

APPEAL: STATEMENT OF CASE

MAY 2025

BARN COURT
HIGH STREET
BURSLEDON
SO31 8DL

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1. INTRODUCTION

- 1.1. This statement has been prepared to support an appeal against non-determination of an application for householder planning permission at Barn Court, Bursledon.
- 1.2. The application for *“Construction of outbuilding to provide residential accommodation incidental to the enjoyment of the existing dwellinghouse”* was submitted to Eastleigh Borough Council (the LPA) on December 16th 2024.
 - 1.2.1. The application was deemed invalid for somewhat questionable reasons, with the only true omission being a relevant scale bar (APPENDIX 1)
 - 1.2.2. The revised description *“Construction of detached annexe within rear garden”* was applied to the application, which was made valid on December 18th 2024, with the acknowledgement letter received on 6th January 2025. (APPENDIX 2)
- 1.3. It should be noted that the application concerned an alternative use for a previously approved outbuilding, LPA reference H/22/93123 for the development described as *“Construction of a garden store to provide additional storage”* which was approved on 2nd September 2022. (APPENDIX 3)
 - 1.3.1. The building was constructed as approved; however, the ultimate use was never implemented, hence why the original application was a partially retrospective application for the construction of the building.
 - 1.3.2. The allocated case officer then decided that although the use had not been implemented, a better description of development should be *“Conversion of existing detached garden store to an annexe ancillary to the host dwelling.”* Whilst the planning agent was not in full agreement that this accurately described the application, the revised description was duly agreed. (APPENDIX 4)

2. GROUNDS OF APPEAL: NON-DETERMINATION

- 2.1. Although the validation matters were addressed rather promptly, it was another three weeks before a validation letter was received. It is presumed that the consultation period commenced at the same time, with an expiry date of 7th February.
- 2.2. The initial statutory decision date was 12th February 2025.
- 2.3. During the consultation period, a small number of objections were made to the application. Although lengthy, much of the focus was on other matters, rather than the subject of the application, which was basically a change from an incidental use, to an ancillary use, of a structure that had already been built and approved. A family tragedy during the time of the build meant the garden store was no longer required for the purpose in which it was built.
 - 2.3.1. The appellant should not be made to elaborate on their bereavement for the purposes of planning consideration.
- 2.4. A site visit was requested on 27th January 2025 and was undertaken by the case officer and a colleague from the LPA enforcement team on 6th February.
- 2.5. At the time of requesting a site visit, it was advised that the application had been called in to the next committee meeting, scheduled for March 6th 2025. An extension of time was agreed to March 12th 2025. (APPENDIX 5)
 - 2.5.1. A further extension of time was then sought, due to the committee meeting being rescheduled to 27th March. Subsequently, a decision date of 2nd April was agreed. (APPENDIX 6)
- 2.6. Following events at the aforementioned committee meeting, the LPA now propose to determine the application by 24th June 2025, 18 weeks beyond the original determination date and 27 weeks since the application was made. (APPENDIX 7)
- 2.7. The appeal is made on the basis that this amount of time is unacceptable and the application should not have been deferred.

3. LOCAL AREA COMMITTEE

- 3.1. Given the minor nature of the proposal, seeking to allow a person to reside in an approved building, it was not unreasonable to consider that the eight-week timescale was sufficient to issue a decision. However, this notion was scuppered by the intervention of local councillors and the irregularity of their committee meetings.
- 3.2. The committee report (APPENDIX 8) revealed the identities of the councillors who felt that the delegated power of the LPA was not sufficient enough to resolve the planning application. The request for the application to be brought to committee came from no less than three councillors, all representing the same party, for the same ward.
- 3.3. Furthermore, the objecting councillors comprised 50% of the committee, including the Chair and Vice Chair.
- 3.4. Given that 50% of the committee, including the two highest ranking members, felt that the case officer's recommendation required scrutiny, it is not considered that the applicant was subject to a fair, impartial, open-minded meeting.
- 3.5. The evidence of events at the committee are limited to some summarised minutes (APPENDIX 9), however it was evident to the applicant and the planning agent in attendance that the outcome was somewhat predetermined and the likelihood of leaving with approval was minimal.
- 3.6. The meeting was held at 18.00, with the application being 12th on the agenda. Following speeches from objecting neighbours and less than pleasant words exchanged, the applicant was able to leave around 20.30, with the application not having progressed at all. Although the courtesy was afforded to the neighbours to speak about their concerns, the planning agents supporting deputation was met with hostility and resistance, almost not being able to speak because it was clear the councillors had already taken a negative approach to the proposal and had already discussed motioning to defer.
 - 3.6.1. It should also be noted that the combined words of the applicant and agent were referred to in the minutes briefly, whilst the neighbouring objectors' words were summarised in much greater detail. This only serves to further demonstrate the significance they were given.
- 3.7. As the minutes are the only recorded documentation of the meeting, the following excerpts are the only points that can be addressed in this statement.
- 3.8. ***There was discussion around the application not containing enough information.***

A previously approved application for the exact building contained less information. Throughout the course of the applications lifetime, unnecessary levels of information were demanded by the LPA, including information about other developments outside of the scope of the application, such as the distance from the main dwelling, widened side access (despite being through privately owned land) and area of gravel, and also demanding a statement 'justifying and detailing the need of the intended use'. (APPENDIX 10) It was also requested that the site plan be amended to remove other structures present in the garden, despite the LPAs own guidance on site/block plans that states they should show "All of the buildings, roads and footpaths on land adjoining the site including access arrangements". It seems the committee members had not looked at the application in detail and had taken umbrage with other matters not forming part of the application. The planning officer representing the application advised the members that the application before them is what should be considered and that the conversation about other outbuildings were not a part of this application.
- 3.9. ***Councillors raised concerns that the site may be over-developed***

As will be very clear from plans and aerial images, the site is a very large plot, with a large residence positioned centrally, and an extremely spacious garden. Although there are some very minor outbuildings/shed/greenhouse also on site, they are not to a level uncommon with residential use, especially with a garden of this size. Furthermore, the structure that is the subject of the application has already been approved, with its form deemed to be acceptable.
- 3.10. ***the building did not appear to be built according to its original planning permission***

The building has been viewed by a planning officer accompanied by an enforcement officer. There was no suggestion that there had been a breach of planning control. The building is built entirely as per the approved permission and the only consideration is to whether the appellants family member can reside at the annex, which would be reliant on the main dwelling for day to day main living facilities.

3.11. and they felt that further information and a site visit was necessary.

The minutes are rather vague and do not specify what information was needed. Indeed, almost a month later, no further information has been requested. During the meeting the chair motioned to defer on the basis that they wanted to see other sheds that were discussed at the time of the application and are part of a separate application (ref H/25/99292). Comments were also made regarding the window of the neighbour and the distance of the building. This was considered as part of the previous application, the usage of the building was the application to be considered. It is considered the committee had all of the information before them and there were no reasonable reasons to justify a deferral.

The committee then resolved to defer the application for the following reasons:

3.12. in order to gain further clarification on intended use;

Not only did the LPA demand this information as a separate statement prior to the meeting, the applicant was there in person to give further information, along with the agent. The proposed use would be a family member who would be able to help with care for the appellant, who is elderly and lives alone. The intended use has been clear from the start of the application, only the vindictive nature of opposing parties suggest otherwise.

3.13. Whether the building has been constructed in accordance with previous approval;

As stated before, there has been no accusation of a breach of planning control from anyone other than councillors and neighbours. The LPA have been on site and found no deviation from the approved plans. The members were advised the building had been built in accordance with the plans during the committee meeting.

3.14. And further details on other structures which have been constructed on the application site.

The committee have failed to consider the application before them. The application is separate from any other matter as it concerns the use of the approved building and should be determined on its own merits. Due to a recent Article 4 direction, small outbuildings normally permitted under Class E are no longer PD, and have been applied for under section 73a as a separate matter. The committee stated that the application should be withdrawn and it should all be on one application, which of course would give them the power to refuse everything in one sitting. The advice from the officer in agreement with the agent was to submit two applications. One to cover the change of use of the previously approved outbuilding, and one to regularise a log store and shed which had been constructed in replacement of a decaying shed.

4. SUGGESTED CONDITIONS

4.1. The LPA have suggested the following conditions:

- *“The development hereby permitted shall be implemented in accordance with the following plans: PG.7081-22-02 Rev G & PG.7081-22-01 Rev J.”*
 - Despite the retrospective nature of the development, this is justifiable and should be considered.
- *“The annexe hereby permitted shall only be used in conjunction with the existing dwelling or by a relative of the occupiers of the existing dwelling and shall not be sold off, occupied or used as an independent unit of accommodation, or as a holiday let.”*
 - The use of the outbuilding as an annex incidental to the main dwelling house is already covered by description, it is not considered this condition is necessary. Also, the reason for this condition “The

property is not suitable for sub-division into two separate dwellings” does not really make sense, as the main property itself is not a subject of the application, and there is no suggestion of the outbuilding being sub-divided.

- *Biodiversity enhancements shall be installed on site prior to first use of the development hereby approved in the form of a bat box and a bird box and shall thereafter be retained. The Bat Conservation Trust recommends installing a bat brick/box at least 4 m above the ground, away from artificial light sources, sheltered from strong winds and exposed to the sun for part of the day, facing south, south-east or south-west.*
 - There appears to be an element of confusion, when reading the ‘notes to applicant’ below the suggested conditions in the committee report, as well as when reading the objection from the ecologist. The structure is built as approved years earlier, there will be no further building works, as this application concerns only the use of the structure. The addition of bat/bird boxes to the building would technically breach the approved plans. The condition states that the enhancements, specifically a bat box and bird box, should be installed on site. Given the existing surroundings, and the fact that this was not imposed on the original application, this condition is unnecessary.

5. CONCLUSION

- 5.1. This appeal seeks planning permission for a *“Conversion of existing detached garden store to an annexe ancillary to the host dwelling”*.
- 5.2. This statement has specifically demonstrated that the proposal would comply with both the Local Development Plan, and relevant material considerations.
- 5.3. The appellant is strongly of the opinion that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposals, and there are no material considerations which indicate that it should be determined otherwise. As such, planning consent ought to be granted.
- 5.4. It should be noted that the planning officer worked proactively with the appellant/agent in order to ensure enough information was presented to the committee, as an acceptable scheme in line with the officers’ recommendation. It is the actions of the committee that have led to the appeal, but it is the LPA that will be obliged to defend said actions.
- 5.5. It should be noted that the Planning Officer, acting on behalf of the LPA was not at fault in his recommendation to approve.
- 5.6. The Inspector is therefore respectfully requested to allow this appeal, subject to appropriate conditions.