GROUNDS FOR APPEAL 1519

PROPOSED DWELLING, 239 WINCHESTER ROAD, CHANDLERS FORD, EASTLEIGH, HAMPSHIRE SO53 2DX

PLANNING AUTHORITY: EASTLEIGH BOROUGH COUNCIL

PLANNING APPLICATION REF: F/12/70213

ABREVIATIONS USED:

EBC Eastleigh Borough Council
RRP The Relph Ross Partnership Ltd

REASON FOR REFUSAL (1) - REBUTTAL

"The constraints of the application site, namely",

"the close proximity and extensive canopy of protected trees on and surrounding the site…":

- We argue that the relationship of the proposed development to the canopies of protected trees on and surrounding the site is not dissimilar from, but entirely in keeping with, the pattern of development in the vicinity of the application site. Added to this is the careful, site specific design of the proposed dwelling and site layout so as to avoid detrimental conflict between the proposed development and the canopies of protected trees.

- The design/location of the proposed dwelling, size and shape of the site allow for all services and service trenches to be located outside the canopies/RPAs of protected trees to ensure their viability.

- The Arboricultural Method Statement/Report by David Prince M.Arbor.A. illustrates that the protected trees on and surrounding the site can be afforded the necessary Root Protection Area (RPA) to ensure their viability.

- Given the above, a review of the planning application documentation and with reference to the development pattern of the area, we argue that the "close proximity and extensive canopy of protected trees on and surrounding the site" is not in conflict with the 'informative' of BS5837:2005 Appendix A.4.3: which states "Where a Tree Preservation Order exists prior to planning permission being granted it should not normally be a block to effective use of a site" and therefore not a reasonable/sustainable reason for refusal.

"The orientation of the site":

- We do not accept that "orientation of the site" is a problem but instead a 'design opportunity' to which we have properly responded and taken full advantage.

- There are many sites in the vicinity of the application site and the country as a whole with similar orientation parameters to this site. This fact does not result in those sites being necessarily discarded or considered unsuitable for development as seems to be the case here.

- The design of the proposed dwelling takes full advantage of the "more open" southerly aspect and orientation of the site, making the most (as it does) of the sun path as it tracks across the curved southern elevation of the proposed dwelling to the specific benefit of the principal/habitable rooms behind.

- Early/morning sun enters the Kitchen/Breakfast Room in the morning (as is ideal), moving on in the afternoon/evening to the Living Room, a day/evening room (as is optimum). Also, being dual aspect/through rooms the Kitchen/Breakfast and Living Room also receive north light thereby ensuring good levels of light throughout the day. The 1st floor Bedrooms have the benefit of sun throughout the principal daylight hours.

- The "orientation", site layout and dwelling design provide "choice" to the consumer purchasing a property. Those seeking a large south facing, full sun garden will go elsewhere. Those seeking a smaller and more secluded garden with natural areas of shade, a dwelling designed to a high standard and that takes full advantage of the "orientation of the site" will find this proposal most appealing.

- We argue for the reasons given above and after a review of the application details/documentation that "orientation of the site" is not a valid or sustainable reason for refusal.

"Overlooking <u>from</u> neighbouring properties"

- The only properties to which this particular reason for refusal could relate are:

  From 235 Winchester Road to the south west,
  From 237 Winchester Road to the north,
  From 239 Winchester Road to the south, and
  From 243 Winchester Road to the north east.

  Taken one at a time;

  <u>From 235 Winchester Road to the south west</u>

- 235 Winchester Road is located on the south west/far side of the existing access drive serving 237 Winchester Road to the north. This lane creates a physical, psychological and landscaped separation between the proposed dwelling and the end/north east elevation of 235 Winchester Road.
- The north east elevation of 235 Winchester Road is a secondary elevation with Garage/out-buildings attached. The upper part of this elevation is set back from its boundary with the access lane to 237 Winchester Road and views toward the application site are restricted by the pitched roof of the Garage and existing landscaping.
- Other views to the application site are oblique and at an every increasing dimension/distance, across access lane to 237 Winchester Road and drive to the proposed dwelling.
- Given the above we do not consider "overlooking" from 235 Winchester Road to be significant or a plausible/sustainable reason for refusal.

From 237 Winchester Road to the north

- 237 Winchester Road is located 21m (ave) from the northern boundary of the application site and between 32m (closest) and 39m (furthest) from the proposed dwelling itself.
- Separating 237 Winchester Road and the proposed dwelling is existing extensive landscape that also incorporates one protected tree (Ref: T59). This protected tree is located 12.5m north of the northern boundary of the application site. This protected tree and the extensive existing landscape prevent overlooking of the proposed dwelling from 237 Winchester Road.
- The above, the large distances involved and existing landscaping mean that "overlooking" from 237 Winchester Road is not a plausible/sustainable reason for refusal.

From 239 Winchester Road to the south

- 239 Winchester Road is located 16m south of the southern boundary of the application site and between 21m (closest) and 29m (furthest) from the proposed dwelling itself.
- 239 Winchester Road is set at a lower level (house and garden – see Site Section) than the proposed dwelling thus reducing the potential for overlooking of the proposed dwelling from 239 Winchester Road.
- Separating 239 Winchester Road and the proposed dwelling is an existing tree and hedgerow belt whose screening effect is to be enhanced by the provision of a "raised hedgerow" (espalier trees) at the point at which minor trees on the application site are to be removed (separation distances at this point are up to 29m).
- The remaining and proposed planting together with the natural topography of the land make overlooking of the proposed dwelling from 239 Winchester Road very limited.
- The above points/measures, the distances involved and the existing/proposed landscaping mean that "overlooking" from 239 Winchester Road is not a plausible/sustainable reason for refusal.

From 243 Winchester road to the north east

- Although not a principal elevation, there are ground and 1st floor windows within the south west elevation of 243 Winchester Road. These look out toward the north east boundary of the application site and over a patio area located between this elevation of 243 Winchester Road and the application site boundary.
- This elevation to 243 Winchester Road is 6.5m from the boundary of the application site and screened by close boarded fencing and existing protected trees/other landscaping (see RRP Site Plan).
- In recognition of and in response to the presence of the windows/patio to 243 Winchester Road, the primary garden/amenity space of the proposed dwelling has been located away from this boundary. The area adjacent to the boundary with 243 Winchester Road is to be used/laid out to provide access to/from and around the ancillary accommodation of the proposed dwelling.
- The primary garden area to the proposed dwelling is not only screened by existing protected trees but extends a further 22m in depth (beyond the generally accepted 10m minimum garden depth) thereby allowing for acceptable levels of privacy/separation and overlooking from 243 Winchester Road.

- No 1st floor windows have been placed in the north east gable elevation of the proposed dwelling to avoid (by design) overlooking from 243 Winchester Road.
- The 1st window on the return (north west elevation) of the proposed dwelling is 16m from the elevation with 243 Winchester Road and at 90 degrees to that elevation. Added to this, this window serves north facing En-suite Shower accommodation.
- Given the above and a review of the planning application documentation we argue that "overlooking" of the application site from 243 Winchester Road is not significant and should not be considered a plausible/sustainable reason for refusal.

The above issues/constraints "would result in an excessively shaded and overlooked private amenity area, to the detriment of amenity and privacy of future occupiers of the proposed development"…..

- It is not the case, neither should this be the default assumption that all occupiers wish to have full sun, south facing gardens. Such an orientation can cause problems of its own, often resulting in the use of only a small part of the garden (ie where a sunshade/canopy has been erected or where trees create shade).

- To demonstrate the actual shading within the garden of the proposed dwelling RRP have prepared, and now attach Shadow Projections for the months of April, May, June, July, August and September (principal garden activity months). These projections indicate that at all times of the year there are areas within the rear garden of the proposed dwelling that will have the benefit of direct sun. Outside these principal garden months, shading from protected trees will be reduced as the deciduous protected trees defoliate.

- The gravelled area to the front of the dwelling is notably private, secluded and landscaped and it too will be suitable for enjoyment/activities such as sitting out, gardening, washing the car etc. Garden activity is not the exclusive preserve of the rear garden and particularly not so when the front garden is so secluded and has a landscaped southerly aspect as is the case here.

- Overlooking from neighbouring properties is covered by the previous section of these Grounds of Appeal above.

- We argue therefore that the garden to the proposed dwelling is not "an excessively shaded and overlooked private amenity area" and not so as to be plausible/sustainable reason for refusal.

As a result of the above …… "and is likely to lead to future pressure to remove or undertake unnecessary works to those protected trees."

- No windows/doors have been placed in the west elevation of the proposed dwelling. This elevation has the closest relationship with canopies of protected trees on and surrounding the western side of the site and the absence (by design) of windows/doors to this elevation will mitigate against pressure to remove or undertake unnecessary works to those protected trees.

- For the same reason (but in relation to the north eastern side of the site), no windows have been placed at 1st floor level of the north east elevation of the proposed dwelling and the windows/doors at ground floor level are either secondary to the Kitchen/Breakfast Room or serving the Garage/Utility areas.

- We have (by design) ensured that principal rooms of the proposed dwelling are arranged along the "more open" southerly aspect of the site/dwelling thereby ensuring good levels of natural light to these rooms and mitigating against pressure to remove or undertake unnecessary works to protected trees.

- The protected Oak tree (T60) is located to the north of the proposed dwelling so any shadow cast by this tree will be cast/fall away from the dwelling thus avoiding pressure for its removal. The protected Oak tree itself has a naturally high crown and an "open" disposition at its base.

- Given the design steps taken and the above points we contend that there will be little or no more pressure to have protected trees on and surrounding the application site felled or subjected to unnecessary works than exists at present (from occupiers/neighbours etc). Any such request could and should be resisted and by definition requests to undertake "unnecessary works" refused.

- We would argue that these proposals are not "likely to lead to future pressure to remove or undertake unnecessary works to those protected trees" and not in the light of guidance within BS5837:2005 Appendix A.4.3: "Where a Tree Preservation Order exists prior to planning permission being granted it should not normally be a block to effective use of a site" and not therefore a plausible/sustainable reason for refusal.

"The proposal is therefore contrary to saved policies 59.BE and 181.LB of the EBC Local Plan Review (2011 – 2011)". (Should read 2001 - 2011)

(Urban Renaissance and the Built Environment)

Policy 59.BE i.

- We do not accept that the detail/design of the proposal is in conflict with this policy. We contend that:

i. We have "taken full and proper account of the context of the site including the character and appearance of the locality and neighbourhood" and are confident that these proposals are entirely appropriate in terms of "mass, scale, materials, layout, density, design and siting, both in themselves and in relation to adjoining buildings, spaces and views, natural features and trees worthy of retention".
ii. The proposal makes the most efficient use of the land
iii. The proposal provides for a dwelling of an appropriate type on/and an appropriate land-use.
iv. The existing high quality landscape of the site and its surroundings will be augmented by the introduction of appropriate and high quality landscape planting to ensure the proposed development will not have an adverse impact on the setting of the area.

v. We have provided for a satisfactory means of access and layout for vehicles which connect to the existing highway and transport services.
vi. Secure cycle storage is provided for within the integral garage of the proposed dwelling (see RRP drg no 301).
vii. The application site lies in an area designated for residential use and the dwelling designed so as to avoid overlooking, loss of daylight, loss of outlook or any other relevant aspect of policy.
viii. Adequate provision has been made (both internally and externally) for the storage and collection of domestic waste including 'bins collection' point located within 10m of the public highway
ix. The natural features of the site ensure that adequate shading and protection from the sun can be achieved within the garden environment.
x. The dead end, secluded nature of the site and the over-looking of the approach drive by both 239 Winchester Road and the proposed dwelling should reduce the potential for criminal activity and anti-social behaviour.

Policy 181.LB

- We do not accept that the detail/design of the proposal is in conflict with this policy which is designed to respect and compliment the character the area of Hiltingbury.

i. The size of the proposed dwelling is entirely compatible with those within the immediate vicinity.
ii The proposal does not involve the loss, or prejudice the retention of significant existing healthy mature trees on the site. The trees that are proposed for removal are compromised or of a lesser nature and are compensated for by appropriate new tree planting. We note in BS5837:2005 Appendix A.4.3: that "Where a Tree Preservation Order exists prior to planning permission being granted it should not normally be a block to effective use of a site".
iii The design, siting, size, scale and type of dwelling is clearly and demonstrably compatible with the Arcadian character of the locality. It is our assertion that given the pattern of development within the area (as clearly illustrated on RRP drawing 306), the proposed development does not constitute backland or tandem development in the normal context/understanding of the term. This development clearly fits/accords with the pattern of development in the area as most recently reinforced by the grant of permission for similarly arranged development at nos 233 and 233a Winchester Road some 60m to the west of the application site. This clearly demonstrates that there can be no policy conflict on this point.
iv The proposal is set within a naturally landscaped environment which has been augmented where appropriate by additional/new landscape of a similar nature and type so as to assimilate the development into its surroundings.

REASON FOR REFUSAL (2) - REBUTTAL

"The proposed driveway, by virtue of its close proximity to the south western side elevation of no 239 Winchester Road, will result in unacceptable disturbance to the main habitable accommodation of this property to the detriment of the residential amenity of its occupiers".

- The proposed access drive is typical of access drives in the vicinity of the site. In the light of this we do not accept that "the proposed driveway will result in

unacceptable levels of disturbance" to the occupiers of 239 Winchester Road. Added to this the proposed driveway will serve only 1 x dwelling.

- The location and arrangement of driveways in the area/vicinity of the site is best illustrated by reference to RRP Location Plan LOC1E (attached) and by a comparison of the proposal with development in the immediate vicinity ie:

  - Existing access drive located between 219 and 223 Winchester Road providing access to 221 Winchester Road located to the north/rear (access to 1 x dwelling).
  - Existing access drive located between 225 and 229 Winchester Road providing access to 227 Winchester Road located to the north/rear (access to 1 x dwelling)
  - Existing access drive located between 229, and 233a Winchester Road providing access to 231, 231a, 233 and 233a Winchester Road to the north/rear (access serving 4 x dwellings)
  - Existing access drive located between 235 and 239 Winchester Road providing access to 237 Winchester Road to the north/rear (access to 1 x dwelling)
  - **Proposed access located between the driveway to 237 Winchester Road and 239 Winchester Road serving proposed dwelling (the application) to the north of 239 and south of 237 Winchester Road (access to 239 Winchester Road + 1 x proposed dwelling).**
  - Existing access drive located between 241 and 245 Winchester Road providing access to 243 Winchester Road to the north/rear (access to 1 x dwelling)
  - Existing access located drive between 247 and 253 Winchester Road providing access to and 251 Winchester Road to the north/rear (access to 1 x dwelling)
  - Existing access drive located between 255a and 255b Winchester Road providing access to 255, Oakridge and Westgate House Winchester Road to the north/rear (access serving 3 x dwellings)

- NB:
  Although not critical to, or a formal part of this application, the occupier of 239 Winchester Road wishes to replace the French window to his south west elevation with a high level double glazed window (fixed shut). The Living Room to 239 Winchester Road (ie the room nearest to the proposed driveway) is a dual aspect room with double glazed windows/doors to both the south east (front) and north west (rear) elevations – sound/privacy/light.

- The proposal makes provision for a masonry and close boarded timber boundary wall/fence between the south west elevation of 239 Winchester Road and the proposed driveway – sound/privacy.

- Given the above and by reference to the application documents/RRP drawing nos LOC1 E (attached), 300 and 306, we do not accept that the proposed access would result in "unacceptable disturbance to the "main habitable accommodation of 239 Winchester Road". This reasoning is not a plausible/sustainable reason for refusal.

"The proposal is therefore considered to be contrary to saved Policy 59.BEof the EBC Local Plan Review (2011 – 2011)". (Should be 2001 – 2011).

Policy 59.BE

- The requirements of this policy and its relevance to these proposals is set out under Reason (1) for refusal above and the points made there also relevant here when assessing Reason (2) for refusal.

- The arrangement of access drives located between properties is typical of the layout, nature and development character of the area (see also Location Plan LOC1E).

- Given the above and the relevant points made under Reason (1) for refusal, we assert that these proposals are not in conflict with or contrary to saved Policy 59.BE of EBC Local Plan Review (2011 - 2011) (Should read 2001 – 2011) and therefore not a plausible/sustainable reason for refusal.

REASON FOR REFUSAL (3)

PLANNING OBLIGATIONS/FINANCIAL CONTRIBUTIONS

- An acceptable Unilateral Undertaking was signed by the owner/occupier of 239 Winchester Road, the applicant and the Council (dated 14 May 2012). The applicant and Council are therefore **no longer in dispute** on this point or Policies 101.T, 147.OS and 191.IN of EBC Local Plan Review (2001-2011).

OTHER/GENERAL MATTERS

We were concerned by the imposition of a "blanket TPO" applied once the Planning Application was lodged. This action appeared to be designed to prevent the effective use of the site rather than to protect "important" trees '*per se'* and we question whether it is a correct and proper use of this regulative procedure.

Use of TPOs in this manner appears to conflict with the guiding principle of BS5837:2005 Appendix A.4.3: which states that "Where a Tree Preservation Order exists prior to planning permission being granted it should not normally be a block to effective use of a site".

CONCLUSION

The particular skill of this proposal has been the careful consideration of the constraints and opportunities offered by the application site. The design/layout of the proposed dwelling respects the protected trees, their canopies and the orientation of the application site.

It is, in our opinion, a 'tour de force' or an 'exemplar' in the exercise of careful thought and design in response to the constraints and opportunities offered by the application site.

The introduction to the NPPF document (issued March 2012 – Introduction, Point 7) that Sustainable Development is defined as having three dimensions: **economic, social and environmental**.

We believe that these proposals meet the fundamental drive and ambition of the NPPF and Local Planning Policies and urge the Planning Inspector to allow the Appeal.

Jonathan Ross MCIAT
Affiliate Member RIBA

(Director)
The Relph Ross Partnership Ltd

APPENDIX 1

Location Plan LOC1E

Note:
This Location Plan includes a wider area of 'mapping' which has been used within these Grounds of Appeal to illustrate the pattern of development and arrangement of access drives within the vicinity of the site.

It is not new information as such but "wider" information that would have been available to the Council in making their appraisal of the application.