



Planning, Design and Access Statement

25 Southern Road, West End, SO30 3ES

19 May 2023

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1 INTRODUCTION

INTRODUCTION

- 1.1 This statement has been prepared by Wessex Planning Ltd on behalf of Mr J Martin in support of a Section 73 planning application for the variation of Condition 2 of planning permission F/21/91036 at 25 Southern Road, West End, SO30 3ES.
- 1.2 The proposals are for the change of the external wall materials from the originally permitted Hardie Plank in pearl grey weatherboard cladding (as approved by the discharge of Condition 4 of planning permission F/21/91036), to Hardie Plank in anthracite grey.
- 1.3 In essence then, this application is simply to seek the LPA's approval for a change in the shade of grey of the weatherboard cladding as all other external surface materials and plans/elevations will remain unchanged.
- 1.4 In terms of whether this proposal can be considered under S73, a recent High Court clarified the parameters. In this case an appeal against a refusal was dismissed by a Planning Inspector, by reason of the proposal falling outside of what was considered a 'Minor Material Amendment' ('MMA'). However, once the case was presented to the High Court, the presiding Deputy Judge quashed the appeal decision, having found that the Inspector misinterpreted the scope of S73.
- 1.5 The judgement confirmed that: *"there is nothing in section 73, or in the TCPA 1990, that limits its application to "minor material amendments", or to amendments which do not involve a "substantial" or "fundamental" variation". It goes on to state that: "if Parliament had intended the power to restrict its application further (for example to limit it to "minor material" amendments to a condition, or non-fundamental variations to a condition) one would have expected that to be expressed in the language used and it could readily have done so".*
- 1.6 Instead, it clarified that S73 applies to any application for planning permission for development of land: *"without complying with conditions subject to which a previous planning permission was granted".*
- 1.7 The judgement also acknowledged the relationship between that decision and the decision in the 'Finney' case which confirmed that a S73 cannot be used to vary the operative part of a planning permission. This established that one cannot use S73 to vary or impose a condition where the resulting condition would be inherently inconsistent with the operative part of the planning permission; that would also involve effective variation of the operative part of the planning permission as well.
- 1.8 The judgement focussed on the: *"plain and ordinary meaning"* of S73. Taking the principles laid out in this judgement and the Finney judgement, it stated that: *"section 73 is clearly intended to be a provision which enables a developer to make a section 73 application to remove or vary a condition, provided of course that the application does not conflict with the operative part of the planning permission"*.
- 1.9 The judgement goes on: *"The operative part of the planning permission is for the construction of a single dwelling on the Site. The proposed revision to the architectural style of the dwelling (however different in nature) does not conflict with that. It will remain a permission for the construction of a single dwelling on the Site"*.
- 1.10 It was deemed that the redesign of the approved dwelling would not cause a: *"change in the basic principle of what was being permitted on the Site, namely the construction of a single dwelling"*. Accordingly, it was considered that the change could fall within the scope of S73.
- 1.11 This submission includes the following:
Proposed Plans and Elevations (PL04 Rev A)

2 SITE CONTEXT AND HISTORY

SITE CONTEXT AND HISTORY

- 2.1 The site lies within the defined urban edge and within an established residential area and therefore the principle of development is accepted under the adopted Local Plan.
- 2.2 The site formerly contained a 1920/30's detached two storey, 4 bedroom dwelling with a gable formed roof, with a detached garage/outbuilding.
- 2.3 Following the grant of planning permission (F/21/91036), this dwelling and garage/outbuilding was demolished and replaced with a new, 4 bedroomed, two storey dwelling with detached garage.
- 2.4 The external surfaces materials approved by the LPA have been used in constructing the new dwelling, except for the cladding, where anthracite grey weatherboard cladding has been installed in place of the approved pearl grey weatherboard cladding.



- 2.5 A condition discharge application to change the weatherboarding from pearl grey to anthracite grey (DC/23/94759) has been refused by the LPA. Whilst a formal reason for the decision had not been given, email correspondence with the LPA suggests that the refusal is due to the LPA's view that the anthracite grey colour is out of keeping with the surroundings.
- 2.6 The LPA are currently seeking to take enforcement action to ensure that the 'as built' dwelling conforms with the approved materials, namely the pearl grey cladding.
- 2.7 The relevant planning history for this site is;
 - *F/21/91036 | Erection of detached four-bedroom dwelling and detached garage following demolition of existing dwelling | **PERMIT** | 12 Oct 2021*
 - *DC/22/92392 | Discharge of conditions 3 (arboricultural survey, method statement, tree protection plan) and 4 (materials) of planning permission F/21/91036 for erection of detached four-bedroom dwelling and detached garage following demolition of existing dwelling | **DISCHARGED** | 23 Mar 2022*
 - *DC/23/94759 | Condition 4-External Cladding-Hardie Plank-Anthracite Grey. Erection of detached four-bedroom dwelling and detached garage following demolition of existing dwelling-F/21/91036 | **NOT DISCHARGED** | 13 Apr 2023*

3 PROPOSAL

PROPOSAL

- 3.1 The proposal is to change the approved Hardie Plank pearl grey weatherboard cladding to Hardie Plank anthracite grey weatherboard cladding.
- 3.2 The indicative look of the dwelling, constructed with the approved Hardie Plank pearl grey weatherboard cladding is shown below.



- 3.3 For comparison, the 'as built' dwelling, using the Hardie Plank anthracite grey weatherboard cladding are shown below.



- 3.4 The revised plans and elevations, detailing the proposed anthracite grey weatherboard cladding, together with all other previously approved materials are shown below and in the accompanying plans.



- 3.5 Examples of the approved pearl grey weatherboard cladding and the proposed anthracite grey weatherboard cladding are shown below, for completeness.

Hardie Plank Pearl Grey



Hardie Plank Anthracite Grey



- 3.6 No other changes are proposed to the approved plans and the discharged conditions.

4 POLICY CONTEXT

- 4.1 The policy context comprises the Eastleigh Borough Adopted Local Plan 2016-2036 (adopted in April 2022), together with the National Planning Framework and its associated guidance.



- 4.2 Additionally, the Eastleigh Borough Council's Quality Places SPD (November 2011) and Character Area Appraisals SPD (January 2008) provide further guidance.
- 4.3 As permission has already been granted for the construction of the new dwelling and indeed the new dwelling is now nearing completion, the only policies of the local plan that are relevant to this Section 73 application relate to the design, and its impact on the character of the area.
- 4.4 Accordingly, the relevant policy of the adopted Local Plan is:

Policy DM1, General criteria for new development

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."

4.5 Page 48 of the Quality Places SPD states;

"The materials chosen for a scheme should take account of the context of the site. They should respect and complement the character, scale, texture and colour of existing materials used in the local area, if they are recognised as worth respecting."

Further, that;

"Materials should be robust, sustainable, and easy to maintain. (for guidance on the relative sustainability of building materials refer to the BRE Green Building Guide: www.bre.co.uk/greenguide)"

4.6 The site falls within Character Area HEWEB 7, as defined by the Character Appraisals SPD. The area is described as;

"Type F/G. Inter-war/immediate post-war development on the south eastern edge of West End, off Moorhill Road and Telegraph Road. Fair condition."

with the following guidance for this area;

- *"Maintain the predominant orientation of ridgelines in the existing development relative to the slopes on Western Road and Southern Road."*
- *Retain the grass verges."*

4.7 The Character Appraisal states that the strength of character is 'moderate', rather than 'strong; and says nothing about the use of particular materials.

CHARACTER AREA: HEWEB 7	
NEIGHBOURHOOD	
General description	Type F/G. Inter-war/immediate post-war development on the south eastern edge of West End, off Moorhill Road and Telegraph Road. Fair condition.
Route structure	Interconnected network/loop/cul-de-sac.
Landform	Moderate slope down to north on Western Road and Southern Road.
Non-residential uses	None.
STREETS/SQUARES	
Special features	Grass verges.
Tree cover	Insignificant.
Spatial enclosure	>5:1.
Nodes/landmarks/views	None.
Parking	Insignificant - on-street.
Traffic	Apparent - motor car.
PLOTS	
Dimensions	Widths: 9-25m. Depths: 30-67m.
Position of building within plot	Detached. Front-on. Setback: 3-14m.
Plot boundaries	Brick walls.
Parking	Apparent.
Planting	Apparent - coniferous/semi-mature broadleaved/mature broadleaved.
BUILDINGS	
Period/type	Inter-war/immediate post-war villas/bungalows.
Storey height	1 / 1.5 / 2.
Façade/roof form	Regular/irregular façades. Dormer/gabled roofs.
Facing materials	Brick walls. Tile roofs.
OTHER FEATURES	
Strength of character: moderate.	

5 PLANNING ASSESSMENT

- 5.1 In discharging Condition 4 (planning reference DC/22/92392), the LPA accepted that the principle of using Hardie Plank weatherboard cladding is an appropriate external material for the dwelling.
- 5.2 The refusal of the LPA to discharge a subsequent discharge of Condition 4 application (reference DC/23/94759) to amend the colour of the Hardie Plank weatherboard cladding from Pearl Grey to Anthracite Grey, in the absence of a formal reason for this decision on the decision notice, would suggest that the LPA do not approve of anthracite grey, in this instance. Indeed, correspondence with the case officer dated 19th January 2023 suggests that the LPA take the view that the colour is *“out of keeping with the surroundings”*.
- 5.3 In relation to this proposal, Policy DM1 of the Local Plan states that development should take full and proper account of the context of the site including appearance and be compatible with adjoining uses in terms of materials, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, it should contribute to improving the character of the area.
- 5.4 The colour of the previous, demolished dwelling was a combination of green and pink/red render, as shown below:



The replacement dwelling, in anthracite grey, is shown below:



- 5.5 In terms of itself, the new dwelling is just as respectful to its surroundings as the previous dwelling and in terms of its colour palette, is not unduly harmful in the street scene, especially when compared to the green and pink colour scheme of the previous dwelling. With other examples of dark grey cladding in the area, the proposal actually takes greater account of its surroundings and makes a more positive contribution to the character of the area.
- 5.6 The anthracite grey finish, when compared to the permitted pearl grey finish does not cause more or less harm to the character and appearance of the area.
- 5.7 In terms of the surrounding area, there are numerous examples of similar dwellings with varying external finishes, which have all added to the mixed characteristics of the area. Two examples are provided below, showing the 'before' and 'after' appearance of the respective dwellings:

12a Southern Road

Before

After



8 Southern Road

Before

After



- 5.8 For both of the above examples, it would appear that there is no planning history relating to the above 'material' changes to the appearance of the dwellings. As such, it would appear that the LPA are either content with the positive impact these material changes make to the character of the area, or have yet to enforce against these material changes.

- 5.9 In terms of precedent, Pinewood, Western Road, West End was granted permission on 28th March 2018. The materials agreed in granting permission are shown below;



⑦ 3D View Front
1:1

Revision B

Materials

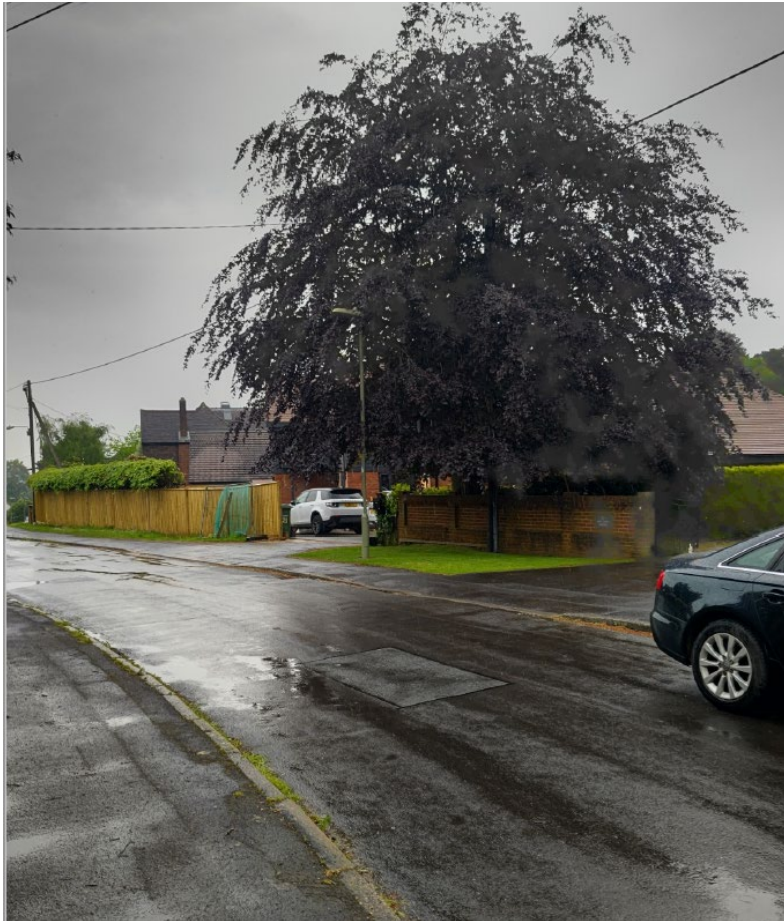
Walls: Smeed Dean stock bricks by Weinburger. Yellow/buff brick with grey flecks.
Windows and doors: Powder coated aluminium in Anthracite RAL7016
Roof: Grey concrete interlocking tile.
Dormer walls: Clad with T&G Cedar coated with Sikksens G81030 Cetol BL Opaque
Soffits and fascias: Paint with Dulux Weathershield in RAL 7016 grey

- 5.10 The LPA subsequently permitted a variation of conditions (reference X/18/83262) to change the dormer walls to slate grey cedar lap, resulting in the below development being constructed;



- 5.11 It is clear then that the use of dark grey cladding is considered acceptable by the LPA within the locality, and is not deemed to be out of keeping with the surroundings, incongruous or unduly prominent in the street scene, or harmful to the character or appearance of the area
- 5.12 As such, the proposals are in accordance with Policy DM1.
- 5.13 The Hedge End, West End and Botley Character Area Appraisal provides guidance to ensure that new development in the Borough is appropriate to its surroundings and helps to retain the character that gives each area its identity.
- 5.14 Character Area HEWEB 7 provides guidance to assist in maintaining the character of the area. This guidance only refers to the maintenance of the predominant orientation of ridgelines and the retention of the grass verges of the area. The dwelling permitted, with its dark grey cladding does both.
- 5.15 Further, the strength of character of the area is defined as “*moderate*”. The change in colour of the cladding from pearl grey to anthracite grey is not contrary to this Character Area Appraisal, and it cannot be justified that the character of the area is materially harmed by the proposal.
- 5.16 The Quality Places SPD provides guidance as to appropriate materials to be used in development stating that the colour should respect and complement existing materials, if they are recognised as worth respecting. As mentioned above, the Character Area Appraisal does not specifically mention colour of materials as a characteristic of the area, and therefore the colour of materials is not recognised as worth respecting. As such, the proposals accord with the Quality Places SPD.
- 5.17 The materials used should also be considered in the context of a changing suburban area when occupants naturally look to modernise and upgrade their homes. The mix of colour and unregimented character this creates over time is often pleasing. There is no evidence to suggest that this is harmful.
- 5.18 The dwellings in the area display a mixture of light render, red brick with element of green/blue/black cladding. In addition some of the dwellings have dark tile hanging (e.g., the dwelling immediately adjacent to No 25), or have low slung roofs with dark grey tiles
- 5.19 The dark grey cladding to this property melds into the wider palette of light cream to beige, dark red- to mottled dark red to grey to black, with hints of other colours on doors, garages and other areas of cladding. Textures also differ with half-timber boarding, render, half render and timber cladding. There is nothing unduly harmful in this darker grey cladding that would materially harm the overall mixed character of this area.
- 5.20 Another point to consider is the fact that homeowners are allowed, within reason, to paint the outside of their dwellings in any colour they like, and there are many examples of this throughout Eastleigh. The requirement to ensure that the colour of this cladding remains as ‘pearl grey’ is both disproportionate and over-zealous.
- 5.21 Finally, Southern Road is not located in a National Park; an Area of Outstanding Natural Beauty, a Conservation Area, any ‘Special Policy Area’. Nor is it located in an area subject to an Article 4 direction that might control external cladding colours. Neither does the dwelling lie adjacent to any Listed Building. In this situation, the requirement to remove the cladding due to its colour is inappropriate and unreasonable
- 5.22 Nonetheless, should the LPA consider that the planting of a several trees along the street frontage to soften the appearance of the dwelling, the applicant is willing to consider such planting.

5.23 It can be seen from the photographs below that the existing tree in the neighbouring front garden significantly softens the view when travelling in a south to north direction and that this view is also softened during the winter months.



- 5.24 If several trees were to be agreed to be planted on the street frontage below, the appearance of the dwelling would be significantly softened in the views from Eastern Road.
- 5.25 My client is willing to discuss potential planting with the LPA, and prepare a planting plan if required. Such planting could then be approved as an element of the Section 73 application.



6 CONCLUSION

CONCLUSION

- 6.1 In summary, the proposed variation to amend the colour of the external wall materials at 25 Southern Road, West End, Southampton, to use anthracite grey rather than pearl grey, is in line with the local plan policies and SPD guidance.
- 6.2 The Character Appraisal for the area does not mention materials and thus it can be determined that there is no strong planning requirement to keep to any particular colour palette within this character area
- 6.3 The site is not within any area designated for the preservation of the existing colour palette, e.g., a Conservation Area. Therefore, the accusation of material planning harm cannot be justified in such a mixed and changing suburban area.
- 6.4 The proposed Breach of Condition is a heavy handed, unconsidered and disproportionate approach to the change in materials.
- 6.5 If the LPA consider it appropriate, the applicant is willing to consider the planting of several trees along the street frontage to create the exact same softening effect that is demonstrated in views of the site from the south, with the existing tree in the foreground. Even in the winter this softening effect is evident.
- 6.6 As such, it is respectfully requested that a meeting or other contact is organised to discuss the change of materials and the offer to include tree planting on the submitted plans, at the earliest opportunity.

