been operating satisfactorily and provides safe pedestrian access. The LPA disagrees with this conclusion and would draw the Inspectors attention to photographs taken by the case officer on site in January 2024 (refer to Appendix 3). These photographs show significant over-running by vehicles of the verge either side of the access. This indicates that the access is not operating satisfactorily and the damage to the verges means that for pedestrians wanting to cross the road from the development, there is little option other than to stand in the vehicle entrance itself, risking conflict with vehicles. The LPA maintains that the access as constructed is unsafe and therefore contrary to the local policies and relevant sections of the NPPF as set out in the reason for refusal.

Conclusion

For the reasons outlined in the officer's delegated report and expanded upon in this Statement of Case, the Local Planning Authority requests the Inspector to uphold the reason for refusal and dismiss the appeal.

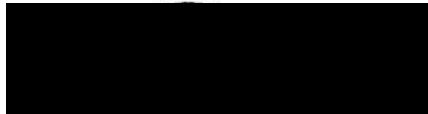
Should the Inspector be minded to allow the appeal, then as the application was for a Variation of Condition, all of the conditions of the original permission (F/19/86328) would continue to apply and the following revised wording for Condition 8 would be recommended:

The access shall be retained in accordance with the details shown on Plan ref. 190074 43 (Access Site Plan).

Reason: To ensure satisfactory vehicle access.

Should you require any further information, please do not hesitate to contact the Case Officer, Rebecca Altman.

Yours sincerely

A solid black rectangular box used to redact the signature of Nicholas Parker.

Nicholas Parker
Planning Manager