

**Planning appeal in respect of the decision of the Eastleigh Borough Council to refuse planning permission for the extension of basement level to rear with ground and first floor rear extensions including terrace at 68 Chalk Hill, West End, Southampton, SO18 3DB**

LPA: Eastleigh Borough Council

Refusal date: 11<sup>th</sup> November 2022

LPA Reference: H/22/93889

## **1. Appeal Context**

- 1.1. The following statement and attachments comprise the grounds of appeal in respect of the decision of the Eastleigh Borough Council (the LPA) to refuse planning permission for extension of basement level to rear with ground and first floor rear extensions including terrace.
- 1.2. The reasons for refusal focus on two issues, potential impact on neighbouring residential amenities and design.
- 1.3. With reference to potential harm to neighbouring residential amenities, the officer report agrees that the proposals are policy compliant in this regard. The appellant will make reference to LPA SPD Quality Places demonstrating that the proposals meet its requirements and that there is no harm in terms of potential impact on no. 66 Chalk Hill.
- 1.4. It will also be argued that the proposal's design is of high quality and appropriate for the dwelling. Proposed materials are entirely consistent with those neighbouring properties.

## **2. Site and surrounding area**

- 2.1. The appeal site refers to a two-storey detached house located to the east of Chalk Hill, West End, as outlined in red in the following extract:



- 2.2. One of the characteristics of the appeal site, and neighbouring properties, are local level changes – the houses are on a slope and the land falls away to west and thus houses are higher than the majority of their rear gardens.
- 2.3. The appeal property, whilst comprising a two-storey house when viewed from the street, due to the level changes it is a three-storey building (due to the presence of a basement) when viewed from the garden. Similarly, no 66 Chalk Hill is a single storey building when viewed from the street and two storey when viewed from the garden.
- 2.4. No. 66 Chalk Hill is located to the immediate north of the appeal site. It is a detached house with a similar rear building line to the appeal property. There is a separation distance of nearly 3m between the two properties.
- 2.5. The following photograph seeks to illustrate the relationship between the appeal property and its neighbour, no. 66 Chalk Hill:



2.6. The salient points from the photograph are as follows:

- No. 66 is to the immediate left-hand side of the appeal property in the image.
- There are local level changes and it is clear that both dwellings are higher than their gardens. However, it is also clear that the ground floor windows of no. 66 are of comparable height (and certainly no lower) than those of the basement at the appeal site.
- The primary ground floor habitable room window to no. 66 i.e. that window most likely to be harmed by development at the appeal site is a bay window. This window is some 5.5m from the common boundary with the appeal site.

- Whilst it is noted that there is a single storey outshot to the south of the main dwelling at no. 66 Chalk Hill the rear elevation contains a door and small window and does not serve a habitable room.
- There is an existing terrace that serves the dwelling.
- The neighbouring property, no. 70 Chalk has similar external materials to that proposed, whilst no. 72 has a recent consent that permits the use of such similar materials.

### 3. Policy advice

3.1. Section 38(6) of the Planning and Compulsory Purchases Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that any determination re planning permission be made in accordance with the development plan unless material considerations indicate otherwise.

3.2. The relevant development plan is the Adopted Eastleigh Borough Local Plan 2016-2036.

3.3. Policy DM1 states the following:

*1. All new development should (as relevant):*

*a. not have an unacceptable impact on, and where possible should enhance:*

*i. residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;*

*ii. biodiversity (avoiding significant adverse impacts); and*

*iii. the significance of heritage assets;*

*b. make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;*

*c. take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be 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. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;*

*d. not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of equivalent or enhanced value, (recognising that some species and habitats may be irreplaceable);*

*e. include a landscape scheme covering the design and layout of external space;*

*f. protect and enhance public rights of way and National Trails and provide fully connected green infrastructure that interlaces the development and connects into the wider network;*

*g. provide satisfactory management arrangements for all landscape, green infrastructure and biodiversity enhancement;*

*h. incorporate provision for people with disabilities and create accessible communities that cater for all;*

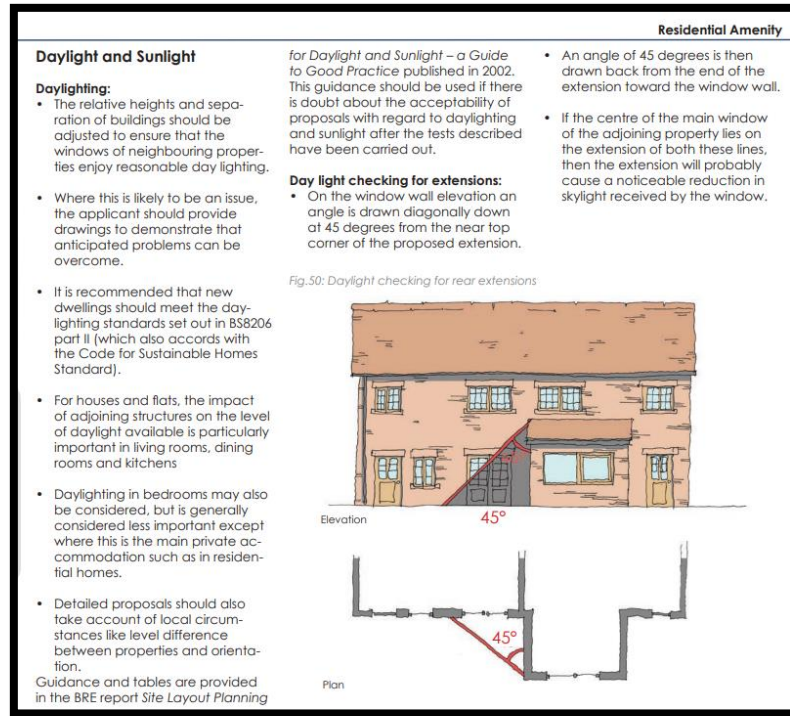
*i. incorporate design measures to inhibit criminal and anti-social behaviour;*

*j. incorporate provision for on-site waste management; and*

*k. include provision for public art associated with new large scale development in accordance with the Council's adopted Public Art Strategy.*

3.4. SPD in the form of *Quality Places* (November 2011), sets out the LPA expectations in respect of the design of new development and is used as a *material consideration* in the planning decision making process.

3.5. Page 33 of the SPD refers to the potential impact of extensions on windows on neighbouring properties, as per the following extract:



3.6. The relevant points from the extract, with reference to *day light checking for extensions* are as follows:

- On the window wall elevation an angle is drawn diagonally down at 45 degrees from the near top corner of the proposed extension.
- An angle of 45 degrees is then drawn back from the end of the extension toward the window wall.
- If the centre of the main window of the adjoining property lies on the extension of both these lines then the extension will probably cause a noticeable reduction in skylight received by the window.

3.7. The revised National Planning Policy Framework was published in July 2021. Paras 7 and 8 refer to the principles of sustainable development, as follows:

7. *The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. At a*

*similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection.*

*8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

*a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

Paragraphs 119, 120 and 124 refers to the need to ensure the effective use of land:

*119. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.*

*120. Planning policies and decisions should:*

*c) give substantial weight to the value of using suitable brownfield land within settlements for homes...*

*d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained...*

*124. Planning policies and decisions should support development that makes efficient use of land, taking into account:*

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed, attractive and healthy places.*

Paragraph 134 of the NPPF seeks to encourage high quality design:

*134. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes. Conversely, significant weight should be given to:*

- (a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes; and/or*
- (b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*

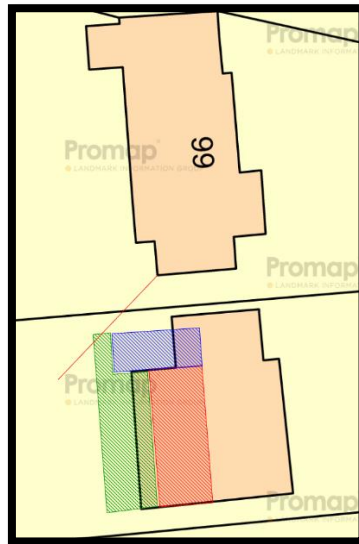
#### **4. Planning history**

4.1. An application for an extension of basement level to rear with ground and first floor rear extensions including terrace was submitted on the 11<sup>th</sup> November 2022.

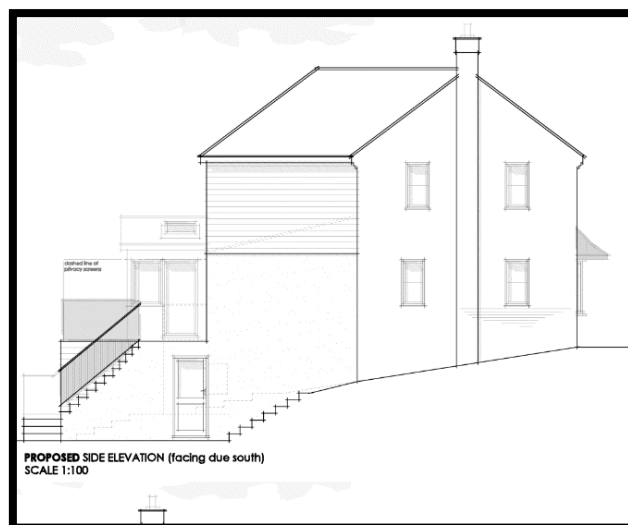
4.2. The plans focus only on the rear of the building and the new build element primarily comprise the following elements:

- A three-storey rear extension with a width of some 9m and depth of 3.57m.
- A two-storey rear extension with a depth of 5.6m from the existing building (resulting in a maximum depth of the building of some 11.3m).
- A single storey rear extension with terrace above.

- 4.3. For reference purposes the following extract seeks to show these elements in a simplistic form. The three-storey extension is hatched in red, the two-storey extension hatched blue and the single storey extension, with terrace above, hatched green.



- 4.4. Also shown on the map extract is a 45degree line taken from the nearest corner at no.66.
- 4.5. The proposals also seek consent for external alterations to the building. There are no changes proposed to the front elevation and so the streetscene remains unchanged. Wooden cladding is proposed at basement and first floor levels on the rear elevation, on the first floor on the southern and northern elevations and an element on the ground floor on the northern elevation. The remainder of these elevations are to be in white render, as shown in the following images:





4.6. The above images clearly show the presence of a privacy screen so as to prevent overlooking to the rear garden of no. 66 from the proposed terrace.

4.7. The planning application was refused on the 11<sup>th</sup> November 2022 for the following reasons:

*1 The proposed rear extensions, by reason of their size, scale, siting and introduction of new materials, would result in incongruous and discordant additions, at odds with the character and appearance of the host dwelling. The proposals are therefore contrary Policy DM1 of the Eastleigh Borough Local Plan (2016-2036), Quality Places SPD (2011), and the contents of the National Planning Policy Framework (2021).*

*2 The proposed two-storey pitched roof extension, by reason of its substantial dimensions, combined with its siting and close proximity to the northern boundary, would result in a sense of enclosure creating an unacceptable and overbearing impact upon the amenities of the occupier of 66 Chalk Hill. The proposal is therefore contrary to Policy DM1 of the Eastleigh Borough Local Plan (2016-2036), Quality Places SPD (2011), and the contents of the National Planning Policy Framework (2021).*

4.8. The officer report in respect of the proposals makes the following points:

- The scale of the proposed extensions is such that it cannot be considered as subservient to the main dwelling.
- The use of render and cladding does not respect the yellow brick on the dwelling and create a mismatch on the side elevations.
- The introduction of cladding will have an adverse impact on the host dwelling in terms of design and finish.
- No details of the privacy screen have been provided – though the report accepts that this detail can be controlled by condition.

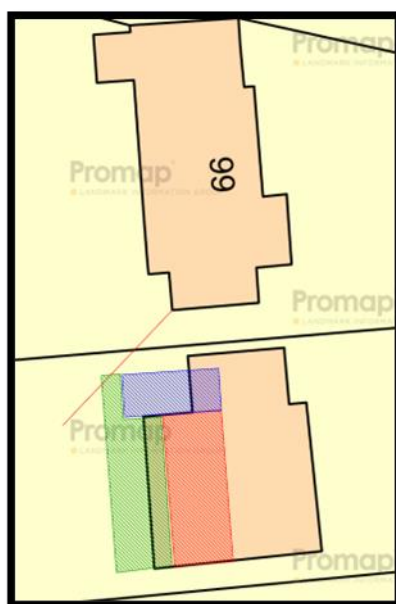
- The proposed two-storey pitched roof extension would be set approx. 4.4m from the closest elevation of no. 66 Chalk Hill.
- Specific concerns with regard to the loss of neighbouring residential amenities relate to the potential impact of the two-storey extension with regard to no. 66 Chalk Hill.
- The proposals appear to comply policy requirements (the 45degree line). However topographical changes accentuate impact and would have a greater impact on no. 66 Chalk Hill.

4.9. A previous application for a larger extension was previously refused on-site (application no. H/21/91872) on the 8<sup>th</sup> December 2021.

## 5. Planning balance

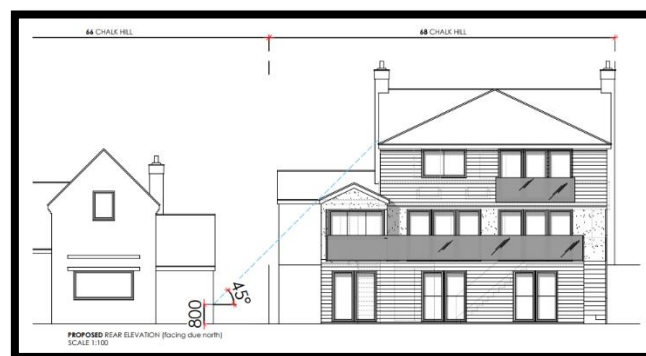
5.1. The LPA raise two specific concerns namely the harm to the residential amenities of no. 66 Chalk Hill and the scale and massing of the two-storey rear extension and the use of external materials. Dealing with these issues in turn:

5.2. **Impact on the residential amenities of no. 66 Chalk Hill** – the reasons for refusal and the officers report make it clear that the specific concern in this regard is with respect to the two-storey rear extension creating an overbearing feature to no. 66 Chalk Hill – namely the impact of the extension hatched in blue in the following extract on its neighbour:



5.3. The decision notice refers to the Quality Places SPD and the officer report makes reference to the 45-degree line and that the proposals appear to comply with this (the relevant extract is reproduced in para 3.5 above).

- 5.4. The SPD extract refers to a 45-degree line drawn both in plan and elevation stating that should an extension breach both 45-degree lines then a nuisance is likely to occur. In this instance it is clear that there are no windows that will have their 45-degree line breached.
- 5.5. In addition, it is noted in the officer report that the height of the proposed two-storey extension is 5.4m high. This height is to the ridge height. However, it is noted that the roof pitch is low and that a more appropriate assessment would be in respect of the impact to eaves level. This is clearly shown in the following extract that seeks to show two 45-degree lines. The 45-degree line in respect of the eaves clearly has the potential for greatest loss of impact:



- 5.6. The vertical line on the extract shows the position of no. 66 Chalk Hill. The 45-degree line would come to a point 0.8m above the ground level. This is clearly lower than would theoretically be expected to create nuisance in terms of loss of outlook. There are no windows on no.66 Chalk Hill that would be impacted by the vertical 45-degree line and therefore the proposed extension is policy compliant.
- 5.7. The LPA agree with this assessment, but argue that level changes accentuate any problem thus leading to demonstrable harm to the amenities of no. 66. However, it is clear from the line drawn on the following photograph that the windows on both dwellings are of comparable height.



5.8. In addition, it is noted that the primary ground floor habitable room to the rear of no. 66 is set over 7m from the proposed extension and this window is not going to be harmed by the proposed extension:

5.9. It is therefore clear that the proposals do not result in harm to neighbouring residential amenities and that the proposed extensions are acceptable in this regard. The proposals comply with the requirements of LPA SPD Quality Places.

5.10. The officers report also notes that whilst details of the privacy screen are not agreed these can be controlled by condition. It should be noted that the plans clearly show the privacy screen but that materials in this regard have not been agreed. The appellant agrees that any outstanding issues in this regard can be controlled by condition.

5.11. **Proposed design** – the proposals seek to create a contemporary feel to the building by using cladding and render on the side and rear elevations. This does not comprise poor design. Rather it should be acknowledged that design is subjective and in this instance the LPA is trying to stifle innovative design. Whilst the officer's report states that whilst there is *no real uniformity in terms of appearance, there is a general material palette comprising: red/yellow brickwork, white fenestration and tiled roofs.*

5.12. Whilst the appellants have a preference for the proposed external materials they are happy to discuss alternative finishes in order to achieve a consent.

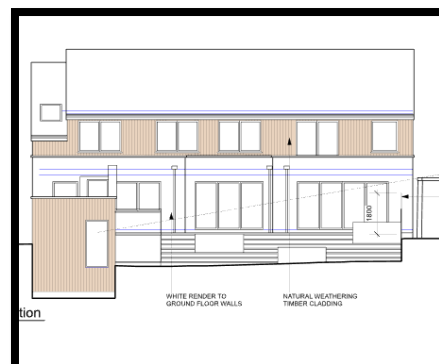
- 5.13. However, it is clear that the neighbouring property, i.e. no 70 Chalk Hill, to the south of the appeal site is a white render building, as evidenced by the following extract (courtesy of Google Streetview):



- 5.14. To provide render as an external feature will not introduce an alien feature to the area as argued by the LPA but rather use a material that is consistent with that used in neighbouring properties.
- 5.15. Reference is also drawn to no. 72 Chalk Hill. Consent was granted on the 1<sup>st</sup> April 2021 for *two and single storey side extension, two storey rear extension, new front porch, new timber cladding and render to all elevations.* (consent no. H/21/89537).
- 5.16. The consented scheme makes extensive use of timber cladding and a white render external finish as witnessed by the following extracts:



Front elevation



Rear elevation

- 5.17. It seems inconsistent to refuse an application for alterations to a building where similar external materials are proposed to those consented on a neighbouring dwelling some 25m away.

5.18. It should also be noted that the external changes are proposed on the side and rear elevations – well away from the public domain. In this sense the impact on the character of the area is very much limited.

5.19. Overall, it is argued that the proposed design is of high-quality and will add to the quality and appearance of the building. In any event its location, well away from the public domain, will have limited, if any, impact on the character of the local area.

## **6. Conclusions**

6.1. For the reasons referred to above the Inspector is respectfully requested to allow the appeal under consideration.

## **Appendices**

1. Site section
2. Officer report and approved elevations re application no. H/21/89537, no. 72 Chalk Hill.