Eastleigh Borough Council

Town and Country Planning Act 1990

Statement of Local Planning Authority

Planning Inspectorate Reference No: APP/W1715/W/17/3179274

Local Planning Authority Reference No: C/17/80065

Appeal Site:

10 Romill Close
West End
SO18 3NE

Name of Appellant:

Mr B Natt

1.0 Particulars of the Application/Appeal

1.1 This appeal relates to planning application C/17/80065 which was made valid on 20 February 2017 and sought permission for the erection of a detached, three bedroom dwelling with associated parking and access in the Rear Garden of 10 Romill Close.

2.0 Local Planning Authority's Decision

2.1 The application was determined under delegated powers on the 9 June 2017. The application was refused on the following grounds:

(1) The proposed development due to its siting, design, massing, scale, subsequent loss of space around the building would create an unattractive and incongruous feature at odds with the appearance of neighbouring properties and detrimental to the character and pattern of development within the Conservation Area and locality. As such the proposed development is contrary to Saved Policies 59.BE and 169.LB of the Eastleigh Borough Local Plan Review [2001-2011]

(2) The proposed development would give rise to an undesirable form of backland development with an access route that passes in close proximity to the host dwelling 10 Romill Close. As a result the proposal would have an adverse effect on the amenity currently enjoyed by the occupiers of the host dwelling No.10 Romill Close. Furthermore due to the need to provide the vehicular

access to the side of the 10 Romill Close the resulting private amenity space of the host dwelling (No.10) will be of a irregular shape, of limited utility to the occupiers of the dwelling, and out of character with the amenity space of the neighbouring properties of Romill Close. As such the proposal is contrary to Saved Policy 59.BE of the Eastleigh Borough Local Plan Review [2001-2011]

(3) The application fails to secure mitigation against additional recreational pressure created by the development on the Solent and Southampton Water Special Protection Area. As such the proposals are contrary to the Conservation of Natural Habitats and Species Regulations 2010, Policy 25.NC of the Eastleigh Borough Local Plan Review [2001-2011] Policy SM9 of the Submitted Eastleigh Borough Local Plan [2011-2029] and The National Planning Policy Framework.

3.0 **Site & Surroundings**

3.1 The application site forms a long plot on the south side of Romill Close. The site frontage runs for approximately 10m along the adjacent highway and directly abuts the vehicular highway. The dwelling is proposed to be located on previously undeveloped land that forms the rear garden and amenity area of the host property 10 Romill Close.

3.2 The site is located within the Gaters Mill and Romill Close Conservation Area. The Conservation appraisal adopted in 2005 advises that 'Romill Close is a cul-de-sac running north to south between Swaythling Road and the M27 with a turning head at the northern end.' 10 Romill Close is located at the end of this cul-de-sac and adjacent to the turning head referred to above.

3.3 The eastern end of Romill Close is semi-rural in character with only the southern side of the close containing dwellings. The properties of Romill Close benefit from long back gardens that have been retained as amenity areas and remain undeveloped creating a perceived spaciousness between the period properties of Romill Close and the Upmill Close dwellings to the rear.

3.4 The properties on the southern side of Romill close have a strong sense of character. They are formed by semi-detached two storey dwellings. Many of these properties contain architectural details that contribute positively to the Conservation Area including decorated chimney pots, metal lattice windows and solid timber entrance doors. These features arise the architectural quality of the area that is of architectural interest and merit.

3.5 To the east and south of the site are two storey residential dwellings. To the south the properties are detached and to the eat the properties are semi-detached. These properties form part of an estate style development. Due to the estate style development, whilst the properties may be of individual

designs there remains a strong sense of character due to similar age, style and palette of materials incorporated within the dwellings.

3.6 Directly to the east of the application site is an area of open space. This grassed area provides a spacious separation between the properties of the Conservation Area and the more modern estate style dwellings of Upmill close. This open space continues south providing longer range views of the application site. A playground is also located southeast of the application site.

4.0 Application History

4.1 N/38869/000/00 Provided notification of intent to fell a cherry tree in rear garden The Council raise no objection to the proposed works (2002).

4.2 D/17/80067 provided consent to demolish the existing workshop on site. (2017)

5.0 Policy Context

5.1 The appeal site and its surroundings have a number of planning policy and nature conservation designations which are applicable to the proposed development:

- Built-up Area Boundary
- Within a Conservation Area
- Within the Solent and Southampton Water Special Protection Area

6.0 Development Plan Saved Policies and Supplementary Planning Documents

6.1 Given the various designations of the appeal site and its surroundings there are a considerable number of adopted Local Plan and Submitted Local Plan policies which relate to the proposed development.

6.2 **Eastleigh Borough Local Plan Review (2001-2011)**, saved Policies:

- 25.NC – Biodiversity
- 26.NC – Biodiversity enhancement
- 28.ES – Waste collection and recycling
- 32.ES – Pollution control
- 34.ES – Energy and climate change
- 45.ES – Sustainable drainage
- 59.BE – Promoting good design
- 72.H – Density
- 75.H - Density
- 100.T – Sustainable transport
- 101.T – Transport contributions
- 102.T – Site access
- 104.T – Parking

- 147.OS – Public open space provision
- 169.LB - Criteria for development in a Conservation Area
- 171.LB - The setting of buildings in a Conservation Area
- 191.IN – Community infrastructure provision

6.3 **Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014***,* (the Submitted Local Plan) Policies:

- S1 – Sustainable development
- S2 – New development
- S3 – Location of new housing
- S11 – Nature conservation
- DM1 – General criteria for new development
- DM2 – Environmentally sustainable development
- DM3 – Zero or low carbon energy
- DM5 – Sustainable surface water management and watercourse management
- DM7 – Pollution
- DM9 – Nature conservation
- DM23 – General development criteria - transport
- DM24 – Parking
- DM29 – Internal space standards for residential development
- DM32 – Provision of recreation and open space facilities with new development
- DM35 – Community, leisure and cultural facilities
- DM37 – Funding Infrastructure

6.4 With reference to the Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014, which comprises the 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, the majority of policies are consistent with the equivalent Saved policies of the Eastleigh Borough Local Plan Review 2001-2011.

6.5 It is, however, acknowledged that whilst still a material consideration, the policies of the Submitted Local Plan can be afforded very little weight in the determination of this appeal as, although it has not been formally withdrawn, the Council has decided to prepare a new local plan which will cover the period up to 2036.

6.6 **Supplementary Planning Documents**

- Supplementary Planning Document: Quality Places (November 2011)
- Supplementary Planning Document: Residential Parking Standards (January 2009)
- Supplementary Planning Document: Environmentally Sustainable Development (March 2009)
- Supplementary Planning Document: Planning Obligations (July 2008)
- Supplementary Planning Document: Biodiversity (December 2009)

- Supplementary Planning Document: Gaters Mill and Romill Close- West End Conservation Area. (2005)

7.0 National Planning Policy Framework

7.1 The National Planning Policy Framework (NPPF) supports and encourages sustainable development which is considered to have three roles, economic, social and environmental. Paragraph 8 of the NPPF states that "These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions."

7.2 The NPPF also states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Para 14 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay. Where the development plan is absent, silent, or relevant policies are out-of-date planning permission should be granted unless the adverse impacts of the development would outweigh the benefits; or specific policies in the Framework indicate development should be restricted (paragraph 14). Local plan policies that do not accord with the NPPF are now deemed to be "out-of-date". The NPPF requires that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. In other words the closer the policies in the plan accord to the policies in the Framework, the greater the weight that may be given.

7.3 Paragraph 61 of the NPPF states that "*securing high quality inclusive design goes beyond aesthetic considerations. Therefore, 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."*

8.0 5 Year Land Supply

8.1 The Council currently has a housing supply in excess of 5 years (5.22 years) as published on the Council's website (May 2017)

8.2 Irrespective of whether there is or is not a five year supply of housing land. However, the proposal still fails to comply with the relevant saved polices of the adopted Local Plan which relate to character and appearance.

9.0 LPA's Statement of Case

<u>Reason For Refusal 1</u>

9.1 This reason for refusal relates to the siting, design, massing, scale, and subsequent loss of space around the building. The proposal would result in an isolated dwelling. The resulting development would not read as either part of the established grain of the Upmill Close properties or the more sensitive character of the properties Romill Close.

9.2 Paragraph 53 of the NPPF advises that Council's should set 'out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

9.3 Saved policy 59.BE is such a policy and criteria (i) states that development will only permitted provided they '*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'*

9.4 The proposed building in this location would create an unattractive and incongruous feature at odds with the appearance of neighbouring properties and detrimental to the character and pattern of development within the Conservation Area and locality.

9.5 Page 4 of the appellant's statement of case admits that the development will result in a 'visual focus' with a 'unique identity'. The Council maintain that such a visual focus would be to the detriment of the conservation area. Furthermore the 'unique identity' indicates that the proposal will not maintain the character of the area.

9.6 Currently the long rear gardens of Romill Close provide a visual separation between buildings, the properties of the Romill Close within the Conservation Area and the modern estate style properties to the south and east. This characteristic would be eroded by the proposed dwelling.

9.7 This harm will be fully appreciable from the public realm as this impact will be readily visible from within the estate development. At present when approaching the site from the south and east long range views of this spacious plot are available across the adjacent open space.

9.8 The appellant's statement of case fails to demonstrate that the proposal will preserve or enhance the Conservation Area. In the first paragraph of page 5 of the appellants statement it suggests that there is not a uniform pattern of development within Romill Close.

9.9 As the Inspector will find at the time of their site visit this is not the case. The rhythmic pattern of development and uniformity of the original properties can still be fully appreciated in the streetscene of Romill Close.

9.10 In their response to reason for refusal 1 the appellant makes significant effort to point out the availability of off road parking, minimal impact on the amenities of neighbouring properties, and the effect on the proposal on

proposed trees. However, these are not matters that form the first reason for refusal and are not disputed by the Council.

9.11 Where the statement is lacking is an assessment of how the proposal will maintain the character of the area. The statement provides quotes from the design and access statement that present the aims of the proposal. However, details of how the building will maintain the established character are restricted to quotes from the Council's Officer Report that states the facing materials and two storey dwellings do form characteristics of the area. However, the character of the area is not just restricted to two points alone.

9.12 The appellant does bring the Inspectors attention to a previous development proposal within Romill Close. Planning application C/15/76607 provided consent for:

9.13 Erection of 1No. attached three bedroom dwelling and 1No. attached two bedroom dwelling, following the demolition of No.2 Romill Close, erection of 1No. detached three bedroom dwelling and 1No. detached two bedroom dwelling with parking & amenity space.

9.14 The Council believe that the two site are materially different on a number of points. Firstly the property at the rear of the site presented an appropriate relationship with the properties of Upmill Close. The spacious plot allowed for a new dwelling to located within a cluster of properties within Upmill close preserving the grain of development.

9.15 Furthermore the site accords with the NPPFs description of previously developed land as the building at the rear replaced a number of fixed structures and a workshop. It is acknowledged that a workshop is to be removed from the appeal site in order to facilitate the proposed dwelling. However, the structure at No.10 has a far greater level of physical separation from the area where the proposed dwelling is to be sited.

<u>Reason For Refusal 2</u>

9.16 The second reason for refusal related to the impact on the amenity of occupiers of the host dwelling 10 Romill Close.

9.17 At present 10 Romill Close benefits from a large amenity area at the rear of the site. These long gardens for part of the character of the properties of Romill Close and are a characteristic that is fully appreciable from outside of the site.

9.18 It is implied by the appellant that the proposal will provide appropriate amenity space as it provides an area that is in excess of 60% of the floor area of the dwelling.

9.19 In order to facilitate vehiclular access to the rear of the site, provide sufficient parking and tuning space, together with land to accommodate a further

dwelling and associated amenity space, the amenity area for the host dwelling has been drastically reduced.

9.20 The remaining thin amenity area is not typical of the properties of Romill Close and the land to the east of the host dwelling is unlikely to be of any amenity quality at all.

9.21 As such the proposed amenity area for the host dwelling is considered to be impractical and out of keeping for the area.

9.22 The reason for refusal also related to the impact of the vehicular access on the amenity of the occupiers of the host dwelling. Vehicles using the site are likely to generate noise and disturbance when entering and exiting the site.

9.23 The appellant maintains that the there is a vehicular access already in close proximity to the host dwelling. In response the Council stress that the users of the existing access will be people associated with the host dwelling. This is a considerably different impact to vehicles accessing a property at the rear occupied by a third party.

9.24 Trips along this access are likely to generate noise and disturbance, particularly at night when headlights will also affect the host property, leading to the potential for future conflict and unsatisfactory accommodation for the occupants of the host property.

9.25 The appellant also draws the attention to the application C/15/76607. This application also provided parking at the rear of the site passing to the side of a residential dwelling.

9.26 However, there are strong differences between the two schemes. No.3 Romill Close was separated from the rear access by the driveway serving No.3.

9.27 Furthermore No.2 Romill Close, adjacent to the driveway was also to be redeveloped as part of the proposal. As such during the design of the scheme, features were incorporated to mitigate any potential harm. Windows on the side elevation were used for secondary rooms such as toilets. The habitable accommodation on the first floor did not contain any overlooking of the access.

9.28 In order to minimise disturbance from headlights at night the kitchen window was located closest to the driveway and the pedestrian access was then separated from vehicles to prevent any conflict.

Reason For Refusal 3

9.29 Reason for refusal 3 related the appellants failure to secure mitigation against additional recreational pressure created by the development on the Solent and Southampton Water Special Protection Area.

9.30 The appellant advises at page 9 that they '*will enter into a Unilateral Undertaking with the Council During the appeal process.'*

9.31 No such undertaking has been received or secured. As such the reason for refusal has not been overcome.

10.0 **Comments on the Appellant's Grounds of Appeal**

10.1 Page 3 of the appellant's statement makes reference to a turntable to facilitate off road parking. During the course of the application this feature was removed from the submitted plans and does not form part of the considerations of the proposal.

10.2 Page 3 also makes reference to the lockable windows and intruder alarms that will be provided in the building. The Councils reasons for refusal make no mention of any security failings. The comments provided by the appellant are of no relevance to the matters to be addressed by the appeal.

10.3 Page 4 of the appeal statement maintains that the key features of the proposal maintains the predominant plot widths and continuity of building line.

10.4 The Council consider that the plot width of the host dwelling that will be retained following with development would not represent the plot widths of Romill Close. This is of particular importance as the rear garden of 10 Romill close is currently one of the more prominent due to its location adjacent to the public open space.

10.5 Page 5 of the appellants statement advises that '*the proposal will engage positively at street level as you pass along the street'*

10.6 This is not the case; the proposal will constitute a backland development when viewed from Romill Close, failing to maintain the rhythm of development and building lines. When viewed from the east the site is not abutted by any street but public open space. As such longer range views will show the proposal to be an isolated development contrary to the established grain of development.

10.7 Page 6 of the appellant statement advises that they do not consider the proposal to be backland development. As the proposal is located within an existing rear garden, is land locked, has no street frontage onto Romill Close, and the side elevation fails to address the public open space to the east the development constitutes backland development.

10.8 Pages 10 to 11 of the appellant's statement makes an assessment of the proposal against saved policy 169.LB. However, no assessment is made against criteria (ii) of that policy.

10.9 This is particularly important as this is the criteria that the Council consider the proposal fails to satisfy and formed the basis of the reason for refusal. It states that proposals should not 'detract from the character of the area and

where appropriate retain the existing street building line and the rhythm of the street-scene. For the reasons identified above the council does not consider that the proposal accords with this criteria.

10.10 Page 11 of the statement also refers to saved policy 59.BE. However the assessment against this policy only refers to the elements of the policy that were not disputed by the Council and did not form part of the reasons for refusal of the application.

10.11 Criteria (i) of policy 59.BE states that developments must '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'

10.12 Criteria (vii) adds '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'

10.13 It is those criteria that the proposal fails to satisfy for the reasons stated above.

10.14 Page 11 also states that the Council's refusal notice states that the proposal is contrary to the NPPF but does not identify which policies the Council is referring to.

10.15 The officer's report does make reference to the relevant policies within the NPPF. Furthemore the polices of the NPPF are referred to above in this statement.

10.16 Furthermore section 38(6) of the Planning and Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

10.17 Pages 12 to 16 the Appellants statement outline the Economic, Social and Environmental benefits they believe the application will bring.

10.18 Paragraph 14 of the NPPF provides a presumption in favour of sustainable development. However, The proposal would provide a very modest benefit in terms of the housing supply and even less in terms of the housing mix for the area. The house will be sold at market rate and there is no requirement for any provision towards market housing.

10.19 The gains the proposal are suggested to bring to the local economy are also limited. The employment during construction can be expected to be confined

to a short period. Furthermore, any gains to the local shops and facilities in the area can be expected to be minimal.

10.20 The Council maintain that the irreversible adverse effects of the scheme in relation to the character and appearance of the area, demonstrably outweigh the suggested benefits.

10.30 The statement also refers to paragraph 60 of the NPPF. However, it does not refer to it in full as it fails to advise the the paragraph also staes that it is 'proper to seek to promote or reinforce local distinctiveness.'

10.31 The proposal fails to secure the local distinctiveness of either the Conservation area or the wider for the reasons demonstrated above.

10.32 The appellants statement is also selective when quoting paragraph 137 of the NPPF. The Council do acknowledge that the NPPF advise that '*Local planning authorities should look for opportunities for new development within Conservation Areas'* However the paragraph goes on to add the developments within Conservation Areas should '*enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.'*

10.33 The council maintain that the proposal would not enhance or preserve the Conservation area and would be to the detriment of the area rather than make a positive contribution. The proposal is of no particular architectural merit and fails to address it setting within the Conservation Area.

11.0 **Conclusion**

11.1 The proposal results in a form of inappropriate development within a Conservation area. The backland development fails to preserve the pattern of development and will be to the detriment of the Conservation area and the wider character of the area.

11.2 Furthermore the Councils statement demonstrates that the proposal will be to the detriment of the amenities currently enjoyed by the occupiers of the host dwelling 10 Romill Close.

11.3 The appellant has failed to secure appropriate mitigation in order to overcome the third reason for refusal. Furthermore the Council are not aware of any efforts to secure this mitigation.

11.4 It is therefore respectfully requested that the Inspector refuses to grant planning approval for the construction of the proposed detached dwelling. However, if the Inspector is minded to approve the development, it is asked that the suggested conditions contained in Appendix A be included as part of that planning approval.