TOWN & COUNTRY PLANNING ACT 1990

APPEAL BY: **MR J.WILKINSON – RIVENDALE CONSTRUCTION LTD**

LOCATION: **RIVENDALE HOUSE, 38-40 LEIGH ROAD, EASTLEIGH, SO50 9DT**

PROPOSAL: **Alterations and extensions to existing roof to create 3no. flats (including 2nd floor balconies) within the roof space following conversion of the existing office space (B1a) on the ground and first floors to residential dwellings (C3) with rear extension, and associated parking, cycle and bin storage.**

COUNCIL REF. NO: F/17/79817

APPEAL REF: APP/W1715/W/17/3176347

APPELLANT'S RESPONSE TO COUNCIL'S STATEMENT

1. Policies of the Eastleigh Borough Local Plan were considered as part of the evolvement of the development, however it is recognised that the local plan and the policies contained within it are well out of date given that the Local Plan expired in 2011. Whilst saved policies carry some weight due to their age and the fact that the NPPF was adopted in 2012 it is contended that these dated policies do not represent current policy objectives. The emerging local plan, which was found to be unsound further leaves the Council in a status where greater weight must be afforded to the policies of the NPPF and its requirement to support development where the local plan is out of date or silent on matters at hand.

2. The Council accepts that the Eastleigh Borough Local Plan (2011-2029) status is in question, with evidence submitted with the appeal that the Council has announced that the emerging local plan is to be re-written. In light of the fact that this is not an adopted document and it is to be re-written it is maintained that no weight can be afforded to the policies contained within it.

3. With the fact that there is no current local plan in place it is impossible for the Council to claim that it has an identified five year housing supply. There is no policy mechanism or basis to support this alleged housing provision further no housing allocation document or housing supply statement has been through public examination or formally adopted. In light of the fact that the previous emerging plan was found to be unsound due to a failure to demonstrate a housing land supply there is little evidence to show that this has changed.

4. To be clear the appellant has not claimed to be providing 'affordable housing'. The claim was that the accommodation would be small scale housing provision within the affordable ranges for starter homes – 'affordable **market** housing'.

5. The prior approvals allowing the conversion of the offices to residential show that the principle of the development is acceptable. Acceptable to a point that the Government has made a commitment to enable such a change without the need for a formal planning application. The Council's inability to recognise this valid 'fallback' position and continuance in preventing the sensible redevelopment of this town centre building further demonstrates the Council's unreasonable actions in preventing what should have been a relatively straightforward and acceptable development.

6. The change in roof form emulates development along Leigh Road, with a number of buildings having mansard roofs and accommodation within the roof space. The variety in roof bulk and form therefore forms part of the existing varied character of the area and its context. The NPPF makes it abundantly clear that innovative design should not be stifled by personal preferences in respect of design. The development is contextually acceptable and enables a more efficient use of the site within a highly accessible and sustainable location.

7. The floor space of the flats does not form a material planning consideration and as such cannot form a determining factor for this application. Significantly however is that the prior approval has allowed similar floor areas without the need for a planning application. This further strengthens the appellant's position on this matter.

8. The Council's reference to the 10 units allowed under the prior approval scheme makes note on policies that would have been applied had they had the opportunity to. Whilst it is accepted that the Council would want to apply relevant development plan policy to the prior approval scheme the purposes of the prior approval process is to

speed up decision making and development; removing unnecessary obstacles along the way. Rather than seek to control the appeal proposal, because it can, the Council should have been informed by the Prior Approval process and valid 'fallback' position in its decision making. After all this formed a significant material planning consideration. Had the Council made such a comparison it is possible that a more reasoned and justified decision would have followed. The balance of which would have been in more favour of approval. Instead the Council seeks to control and restrain otherwise acceptable development, including this appeal proposal, regardless of all material considerations, valid 'fallback' positions, housing need and whether it meets sustainability objectives. This constant negative approach to development results in delayed decision making and unnecessary and costly appeals. This must be reflected in the Inspector's decision in a bid to focus the authority's mind into more efficient delivery in its planning decision making.

9. **Response to Conditions:**

9.1 Condition 3 – The applicant has specified the materials on the application form and in the supporting statements. The Inspector is therefore requested to control the materials in line with the specification given.

9.2 Condition 4 – Again the site plan shows the location of bin and cycle stores. The condition should therefore be re-worded to say prior to first occupation of the development hereby approved bin and cycle stores as shown on the approved site plan shall be provided and retained for their intended purpose.

9.3 Condition 6 – How does this comply with conditions tests? Also what policy basis/concern warrants such a condition? No justification, no requirement and not deemed necessary for the prior approval applications which consider noise as part of the assessment.