

Subj: **PLANNING APPLICATION F/16/79734 - LAND ADJACENT TO 51 VERDON AVENUE, HAMBLE**
 Date: 29/01/2017 14:48:15 GMT Standard Time
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To
 Mark Taylor
 Development Management
 EASTLEIGH BOROUGH COUNCIL

29 January 2017

Dear Mr. Taylor,

RE – PLANNING APPLICATION F/16/79734 – LAND ADJACENT TO 51 VERDON AVENUE, HAMBLE-LE-RICE

On behalf of the Ramblers' Association I lodge an objection to the above planning application on the following grounds.

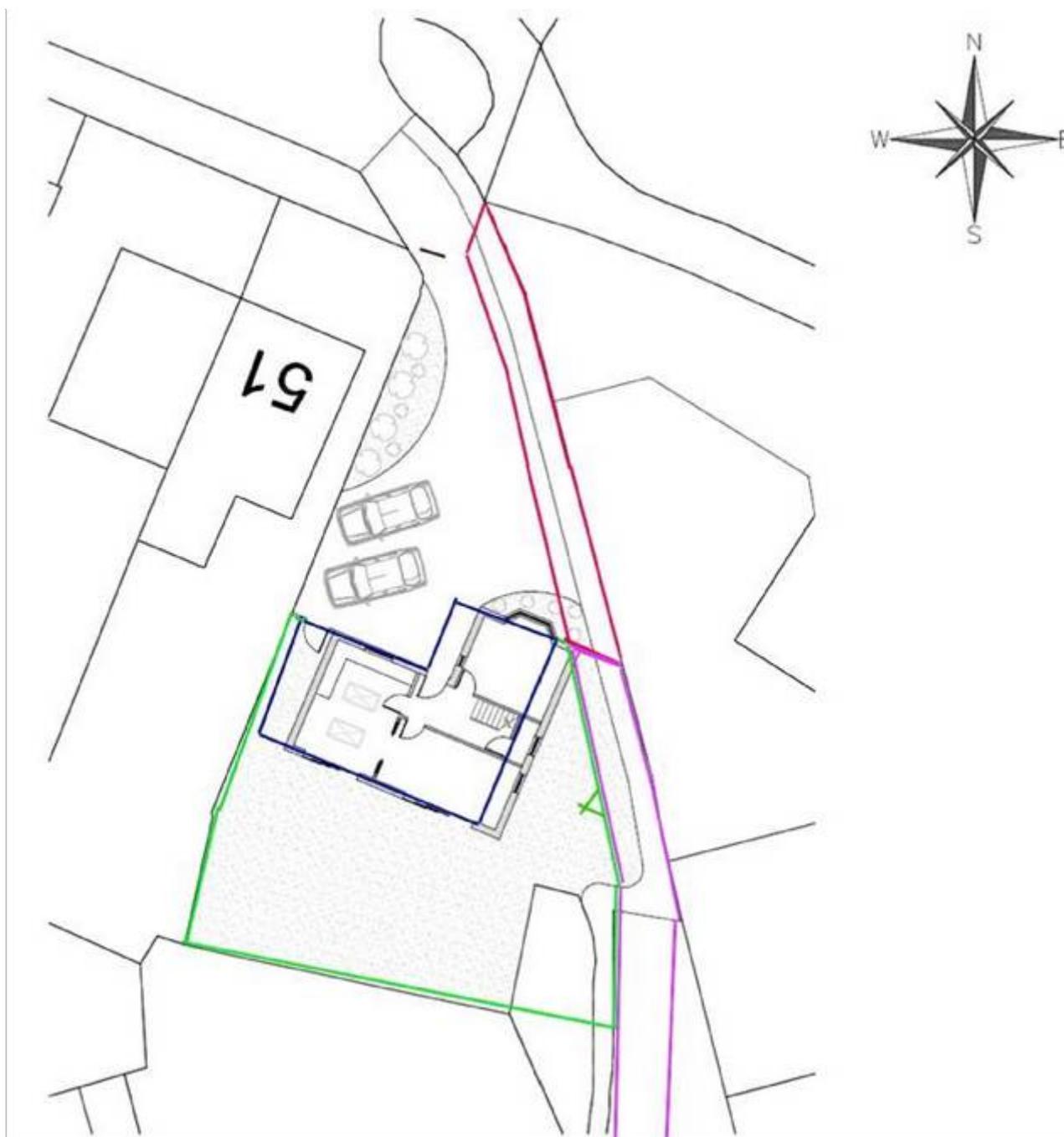
1. There are reasonable grounds for concluding that a public right of way on foot exists across the application area as part of a public footpath from Verdon Avenue to Sydney Avenue. A right of way does not have to be on the Definitive Map or the List of Publicly Maintainable Streets (CHALIST) in order to be a public right of way. It can exist if there is presumed dedication over 20 years of usage. Section 31(1) of the Highways Act 1980 provides: -

Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

The fact that it was the subject of a prohibition of cycling order in 1959 clearly illustrates it has been there more than 20 years and that the highway authority regarded it as a public highway then where its use by the public needed regulating. The fact that your Council appears to own and maintain the section leading south from the application site as a public footpath should suggest to your Council that rights exist through the application site.

2. The proposed development would obstruct the alignment of the right of way that has been used by the public. The right of way will exist over such part of the site as it would be reasonable to assume that the public has used to cross the site.
3. The applicant's proposals for realigning the right of way would result in a route of an inadequate width and an unnecessary double bend in the path. The path width is not specified but is shown as less than half the width of the footway in Verdon Avenue. Any realigned path should be at least 1.5 metres in width in these circumstances.

Our objections could be overcome if there was an appropriate diversion order and a redesign of the proposals on the lines proposed below and illustrated on the plan below.



It is suggested that the proposed design could be accommodated if the dwelling is moved slightly to the west as indicated in blue on the plan above and the means of access to the rear garden being made via the footpath.

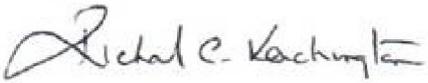
Part of the end of Verdon Avenue appears to be included in the application area – the highway authority should be asked whether the boundary at the end of the road is a square end as is normally the case and as has been assumed on the plan above.

The path could be diverted to be realigned to that edged red and purple on the plan. The users of the path have shared the access to the garage block and it would be reasonable for that shared use to continue when it becomes an access to a dwelling. The area edged red could be included in the access to the dwelling but within the surface edging kerbs should be inserted and different coloured surfacing used to make it clear to path users where their rights of passage remain.

We assume that occupier of the dwelling would want an enclosed rear garden and therefore we would have expected the path coloured purple to become enclosed on both sides. The suggested realignment could give the opportunity for a larger rear garden and would enable users to see ahead for safety reasons.

This application should have been advertised as affecting a right of way.

Yours sincerely



Richard C. Kenchington

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To
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