Appeal Ref: APP/W1715/A/12/2188242/NWF 1519

Appeal Site:

Site at 239 Winchester Road
Chandler's Ford
Eastleigh
SO53 2DX

Appellant:

Perbury (Developments) Ltd
3 Westlink
Tollgate
Chandler's Ford
Eastleigh
SO53 3TG

Comments on LPA's Response dated January 3013 and Mrs Wilson's letter dated 17 January 2013 To the Appellant's Grounds of Appeal.

Comments on LPA's Response dated January 3013

2.0 Reasons for Refusal

2.2 We are pleased to note that Reason for Refusal 3 has now been withdrawn following the submission of an acceptable Unilateral Undertaking.

3.0 Appellant's Grounds of Appeal

Refusal Reason 1

3.2 Contrary to the LPA's statement we would argue that we have 'fully understood the LPA's concerns in respect to the resulting quality of environment for future occupiers of the proposed dwelling'.

We point out that the proposed scheme meets the LPA's criteria for amenity space i.e. it is well in excess of the minimum of 60% of the total floor area of the dwelling with an appreciable margin of additional space thus compensating for any shaded areas.

The shadow diagrams illustrate that the rear garden is not devoid of sunlight during the principle summer use months when the sun is higher in the sky. We reiterate, not everyone is desirous of a garden exposed to full sunlight for long periods of the day.

3.3 The LPA has sufficient powers at its disposal to ensure the survival/long term protection of the protected trees on or surrounding the site. The existence of a TPO should not prevent the economic/viable/efficient use of the site as pointed out in our Appeal Statement.

The proposal documentation demonstrates that the development does not cause damage to the protected trees.

Refusal Reason 2

3.4 Whilst driveways are commonly placed adjacent to the secondary rooms/ garages of dwellings they pass, this is not exclusively or necessarily the case. There are of course examples within the vicinity (and indeed the country as a whole) where driveways run past/adjacent/parallel to habitable rooms on the flank walls of properties they pass i.e. No. 241.

3.5/3.6 With a mind to working with the LPA who under Clauses 186/187 of the NPPF, are tasked to approach decision taking "in a positive way to foster the delivery of sustainable development" and with a view to "look for solutions rather than problems", the Appellant and owner of No 239 Winchester Road are be prepared to sign a binding agreement or amended Section 106 Agreement to require the walling up of the French doors to the West elevation of this property (save for fixed double/triple glazed high level lights) prior to the completion/occupation of the proposed dwelling. This approach would overcome the 'red line' problem and maintain the application.

3.7/3.8 Whilst there were two extant Tree Preservation Orders on the site, one (unreferenced) raised during the 1950's and No 258 raised in June 1993, the Council sought to raise a "blanket" TPO over the majority of the application site and access following receipt of the initial Planning Application Ref: F/11/69061 (validated on 24 May 2011). Their notice to raise TPO No 716 was made on 16 June 2011 and confirmed (with modifications) on 14 December 2011.

The initial application Ref: F/11/69061 was withdrawn in 8 July 2011 in order that a revised application that sought address the concerns of the LPA and local community could be prepared. This revised application Ref: F/12/70213 (the subject of this Appeal) was lodged on 16 December 2012 and ultimately Refused by the LPA on 28 May 2013.

We continue to assert that the timing and "blanket" nature of this Tee Preservation Order was a direct attempt to frustrate the applications made to develop this site and not to protect "significant" trees and contradicts, in our opinion, the LPA's assertion that the blanket "preservation order was not applied in order to prevent development from taking place".

4.0 Other Material Considerations

4.1 We note that the Eastleigh Borough Local Plan 2011-2029 is at the Pre-submission stage and therefore question the status/relevance of this document in relation to this Appeal. Notwithstanding this fact, we attest that the proposal meets all relevant requirements of draft Policy DM1 (Note: Only part supplied with LPA Response).

We also have regard for the principles/ambitions contained within the National Planning Policy Framework (issued 28 March 2012) and attest that we meet the principles/ambitions contained therein.

5.0 Conclusions

5.1 We note the acknowledgement by the LPA's that "much work" has gone into this application BUT do not accept their conclusion that this proposal will result in dwelling with "a poor quality of living for future occupiers".

We are confident that the LPA will exercise its powers under the provisions of the TPO legislation to ensure that requests to carry out inappropriate works to the protected trees will be resisted and that only work that is in accordance with the provisions of this legislation will be allowed.

Given the above we do not therefore accept that these proposals are contrary to Policies 59.BE and 181.LB of the EBC Plan Review (2001 – 2011).

5.2 No comment necessary save to respectively request that the Inspector allow the Appeal.

5.3 We have reviewed the conditions attached at Appendix B and have no objections to raise.

Comments on:
Letter from Mrs L Wilson to the Planning Inspectorate of 17 January 2013

Point 2.

As stated in our Appeal/Additional Statement a precedent for a three drive crossover does exist at 255a/St. Mark's Close/255b.

We also note that there is no Highways objection to the proposal.

We accept that the driveway to No. 237 was erroneously referred to as a lane in our Grounds of Appeal.

Point 3.

The paragraph to which Mrs. Wilson refers deals with overlooking issues from No 237 towards the development site. It was therefore inappropriate to make reference to trees in locations other than those in the front garden to No 237.

Point 4.

We agree that requests to carry out unnecessary tree works should be resisted by the LPA.

The Oak tree referred to by Mrs Wilson was felled with the consent of the LPA as a consequence of a claim made against the owner of No 239 Winchester Road by the insurers of 235 Winchester Road who produced evidence that the tree's roots were undermining their clients Garage.

We fully support the Council's role in protecting trees from inappropriate removal.

Point 5.

Contrary to Mrs. Wilson's view we believe that given the very private nature of the driveway area, occupiers of the proposed dwelling could/may well wish to sit out in the front of the house.

We would also assert that there are garden recreational areas to the west and south of the house which do not fall under a tree canopy or that sit in constant shade.

Point 6.

The shadow diagrams prepared indicate the shadows that will be cast by the building and surrounding trees. In our opinion these indicate that the development plot and dwelling will receive adequate/good levels of sunlight, and especially during the primary summer months.

Although projected as solid, it should be noted that the shading effect from deciduous trees is lessened during winter months as a result of leaf fall.

Point 7.

We would respectfully disagree with this statement.

Point 8.

We continue to assert (given the existing and recent pattern of development) that it would be and is in planning terms inappropriate to regard this development proposal as being ‘backland ‘development in the normal use of this phrase.

Instead it should be regarded as development that is in keeping with the pattern of development in the immediate vicinity.

Point 9.

We would, respectfully, suggest that Mrs. Wilson has been selective in her choice of plots i.e. there are examples of plots of a similar size to the proposed within the immediate vicinity of the application site/area as a whole.

With regard to points raised in relation to compliance with the Hiltingbury and Hocombe Special Policy Area we would suggest that these issues have already been adequately addressed in previous documentation.

14/02/13
Jonathan Ross
Relph Ross Partnership Ltd