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RTPI
Chartered Town Planners

GROUNDS OF APPEAL

BY

Regal Homes Ltd

AGAINST THE DECISION OF

Eastleigh Borough Council

TO

Refuse full planning permission

FOR

Construction of detached two bedroom bungalow to rear with ancillary parking & amenity space with shared access to Sayers Road

AT

3 Sayers Road, Bishopstoke, Eastleigh, SO50 6GY

PREPARED BY

ROBIN HENDERSON MA(HONS) MRTPI

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March 2017

1.0 Representation

1.1 I am Robin Henderson. I hold a Master of Arts degree with Honours in Town Planning and I am a Corporate Member of the Royal Town Planning Institute.

1.2 I have in excess of 18 years professional Town Planning experience accrued in the public and private sectors. I have prepared and presented evidence in a large number of planning appeals.

1.3 I am a Senior Associate Planning Consultant with Ken Parke Planning Consultants Limited and have been instructed by the Appellant for this appeal, Regal Homes Ltd, to act as its representative.

2.0 Introduction

2.1 This statement comprises the Appellant's grounds of appeal against the decision of Eastleigh Borough Council to refuse permission for the appeal proposal. It explains the proposal and the differing positions of the main parties on the key issues, before explaining why planning permission should have been granted and by asking the Inspector to allow the appeal.

2.2 I append and make reference to the following documents within this statement:-

RH1 – Photographs of the site and surrounding area

RH2 – Correspondence between the applicant and First Wessex Housing Association confirming that access from the side (across the frontage of 9 and 11 Sayers Road) will not be available;

RH3 – Quality Places SPG extract;

RH4 – Eastleigh Borough Authority Monitoring Report 2015/16 confirming the absence of a 5 year housing land supply.

3.0 The Appeal Site

3.1 The appeal site is a deep residential plot, occupied by a semi-detached 2 storey family house and its long rear garden, and a hard surfaced driveway which wraps around the front of the house and extends alongside the property to a detached single garage that is set within the rear of the plot. The site is level and contained on all sides by standard residential boundary fencing.

3.2 The character of the wider area is residential and suburban. Homes in the area display a variety of designs, forms, eras and plot sizes. Local services are accessible on foot, whilst the broader range of services and facilities in Eastleigh town centre are a short distance away.

3.3 What is especially notable and relevant about the plot is that it is one of very few within Sayers Road that has not, to date, been the subject of severance to accommodate bungalows set within the backlands as shown below.



3.4 In the image below, the appeal site is outlined in red. Those properties that were developed to accommodate backland development with the benefit of permission granted in 1996 are highlighted in yellow. The only 2 other plots within the road that have not been the subject of infill/backland development are outlined in blue.





Above: Modern bungalows constructed on backland plots adjacent to the appeal site.

3.5 Further photographs of the appeal site and surroundings are attached at Appendix RH1.

4.0 The Proposal

4.1 The proposal is to sever the rear section of the garden of the existing house and to construct a detached bungalow. Access is provided using the existing driveway that passes alongside the frontage property and by extending that driveway through the position of the current garage into the severed plot.



4.2 The proposed bungalow adopts a shallow fully-hipped roof form over a simple modern brick exterior. The bungalow is proposed to be roughly aligned with the neighbouring backland property; the styling and form of the proposed bungalow have been designed to complement those of the closest neighbouring properties.



4.3 Prior to the submission of the application, in September 2016, the applicant sought the pre-application view of the Local Planning Authority of the development. The response was supportive of the principle of the severance of the plot and the approximate form and styling of the bungalow proposed. Preference was, however, expressed for access to be taken from the adjacent cul-de-sac and across the frontages of the neighbouring homes at 9

and 11 Sayers Road. No concern was raised about the provision of suitable amenities for future occupants.

4.4 Having established that no right of access across the frontages of nos. 9 and 11 Sayers Road could not be secured (see Appendix RH2), the applicant proceeded to submit the application that is now the subject of this appeal.

4.5 The application was submitted and validated on 23rd December 2016. It generated no objection from any third party. However, planning permission was refused on 17th February for the reasons stated in the Decision Notice as follows:

(1) The proposed development would give rise to an undesirable form of backland development with an unsatisfactory access that is out of keeping with the pattern of development in the locality and would have an adverse effect on the occupiers of the neighbouring dwellings. The proposed development is therefore considered contrary to, National Planning Policy Framework paragraphs 17, 53, 56, 64, Eastleigh Borough Local Plan Review (2001-2011), saved policy 59.BE. Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014, (the Submitted Local Plan) comprising of Revised Pre-submission Eastleigh Borough Local Plan 2011 - 2029, published February 2014; and Schedule of Proposed Minor Changes, submitted to the Secretary of State in July 2014':, DM1, DM25, Supplementary Planning Guidance : Quality Places (2011).

(2) The proposed dwelling due to its scale, siting and external layout of the private amenity, would result in an unacceptable and poor quality living environment to the detriment of the amenity of future occupiers through lack of daylight and limited usable private garden area. The proposed development is therefore considered contrary to, National Planning Policy Framework paragraphs 17, 53, 56, 64, Eastleigh Borough Local Plan Review (2001-2011), saved policy 59.BE. Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014, (the Submitted Local Plan) comprising of Revised Pre-submission Eastleigh Borough Local Plan 2011 - 2029, published February 2014; and Schedule of Proposed Minor Changes, submitted to the

Secretary of State in July 2014':, DM1, DM25, Supplementary Planning Guidance : Quality Places (2011).

4.6 In the above reasons for refusal, I have underlined the key points for ease of reference.

5.0 Main Issues

5.1 Having regard to the reasons for refusal, national and local planning policy and other material considerations, the main issues for consideration in this appeal are:

- The contribution of the appeal proposal to the supply of housing;
- The effect of the proposed means of access on the character of the area;
- The effect of the proposed means of access on the living conditions of the host property, 3 Sayers Road; and,
- The provision of adequate amenity space and daylight for future occupants of the proposed bungalow.

5.2 Having taken the decision to make this appeal, the appellant is confident that the above issues, in the planning balance, do not justify planning permission having been withheld.

5.3 I respond to each of these issues in the following sections of this statement. I conclude, fully, that planning permission should have been granted and by asking the Inspector to allow the appeal.

6.0 National Planning Policy Framework

6.1 The NPPF explains (at paragraph 6) that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 explains that there are three overlapping dimensions to sustainable development:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

6.2 Paragraph 19 confirms that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

6.3 Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. It confirms that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

6.4 Paragraph 50 states that, to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);

- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and

- where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

6.5 Paragraph 53 states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. It is implicit that, in the absence of such a policy, it would not then be reasonable for a local planning authority to seek to resist development on existing garden land as a matter of principle.

6.6 Paragraph 56 states that the Government attaches great importance to the design of the built environment. It explains that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

6.7 Paragraph 60, however confirms that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

6.8 Paragraph 61 confirms that, although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. It states that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

6.9 Paragraph 186 says that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground. Paragraph 187 advises that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

7.0 Local Planning Policies

7.1 The Local Planning Authority has cited the following policies from the Eastleigh Borough Local plan 2011-2029 July 2014 in support of its decision to refuse planning permission. However, having now abandoned that plan, the delegated report also clarifies that these policies should be afforded very little weight, and as such it is unclear why it has quoted policies in its reason for refusal when they clearly have insufficient weight to be determinant for a planning application.

"Reference needs to be made to the submitted Eastleigh Borough Local plan 2011-2029 July 2014. However, very little weight can be given to these policies as, although the Submission Local Plan has not been formally withdrawn, the Council has confirmed that it has decided to prepare a new local plan which will cover the period up to 2036. With regard to this application, the new policies essentially echo those of the current plan and are not considered to affect the recommendation put forward."

7.2 Policy DM1 – "General Criteria for New Development", requires (as relevant) that all development should:

i) not have an unacceptable impact on, and where possible should enhance:

a. Residential amenities

b. The character and appearance of urban areas, the countryside and the coast.

c. Biodiversity

d. Heritage Assets

ii) make efficient use of the site and have regard to and not impede potential development opportunities on adjoining land.

iii) take full and proper account of the context of the site including the character, appearance and land used of the locality or neighbourhood, and be compatible with adjoining uses and well integrated with these in terms of mass, scale, materials, layout, density, design and siting both in itself and in relation to adjoining buildings, spaces and views.

iv) not involve the loss of or damage to trees, woodlands, hedgerows, ponds or other landscape features of value to the character of the area for appearance, biodiversity or for urban cooling unless they can be replaced with features of equivalent or enhanced value.

v) include a landscape scheme covering the design and layout of external space.

vi) for a new development, achieve a net increase in green infrastructure in or around the site.

vii) provide satisfactory management arrangements for all landscape and green infrastructure.

viii) incorporate provision for disabled people.

ix) incorporate design measures to inhibit criminal and anti-social behaviour.

x) incorporate provision for on-site waste management.

7.3 Policy DM25 'Residential development in urban areas' says:

Within the urban edge as defined on the policies map, residential development through new build, conversion, sub-division or extension will normally be permitted subject to the general development criteria and transport policies of this local plan.

New dwellings will be permitted provided that:

i. where feasible the scheme provides a mix of dwelling types and sizes to meet local needs, including dwellings capable of adaptation to meet changing needs over time and extra care housing;

ii. affordable housing is provided in accordance with policy DM28;

iii. a minimum density of 35 dwellings per hectare (net) should be achieved unless site constraints or local character justify a lower density. In areas with good access to public transport and other services and amenities, higher densities will be sought.

The development of, and extensions to residential accommodation specifically designed for older people, and those in need of specialised residential care services, will be encouraged in sustainable locations within the urban edge, particularly in or close to local centres.

Where possible residential development sites, including those proposed to be allocated in Chapter 6, should include provision for self-build development.

7.4 The determinant policy for this appeal is the out of date but adopted policy 59.BE from the Local Plan Review (2001-2011) as follows:

59.BE: Development proposals which are in accordance with the other policies in this plan will be permitted provided they meet all the following criteria:

i. they take full and proper account of the context of the site including the character and appearance of the locality or neighbourhood and are appropriate in 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. *they make the most efficient use of the land;*

iii. *they incorporate an appropriate mix of dwelling type and land-use where appropriate;*

iv. *they provide a high standard of landscape design and appropriate planting where required. Development should use native plants in landscape schemes to benefit biodiversity. Development adjacent to or within the urban edge must not have an adverse impact on the setting of the settlement in the surrounding countryside;*

v. *they have a satisfactory means of access and layout for vehicles, cyclists and pedestrians including appropriate links to surrounding footpaths, cycleways and public transport services;*

vi. *include, where appropriate, provision for the secure storage of bicycles;*

vii. *they are an appropriate use for the locality and avoid unduly interfering, disturbing or conflicting with adjoining or nearby uses, especially in terms of noise, fumes, dust, overlooking, loss of daylight, loss of outlook, vibration, or from floodlighting or security lighting;*

viii. *they make adequate provision for the storage and collection of refuse and where appropriate include facilities for the collection of recyclable materials;*

ix. *they include, where appropriate, measures which provide shade and protection from the sun; and*

x. *new development should reduce the potential for criminal activity and anti-social behaviour by the use of appropriate design.*

7.5 The Council also makes reference to its Supplementary Planning Guidance: Quality Places (2011) in respect of concern about amenity space. I attach relevant extracts from the SPG at Appendix RH3. However, as the Local Plan is out of date, the SPG must also be afforded associated limited weight and should not be taken as an expression of policy, but simply as a general guide.

8.0 Considerations

8.1 The issues for consideration for this appeal are set out above as:

- The contribution of the appeal proposal to the supply of housing;
- The effect of the proposed means of access on the character of the area;
- The effect of the proposed means of access on the enjoyment of the garden of 3 Sayers Road; and,
- The provision of adequate amenity space and light for future occupants of the proposed bungalow.

Contribution to Housing Supply

8.2 The Council's policies that relate to the supply of housing are out-of-date. Paragraph 14 of the Framework advises that where policies relating to the supply of housing are considered to be out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.3 Moreover, the extract from the 2015-2016 Authority Monitoring Report attached to this statement at Appendix RH4 Demonstrates that the LPA is current unable to demonstrate a 5 year housing land supply.

8.4 Having regard to the above, the LPA should be taking every sustainable opportunity to secure the homes that it needs. The benefit of housing delivery should be a very significant consideration in the planning balance.

8.5 Under the heading 'Principle' the Delegated Report sets out that:

"The main part of the application site which is to be developed lies within the urban edge where the basic principle of development is considered to be acceptable."

8.6 In response to a request for pre-application advice, the Local Planning Authority indicated that the principle of constructing a dwelling on this back land plot would be acceptable. A preference was expressed for an alternative means of access, but no concerns were raised about the presence of an infill dwelling in that position. This is confirmed in the Delegated Report under the heading 'Assessment of Proposal' thus:

"The application site has been subject to pre-application advice, where the Local Planning Authority raised concerns regarding the proposed access along the side of the existing dwelling on site and whether the proposed layout with be in keeping with the character of the surrounding area. The pre-app response said that 'it would more appropriate to consider extending the existing access to the north east of the site so that the dwelling is accessed via this existing access rather than the access drive being located along the side of 3 Sayers Road. It is considered this layout would be more in keeping with the surrounding area and would be better for the amenities of the occupiers of no.3 Sayers Road'.

8.7 The sustainable location of the site, out of date spatial strategy, lack of 5 year supply, and the general support for an infill bungalow on this plot, albeit with an alternative preferred means of access, all weigh heavily in favour of the appeal proposal in the planning balance.

8.8 The effective use of land falling within the defined settlement boundary to provide a new home for which there is an apparent demand is consistent with the overarching ambitions of the NPPF. The contribution of the appeal development to housing supply should be afforded very significant weight in the planning balance.

Character of the Area

8.9 The LPA's concern about impact on character is explained in the Delegated Report thus:

"The proposed dwelling is intending to replicate the form and style of these bungalows and would sit inline albeit in the rear garden, which would thus not be out of keeping. What is of concern is that a single dwelling is proposed in the rear garden with access from the existing dwelling."

"*Had the development proposed extending the existing access from Sayers Close to serve the development then the proposed dwelling would not appear out of keeping with the surrounding area. However in this instance, the division of the plot for the siting of a new dwelling in addition to the proposed access would result in a contrived and undesirable form of backland development."*

8.10 The delegated report makes clear that the bungalow itself is acceptable in terms of its presence, form and styling. The only issue is that the means of access is from the front of the site rather than through neighbouring land from the side.

8.11 Whilst the LPA has expressed a preference for access to be taken from the side, the delegated report does not saliently explain how the alleged harm that it considers will be caused by the proposed access arrangement will be experienced, by whom, and why on balance this harm should justify planning permission being withheld for this otherwise beneficial development.

8.12 The appellant has approached the owner of the land to the side, which forms the frontages and parking areas of the neighbouring homes at 9 and 11 Sayers Road, to enquire whether it might be made available to provide access to the site. The owner, First Wessex Housing Association, has confirmed that it will not make the land available to provide access to a development on the appeal site. I attach a copy of the relevant correspondence exchange at Appendix RH2.

8.13 In the absence of an explanation of the Council's concern about the effect of the proposed means of access on the character of the area, we must speculate. But we can be sure, because the Council is clear on this, that it is

not the presence of the bungalow that is considered to be uncharacteristic – just the means of access to it.

8.14 The Google StreetView image below shows the frontage of the appeal site and the existing driveway passing from the front of the site, alongside the house, to reach the detached single garage set in the rear garden area. To the right of the garage, the frontage of the backland bungalow behind the neighbouring plot is visible.



8.15 The image below is a closer version of the image above. It clarifies that the current aspect from the street between the properties reveals other established residential properties in the backlands.



8.16 The proposal is to take the garage down and extend the driveway deeper into the plot where it will reach the new bungalow which will be aligned with the existing bungalow visible in the image above.

8.17 If the lean-to shed that has been attached to the side of the neighbouring property to the right of the appeal site in the image above was removed, the aspect from the street towards the existing backland bungalows would be virtually identical to what is now proposed on the appeal site.

8.18 Elsewhere in the aspects between dwellings in Sayers Road, there are variations on the same aspect.

8.19 The wider gap between the dwellings at 7 and 21 Sayers Road reveals a more expansive aspect towards the backland bungalows as shown below. Whilst a slightly different context, the image shows the significant depth from the vantage point at which the appeal bungalow would be glimpsed through the relatively narrow vista between 3 and 5 Sayers Road.



8.20 The view between nos. 23 and 25 Sayers Road (below) also shows an aspect towards the bungalows that have been constructed in the backlands. There is nothing inherently harmful about the relatively discreet buildings set well back from the position of view.



8.21 Likewise, the aspect along the access driveway serving nos. 33-39 Sayers Road, which passes between 31 and 41 Sayers Road, reveals a view of low rise bungalows set in the backlands. Whilst clearly visible, and accessed by a driveway that has no commonality in its width with any comparable driveway in the immediate area, the bungalows are nonetheless relatively discreet and pleasant features of the local townscape.



8.22 Finally, having moved from one end of the street to the other, we find the aspect between nos. 43 and 45 Sayers Road again reveals an aspect towards low-rise infill development in the backlands. Again, I see nothing inherently harmful in being able to see low rise residential development ion the backcloth at this depth.



8.23 The above images show that backland bungalows are a consistent feature of views between properties in Sayers Road. Some of the views are open aspects down access roads/drives while others are more enclosed glimpses partially obstructed by fences or other structures. What is clear is there is no absolute consistency – there is variation in the manner in which the backland properties are experienced in views from the street. If there is one inconsistency that we can identify, it is that the house at the appeal site is one of a small minority of properties in the street that does not currently have a low rise bungalow visible in its backcloth. It is arguable, if assessment of character were solely about consistency, that the appeal proposal will be more consistent with established character than the current undeveloped long rear garden.

8.24 The gap at the side of the house, occupied by the surfaced driveway that is intended to remain, is already a feature of the street. The projection of that driveway into the backland to reach the single storey garage structure is already a feature of the street. And we have established above that single

storey residential buildings set in the backlands are more characteristic of this street than undeveloped rear gardens.

8.25 So, the subjective judgement for the Inspector, is whether the degree of exposure of the proposed bungalow, caused by the modest extension of the driveway into the plot in this case, will cause the development to appear so incongruous, so alien, in this street scene that planning permission must be withheld for this beneficial development notwithstanding the failure of the Local Authority to adopt a spatial strategy that will deliver the homes that are needed in a better way.

8.26 The appellant's clear position is that the presence of the proposed bungalow will appear no less rational than the currently undeveloped garden in this context, and that the access to it, and associated visibility, will be in no conflict with any established characteristic in this street where the appreciation of established backland bungalows is quite varied in the space between every property in the road frontage.

8.27 The Council's unexplained and generalised finding that the proposed means of access would cause the appeal development to be so harmful to the character of the area that planning permission should be withheld, does not stand up to scrutiny.

Living conditions of neighbouring homes

8.28 The singular concern about the impact on neighbouring homes relates to the effect on enjoyment of the rear garden space of the host property no.3 Sayers Road of the position of the proposed access. It is explained in the delegated report thus:

"The proposed access would run parallel with number 3's garden and wrap around to form a turning head. There is concern with this element with regards to the impact it would have upon the amenity of the neighbouring property as the whole of the neighbours garden would be surrounded by the access."

8.29 In the absence of clarity, I shall assume that the concern relates to noise generated by the movement of vehicles and associated activity within that part of the driveway that wraps around the retained rear garden of no.3. I have outlined that part of the driveway in black below.



8.30 The sound generated will be that associated with the movements of the household of a 2 bedroom bungalow. The number of vehicle movements associated with such a property are unlikely to exceed, on average, 4 per day and there is nothing about the proposal that would cause one to believe that the occupants are any more likely that an average household to be undertaking such movements at anti-social hours when, of course, the garden of no.3 would be unlikely to be in use in any case.

8.31 So, the experience within the garden of no.3, by willing parties (because the occupants of no.3 are facilitating this development and future occupants would be aware of the relationship before taking occupancy), will be of a small number of vehicle movements by a single neighbouring household alongside the garden fence. There is nothing unusual, harmful, or particularly disturbing about such infrequent domestic noise generation in a suburban setting.

8.32 Nor, of course, is this an unusual scenario for households in this area. In the image below, I have placed a dot of all of those properties on the northwest side of Sayers Road the already have the vehicle movements of one or more neighbouring households occurring adjacent to their rear gardens. In many of these cases, the vehicle movements occurring adjacent to rear gardens are those of multiple (rather than just one) households. In this context, the appellant is concerned that his planning application has been refused for a reason that could be attributed to virtually every home in the street, and is understandably concerned that he has been treated unfairly.







8.33 In the context of the above, the LPA must have observed some characteristic of the appeal proposal that would render unacceptable this relationship which is perceptible in so many of the neighbouring homes. I have yet to see the Environmental Health Officer's consultation response that clarifies the extent of the singular and unacceptably harmful nuisance that would be experienced by the willing occupants of no.3 Sayers Road and will comment on that in detail upon receipt of the Council's Statement of Case. If no such consultation response exists, then the objection is unfounded, vague and generalised.

8.34 Clearly and correctly, the LPA has raised no such concern about the impact of the vehicle movements on the internal spaces of the house at no.3. The Inspector may be interested to note, however, that the appellant has agreed with the householder of no.3 Sayers Road to close up the ground floor side-facing window in the flank wall of the house and to construct a solid masonry wall to the flank elevation of the existing conservatory extension to the rear of no.3 Sayers Road as part of the proposed development. If either of these works was considered necessary for planning purposes, the appellant would be entirely willing to respond to a condition requiring those works to be undertaken prior to the occupation of the proposed bungalow. Such a condition could, if required, be framed as follows:

Prior to the first occupation of the development hereby permitted, the ground floor level glazing on the north east elevation of the house at 3 Sayers Road shall have been replaced with masonry in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority.

8.35 In this respect, and whilst reasserting that this is not an issue that has been raised by the Local Planning Authority, the Inspector is advised that the glazing is secondary and serves rooms and spaces that are already served by other windows with good levels of outlook and natural light penetration.



8.36 In summary of the response to the Council's objection, however, the very small number of vehicle movements of one neighbouring household occurring adjacent to the boundary of the garden of the household that is seeking permission for this development, is unlikely to generate such harm to the living conditions of that household that planning permission should not be forthcoming for this otherwise beneficial development. This is clearly demonstrated by virtually every household fronting the north west side of Sayers Road already having the vehicles of multiple households manoeuvring, seemingly harmlessly, adjacent to their rear and/or side boundaries. In the absence of technical evidence of demonstrable harm attributable to creating the same relationship here, the LPA's objection is unfounded and unwarranted.

Living conditions for future occupants

8.37 The delegated report explains the concern about living conditions for future occupants thus:

"Whilst the provision of amenity space can be provided for there is a concern to its suitability and the quality of living upon future occupiers. The proposed floor plans show that the living and dining room will be at the rear. The amenity area would be slanted, and at its narrowest the depth of this element would be 3 metres and 4 metres at its greatest looking directly onto the boundary fence of 14 Guest Road where there are two dense tall trees and hedges. The boundary fence is approximately 2 metres in height and the height of the proposed dwelling to the eaves would be 2.2 metres. Taking into

consideration these site circumstances in conjunction with the orientation of the proposed garden which would be to the east, these site circumstances will result in undue shadowing and would provide a very poor quality of outlook for the rear living space. Further to which these site circumstances would also result in a constrained and claustrophobic private amenity space. The provision of two sets of patio doors and windows would not in any way compensate for such a poor living environment."

8.38 The LPA's measurements are wrong. Whilst the proposed rear garden will not be enormous, it will have a depth of between 4.5m and 5.5m from the rear elevation of the proposed bungalow to the rear boundary; well in excess of the measurements stated in the LPA's delegated report. Its surface area is shown on the site plan to be 42 square metres.

8.39 Neither, again having regard to the LPA's report, is the rear section of the garden especially slanted; it is actually particularly level, which in combination with the above measurement error makes me wonder if this section of the Delegated Report has been transposed from a report relating to another development.

8.40 The rear section of the plot is currently occupied by a shed and a greenhouse together with the post of a laundry line and is otherwise laid to lawn. The photograph below, taken on a dull late-winter day, and onto which I have roughly annotated the footprint of the proposed bungalow in blue, shows the rearmost section of the garden to be well-lit and welcoming.



8.41 The photograph above also shows that the extent of the rear boundary foliage is not especially or unusually fulsome or dominant. So, whilst providing enclosure and privacy, the rear boundary will not be encountered as oppressive or overbearing by future occupants of the bungalow. Indeed, I would expect the rear boundary to be less imposing than the outbuilding to the rear of the neighbouring bungalow at 9 Sayers Road which is visible to the right of the above image; but the garden of that property nonetheless provides and suitably attractive amenity resource.

8.42 So, having regard to the above, the errors in the LPA's calculations, and the fact that the proposed garden is of a policy-complaint size with nothing particularly unusual about it setting that would warrant a requirement for a more fulsome provision, the LPA's concern that the garden space would fail to provide adequate living conditions for future occupants is unwarranted.

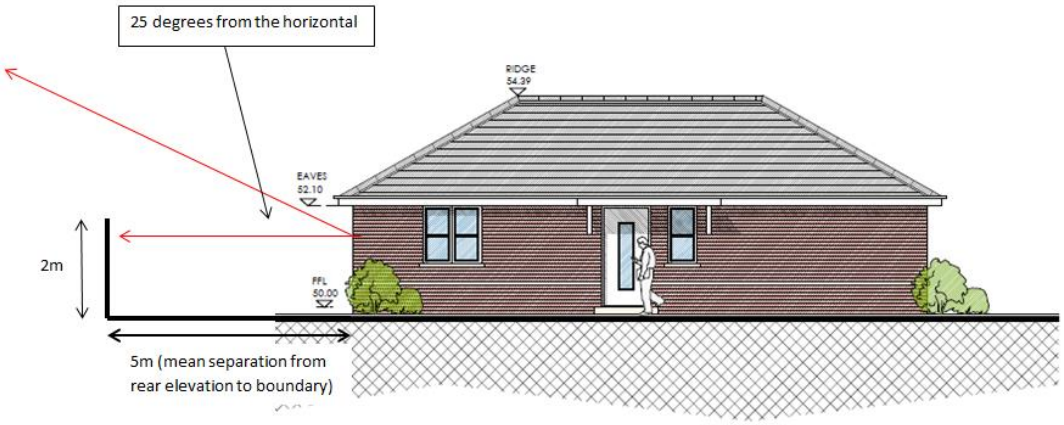
8.43 This proposal does also, however, have the benefit of a further area of amenity space, located to the front but still in a very private position in relation to the street and neighbouring homes, on the well-lit south east frontage of the plot. This space will supplement the rear garden area to provide a further attractive and well-lit area of private sitting/amenity space.



8.44 Having regard to the fulsome provision of attractive, well-lit and proportionate amenity spaces to the front and rear of the proposed bungalow, the Council's concern the inadequate living conditions would be provided is unwarranted.

8.45 The Council is also concerned that the depth of the rear garden will cause the rear-facing room to be poorly-lit and gloomy. It refers in particular to the proximity of the 2 metre high rear boundary fence to the windows in support of its contention that inadequate light will reach that room.

8.46 I haven't yet seen the Council's technical assessment of the amount of daylight or sunlight that would reach the room and will comment further at Final Comments stage, but my own review of the relationship of the rear-facing windows and the rear boundary is shown in the image below.



8.47 The above image reflects the technical guidance set out in the publication Site Layout Planning for Daylight and Sunlight (2nd Edition) by Paul Littlefair, published by the British Research Establishment (BRE). I can see nothing in the above basic assessment to explain why the Council have taken the view that inadequate light will reach the rear-facing room.

8.48 The Inspector is asked to note that, in addition to the 2 large rear-facing patio windows, the living room will also receive light through the side southwest-facing window shown on the image above. The room will this be an extremely well-lit and attractive space with an outlook onto a well-lit and

attractive garden, whilst he occupants of the bungalow will also have access to a further well-lit private amenity space to the front.

8.49 By any standard, this will be an attractive home to which a significant proportion of the population would aspire. The living conditions here will be desirable and of a high quality. The Council's unfounded objections are spurious and ill-conceived, and particularly surprising given the pressure its officers must be under to address housing need in the Borough.

9.0 Policy Review

9.1 As stated above, the adopted plan is out of date and the development should be determined in accordance with the National Planning Policy Framework. In that respect, the proposal will deliver a modern, energy efficient home in a sustainable location in a manner that reflect the ambition for good design (in all its guises).

9.2 The LPA refers to Paragraph 53 of the NPPF, which invites LPA's to adopt policies that seek to prevent the development of garden plots. But Eastleigh Borough Council has not adopted such a policy, and has indicated that the severance of this plot to provide a dwelling would in itself be acceptable as a matter of principle. As such, its references to paragraph 53 are irrelevant.

9.3 Having regard to all of the above, the proposal is compliant with the adopted policy 59.BE in accordance with the criteria of the policy as follows:

i. it will take full and proper account of the context of the site including the character and appearance of the locality or neighbourhood and are appropriate in 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. it will make the most efficient use of the land;

iii. it will provide a dwelling type for which there is a demonstrable need and will contribute to the mix of dwellings in the neighbourhood;

iv. *it will provide a high standard of landscape design and appropriate planting;*

v. *it will have a satisfactory means of access and layout for vehicles, cyclists and pedestrians. Occupants of the property will have good access to links to surrounding footpaths, cycleways and public transport services;*

vi. *it will have adequate space on the site to provide for the secure storage of bicycles;*

vii. *it will be an appropriate use for the locality; it will avoid unduly interfering, disturbing or conflicting with adjoining or nearby uses, especially in terms of noise, fumes, dust, overlooking, loss of daylight, loss of outlook, vibration, or from floodlighting or security lighting;*

viii. *There will be adequate space on site for the discreet storage of refuse and recycling containers;*

ix. *the garden areas, and the internal spaces of the bungalow, will provide an opportunity for shade and protection from the sun; and*

x. *the design of the dwelling will limit opportunities for criminal activity and anti-social behaviour.*

10.0 Conclusions

10.1 If the Council is going to address its failure to devise a spatial strategy that is capable of delivering the homes needed to meet the requirements of its population then, in accordance with national policy, something has to give. The thing that may have to give is the rigid and onerous application of out of date policies and which do not reflect the manner in which more sustainable settlements are developing to meet the needs of their populations.

10.2 The sustainable location of the site, out of date spatial strategy, lack of 5 year housing supply, and the in-principle support for an infill bungalow on this plot, albeit with an alternative preferred means of access, all weigh heavily in favour of the appeal proposal in the planning balance. The lack of any objection from any party other than the Council also favours the development.

10.3 The effective use of land falling within the defined settlement boundary to provide a new home for which there is an apparent demand is consistent with the overarching ambitions of the NPPF. The contribution of the appeal development to housing supply should be afforded very significant weight in the planning balance.

10.4 The LPAs concerns are vague and generic, and fail to take account of the circumstances at the appeal site. The LPA makes unsubstantiated allegations about the impacts of the development and

10.5 The appeal proposal will not harm the character of the area; the driveway is already there and the degree to which the proposed bungalow will be visible along the driveway reflects the very varied way in which the majority of the backland bungalows in this area are viewed from the streetscene of Sayers Road. It is the absence of a visible bungalow in the backlands of the appeal site that most differentiates it from the character of the street at present.

10.6 The access arrangements for the appeal proposal will not unduly harm the enjoyment of the use of the rear garden of the host property. The arrangement reflects the relationship between cars and gardens that has been permitted along the entire street; the infrequent sound of a neighbour's car alongside a residential boundary is an entirely commonplace experience and there is nothing about the appeal proposal that stands it apart in this respect from any of its neighbours or suburban development more generally. The Council has yet to present its technical noise assessment to demonstrate the harm it has alleged; in the absence of same there is no reason to believe that the infrequent movement of domestic vehicles within the proposed plot will have anything other than a negligible impact upon, and create no demonstrable harm to, the enjoyment of the garden of no.3 Sayers Road.

10.7 The garden and internal living spaces proposed are generous, spacious, and will be well-lit providing a high standard of amenity for future occupants. I have yet to see the LPA's daylight assessment and in the absence of same I find there to be no grounds on which the Council can legitimately have based its conclusion that the living conditions would be unacceptable in this respect.

10.8 In all respects, the appeal proposal will make effective use of land in a sustainable urban location to provide a modest home that will provide fine living conditions whilst having no discernible effects on the living conditions of others or the character and appearance of the area.

10.9 The proposal is consistent with the provisions of the out of date policy 59.BE and those of the NPPF. Planning permission should have been granted. The Inspector is, accordingly, asked to allow this appeal.