

Application Number: F/23/95177
Case Officer: Gary Osmond
Received Date: Friday 28 January 2022
Site Address: Land at Nightingale Avenue, Eastleigh
Applicant: Doswell Projects Ltd.
Proposal: Construction of 2No. one bedroom and 2No. two bedroom apartments in a two storey block, with ancillary amenity space, landscaping, parking, bin and cycle storage.

Recommendation: **Subject to:**

- i) **Outstanding consultee responses; and**
- ii) **Securing contributions towards the Solent Recreation Mitigation Strategy and New Forest Recreational Strategy.**

To Delegate back to the Service Director of Planning and Environment in conjunction with The Chair and Vice Chair to GRANT PLANNING PERMISSION with the following conditions:

CONDITIONS AND REASONS:

- 1 The development hereby permitted shall start no later than three years from the date of this decision.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be implemented in accordance with the following plans referenced: S101, S102, S103, S110, P102, P103, P110 & DD624L01.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The development hereby permitted shall not be commenced for a period of at least 21 days from the date of the decision.

Reason: To comply with Section 28I(6) of the Wildlife and Countryside Act 1981 (as amended) as this permission is being granted otherwise than in accordance with the advice of Natural England.

- 4 No construction or site preparation work shall start until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. All works shall only take place in accordance with the approved method statement which shall include:

- a) location of temporary site buildings, compounds, construction material and plant storage areas used during demolition and construction;
- b) the arrangements for the routing/ turning of lorries and details for construction traffic access to the site;
- c) the arrangements for deliveries associated with all construction works, loading/ unloading of plant & materials and restoration of any damage to the highway;
- d) the parking of vehicles of site operatives and visitors;
- e) measures to control the emission of dust and dirt generated by demolition and construction;
- f) a scheme for controlling noise and vibration from demolition and construction activities (to include piling);
- g) provision for storage, collection, and disposal of rubbish from the development during construction period;
- h) measures to prevent mud and dust on the highway during demolition and construction;
- i) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- j) temporary lighting; and
- k) protection of pedestrian routes during construction.

Reason: To limit the impact the development has on the amenity of the locality.

- 5 The development must accord with the arboricultural report reference J1377.02. No excavation, demolition or development related works shall commence until the tree protection measures have been installed as per the tree protection plan contained within the report. Once installed, no access by vehicles or placement of goods, chemicals, fuels, soil or other materials shall take place within the protected area. Tree protection measures shall be retained in their approved form for the duration of the work and may only be modified subject to written agreement from the LPA.

Reason: To retain and protect the existing trees which form an important part of the amenity of the locality.

- 6 Notwithstanding the submitted details, no construction work shall start on site until the following has been submitted to, and approved in writing by the Local Planning Authority:
 - a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk study in accordance with BS10175:2001+A2:2017, and, unless otherwise agreed with the Local Planning Authority;
 - b) A detailed scheme for remedial works and measures to be undertaken to avoid the risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

Site investigations are to be undertaken by a competent person and in

accordance with best practice as outlined in BS10175:2011+A2:2017 and LCRM. Any gas monitoring deemed appropriate is to be in accordance with best practice as outlined in such documents as BS8576:2013, BS 8485:2015+A1:2019, Claire RB17 and CIRIA C665.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

- 7 Before any part of the development is occupied or used, unless otherwise first agreed in writing by the Local Planning Authority (LPA), a verification report demonstrating the effectiveness of the remediation works carried out and a remediation completion certificate confirming that the approved remediation scheme has been implemented in full shall both have been submitted to and approved in writing by the LPA. The verification report and remediation completion certificate shall be submitted in accordance with the approved scheme and undertaken by a competent person in accordance with Defra and the Environment Agency's LCRM.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

- 8 No construction, demolition or deliveries to the site shall take place during the construction period except between the hours of 0800 to 1800 Mondays to Fridays or 0900 to 1300 on Saturdays and not at all on Sundays or Public Holidays.

Reason: To protect the amenities of the occupiers of nearby dwellings.

- 9 No development above damp-proof course level shall start until details and samples where requested of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory visual appearance in the interest of the amenities of the area.

- 10 No part of the development shall be occupied until external lighting details has been submitted to and approved in writing by the Local Planning Authority and installed on the site. The scheme shall include lighting on the northern elevation to provide a safe access to the site after dark.

Reason: In the interests of security and ecological protection.

- 11 The development shall be carried out in accordance with the approved drainage strategy technical note, by Odyssey, dated April 2023, Ref: 21-138. No part of the development shall be occupied until management and maintenance details for the drainage system have been submitted to and approved in writing by the Local Planning Authority.

Reason: To provide a sustainable drainage system.

- 12 The development hereby permitted shall not be occupied until a mitigation package addressing the additional nutrient inputs arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such a mitigation package shall address all of the additional nutrient loading upon protected European sites from the development and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of those European Sites, having regard to the conservation objectives for they are designated. The mitigation package shall be implemented in full and evidence of this provided to the Local Planning Authority in writing prior to first occupation of the development.

Reason: To mitigate the nitrates impacts arising from the development upon the European protected Solent Complex in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017.

- 13 No development above damp-proof course level shall start until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall cover all hard & soft landscaping, including trees and shall provide details of timings for all landscaping and any future maintenance. The works shall be carried out in accordance with the approved plans and to the appropriate British Standard.

Reason: In the interests of the visual amenity of the locality and to safeguard the amenities of residents.

- 14 All hard & soft landscaping and tree planting shall be carried out in accordance with the approved details and to the appropriate British Standard. For a period of 5 years after planting, any trees or plants which are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of the same species, size and number as originally approved in the landscaping scheme.

Reason: In the interests of the visual amenity of the locality and to safeguard the amenities of residents.

- 15 No development above damp-proof course level shall start until full details of ecological enhancement measures have been submitted to and approved in writing by the Local Planning Authority. These agreed measures shall then be implemented in full prior to occupation of the development and retained throughout the lifetime of the development.

Reason: To protect and enhance biodiversity.

- 16 The development hereby permitted shall not be occupied until the bin and cycle storage, site access and car parking spaces have been provided in accordance with the approved plans and thereafter retained. The car parking spaces shall only be used for the purpose of accommodating private motor vehicles incidental to the enjoyment of the residential development.

Reason: To make provision for off street parking for the purpose of highway safety.

- 17 The first floor windows on the western elevation serving the kitchen and bathroom of Unit 4 shall either be: obscure glazed to Pilkingtons level 3 or equivalent with no opening part less than 1.7 metres above the floor level of the rooms which they serve; or positioned with their lower sill at least 1.7 metres above the floor of the room in which it is installed. Once installed the windows shall be permanently maintained in that condition.

Reason: To protect the amenity and privacy of the adjoining residential properties.

Note to Applicant: In accordance with paragraph 38 of the National Planning Policy Framework (July 2021), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

Note to Applicant: the permission does not authorise the undertaking of any works involving excavations in the carriageway, footway or verge. A road opening permit must be obtained from Hampshire Highways.

Note to Applicant: It is requested that the building works are carried out considerately to minimise disruption to the occupiers of the neighbouring properties. The council operates a code of best practice, which is available on the council's website www.eastleigh.gov.uk by following the links to Planning, Guidance on the process, scroll down to Guidance on Aspects of the Planning & Construction Process and select considerate builders' advice note.

Report:

1. This application has been referred to Committee as Eastleigh Borough Council owns the application site.

Description of Application

2. The application seeks consent for the construction of 2No. one bedroom and 2No. two bedroom apartments within a two storey block, with ancillary

parking, amenity space, landscaping, bin and cycle storage. The site is accessed from the rear service road, which runs behind the properties fronting Nightingale Avenue, Falcon Square and Magpie Lane.

3. The application is accompanied by the following reports and technical assessments:

- Planning Statement
- Design and Access Statement
- Air Quality Assessment
- Ground Investigations Report
- Contaminated Land Study
- Highways Access Statement
- Drainage Strategy
- Ecological Enhancement Plan
- Tree Survey and Arboricultural Impact Assessment

Site Characteristics and Character of the Locality

4. The site is a rectangular piece of land, of approximately 615m², which sits on the north-eastern corner of the rear service alley connecting Nightingale Avenue, Wren Road and Falcon Square. It is a level site that is mostly enclosed by a mixture of fencing and is covered in overgrown scrub. There are a handful of trees within the site and surrounding properties, which are not covered by Tree Preservation Orders.
5. The site is nestled between the two storey semi-detached dwellings at 13 and 15 Falcon Square. While the area is predominantly characterised by two storey semi-detached interwar housing, there are examples of three storey buildings within the vicinity including the shopping parade along Nightingale Avenue to the north and Nightingale Court to the west.

Relevant Planning History

6. Planning approval for a larger scheme of 5 No. flats in a two and a half storey block (Ref: F/22/92348) was refused by a previous Eastleigh Local Area Committee in November last year on the grounds of:
- Scale, height, design and site layout being out of keeping and detrimental to the character and appearance of the locality and Aviary Estate Special Policy Area;
 - Insufficient parking and amenity space resulting on overdevelopment of the site;
 - Insufficient parking provision would lead to unacceptable overspill parking into the adjoining service road, interrupting vehicle movement and resulting in a highway hazard;
 - Position of windows would result in unacceptable overlooking and loss of privacy to neighbouring properties; and

- Failure to secure appropriate mitigation for the scheme's impact upon the New Forest and Solent SPAs.

Representations Received

7. At the time of writing three representations have been received, all objecting to the proposals. A summary of the issues and concerns raised is set out below.

The concerns and issues raised are as follows:

- Overdevelopment;
- Mass and size not in keeping with existing buildings;
- Not in keeping with the original design and layout of the Aviary Estate;
- Insufficient parking for residents, visitors, deliveries, etc;
- Would lead to overspill parking in the service road;
- Overlooking of neighbouring gardens; and
- Impact on existing sewers.

Consultation Responses

8. **Urban Design Officer** – No objection. The proposed layout seems to be the most appropriate given the site constraints. Overall scale and design of the development is considered appropriate for the character of the locality, as are the proposed materials and finishes. The site is in a sustainable location, meaning lower than standard parking provision would be acceptable. There may be some impact upon the amenity of No.15 Falcon Square in terms of outlook and light.
9. It is suggested that the internal layout could be revised so as to give the larger private external amenity spaces to the larger two bedroom flats.
10. **Environmental Health (Land Contamination)** – A formal response to the current application is still awaited. However, the following comments were made on the previously refused application:
11. *(Previous comments) – The preliminary risk assessment identified a number of potential onsite sources of contamination, possible asbestos within the existing buildings, Made Ground, vehicles storage and areas of ash and clinker. As such conditions to deal with ground contamination (including asbestos) and verification of remedial works will be required.*
12. **Environmental Health (Pollution)** – No objection. Noise and air quality are acceptable in the locality and should not cause issues for the amenity of occupiers. Conditions requiring a Construction Environmental Management Plan to be submitted and approved prior to works commencing is recommended.
13. **Tree Officer** – No objection. There are no significant trees within the site. However, there are several trees on neighbouring land, with their stems

immediately adjacent to the site boundary. None of these trees are subject to Tree Preservation Orders, but all trees are a material consideration in planning.

14. The proposal may be considered to be marginally more positive for the RPAs of the trees on neighbouring land over the previous scheme – the cellular confinement of the previous parking area has been replaced with residential gardens. However, the potential impacts now shift to the tree crowns because of the residential amenity space. However, unlike some tree species with dense crowns, the birch especially does not shade as significantly as some species and, having seen the site, we do not feel this is a significant issue.
15. Condition recommended in relation to tree protection measures.
16. **Ecology** – A formal response to the current application is still awaited. However, the following comments were made on the previously refused application:
 17. *(Previous comments) – No objection. There are records of protected species in the locality - bats, hedgehogs, swifts, slow worms and common toads. The recommendations within the ecological survey and enhancement plan are sound and can be conditioned.*
 18. *There is scope for biodiversity enhancement through the provision of suitable soft landscape planting, as well as installation of bat and swift bricks, provided these are located away from external lights.*
 19. *Proposed surface water drainage follows SUDS principles and is acceptable.*
20. **Natural England** – Objection on the grounds of “adverse effect on the integrity of The New Forest Special Protection Area (SPA), Special Areas of Conservation (SAC), and Ramsar.”
21. **Hampshire Highways** – No objection. Access to the site is via a rear service road from Nightingale Avenue that currently accommodates various rear parking for the flats above the shops, Falcon Square and Magpie Lane. This is acceptable, with the increase in trip rates from the additional 4 dwellings not anticipated to cause significant impact, and the initial double width area off Nightingale Avenue that can allow opposing vehicles to pass off the main road should this situation occur. Pedestrian access is acceptable, with only a short section from Nightingale Avenue having to be shared with slow speed vehicles.
22. Parking is under EBC standards, but this is for Council officers to consider. Servicing from the service road is acceptable as this is already the present situation.

23. **Southern Water** – A formal response to the current application is still awaited. However, the following comments were made on the previously refused application:

24. *(Previous comments) – No objection. Initial investigations show that foul sewerage disposal to service the development can be provided. It may be possible that a public sewer crosses the site. Should any sewer be found during construction, an investigation will be required to ascertain ownership.*

25. **Eastleigh Town Council** – No comments received.

Policy Context and Designations Applicable to Site

- Within Built-up Area Boundary
- Within Established Residential Area
- Within Aviary Estate Special Policy Area

Development Plan

Eastleigh Borough Local Plan 2016-2036

The Eastleigh Borough Local Plan 2016-2036 was adopted by Full Council on 25th April. The most relevant policies are:

Strategic Policies

- S1 (Sustainable Development);
- S2 (Promotion of New Development);
- S3 (Housing Locations).

Development Management Policies

- DM1 (General Development Criteria);
- DM2 (Environmentally Sustainable Development);
- DM3 (Adapting to Climate Change);
- DM6 (Sustainable Surface Water Management and Watercourse Management);
- DM8 (Pollution);
- DM10 (Water and Waste Water);
- DM11 (Nature Conservation);
- DM13 (Transport);
- DM14 (Car Parking);
- DM23 (Residential Development in Urban Areas);
- DM29 (Dwellings with Higher Access Standards);
- DM30 (Internal Space Standards); and
- E10 (Aviary Estate).

Hampshire Minerals and Waste Plan

- Policy 15 – Safeguarding of Mineral Resources.

Supplementary Planning Documents

- Trees and Development (April 2022);
- Quality Places (November 2011);
- Residential Parking Standards (January 2009);
- Environmentally Sustainable Development (March 2009);
- Biodiversity (December 2009)

National Planning Policy Framework

26. At national level, the National Planning Policy Framework (the 'NPPF' or the 'Framework') is a material consideration of significant weight in the determination of planning applications. The National Planning Policy Framework (the 'NPPF' or the 'Framework') states that (as required by statute) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and sets out a general presumption in favour of sustainable development unless material considerations indicate otherwise. A deliverable 5 year supply of housing within each local authority area is required, and if this is not demonstrated a tilted balance in favour of the development applies.
27. Three dimensions of sustainability are to be sought jointly: economic (supporting economy and ensuring land availability); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst local circumstances should also be taken into account, so that development responds to the different opportunities for achieving sustainable development in different areas.

National Planning Practice Guidance

28. Where material, the Planning Practice Guidance which supports the provisions and policies of the NPPF should be afforded weight in the consideration and determination of planning applications.

Assessment of Proposal: Development Plan and / or Legislative Background

29. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require a Local Planning Authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Eastleigh Borough Local Plan 2016-2036 and the Hampshire Minerals and Waste Plan 2013 (which is not applicable in this case). The NPPF and the Planning Practice Guidance constitute material considerations of significant weight.

Policy & Principle

30. The site is within the urban edge where the basic principle of development is acceptable. It is also located behind a collection of existing residential properties within the Aviary Estate, meaning that a residential use of the site would also be deemed appropriate. The site comprises an overgrown and neglected parcel of land, which due to its condition detracts from the appearance of its immediate surroundings. As such the principle of new residential development on the site is acceptable and a well-designed scheme has the potential to improve the quality of the locality.
31. Policy DM1 requires new development to have no unacceptable impact upon the “amenities of new and existing residents; the character and appearance of urban areas, the countryside and the coast”, make efficient use of the site, as well as “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.” It goes on to state that “Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area”.
32. Policy E10 relates specifically to the Aviary Estate and is intended to protect its “special character” by ensuring that all new development is of a “size, scale, architectural style, materials and detailing” which “closely reflects the character of the existing development” and that “the open spaces identified on the policies map are retained and their settings are not adversely affected.”
33. The proposal is for 4 No. one and two bedroom apartments which the applicant has indicated would be provided as affordable housing. Furthermore, the site is within a sustainable location close to local facilities, leisure activities, recreational spaces and within walking distance of Eastleigh Town Centre. As such the site is within an area where new residential development would in principle be acceptable, unless material considerations indicate otherwise.

Sustainable Development

34. Section 2 of the NPPF (February 2021) states that the purpose of the planning system is to contribute to the achievement of sustainable development, which can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
35. Achieving sustainable development means that the planning system has three overarching objectives – economic, social and environmental (which are interdependent and need to be pursued in mutually supportive ways) that should be delivered through the preparation and

implementation of plans and the application of the policies in the Framework. Each of the three dimensions of sustainable development is considered below

36. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
37. National legislation and guidance, together with local policy ensure that all planning applications are tested for their resilience to and impact on the Environment. Details elsewhere in this report set out the Climate Change and Environmental implications of this application and their proposed mitigations.

Economic Sustainability

38. Section 2 of the NPPF, states that the objective of economic sustainability is “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;”
39. In economic terms, additional residential development in a sustainable location will have benefits by providing new much needed housing in an already well-established area with good access to local facilities. There would also be benefits to the local construction industry and suppliers during the build process, as well as to the management company appointed to look after the development.
40. In terms of economic sustainability therefore, it is considered that the proposed redevelopment of the currently disused site would result in a positive impact.

Social Sustainability

41. In relation to social sustainability, section 2 of the NPPF states that the objective is “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;”
42. Section 5, ‘Delivering a sufficient supply of homes’ goes on to state that “it is important that a sufficient amount and variety of land can come forward where it is needed,” and “that the needs of groups with specific housing requirements are addressed”. If approved, the development would form part of Eastleigh Borough Council’s affordable housing stock

and assist in providing much needed homes for those on current housing waiting lists. As such, this would be a positive benefit in terms of social sustainability.

Environmental Sustainability

43. Section 2 goes on to state that the objective of environmental of sustainability is “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.”
44. There are a number of different components to Environmental Sustainability, including consideration of site-specific planning matters and the impacts of the development on its surroundings, which are considered below under the relevant subheadings.

Scale, Form, Layout, Design, Street Scene and Area Character

45. The application proposes a two storey block consisting of 2No. one bedroom and 2No. two bedroom apartments, with ancillary parking, amenity space and site landscaping. The building is orientated north-south across the site, with its parking area to the east, accessed via the current service road, and individual private external amenity spaces to the west. Each apartment also has its own individual entrance door, which helps to give the impression that the building is a semi-detached or terraced set of dwellings, as found in the locality. It is proposed that the building would be finished in a red brick and a pitched clay tile roof to match materials used on neighbouring dwellings, which will assist in helping the development blend with the existing character of the area. As well as copying materials, the block also includes architectural features, such as projecting gable ends and cat-slide roof forms, which are prevalent in the estate.
46. In terms of the street scene and general character of the area, it is considered that the building's form and design is appropriate and respects the character of the Aviary Estate. Its position on the site will also provide a vista at the end of the access route from Nightingale Avenue, and open up the corner of the service road, improving visibility, as well as providing scope for soft landscape and tree planting.
47. Overall, the design is considered to be appropriate and respectful to the character of the locality, and will greatly enhance the visual amenity of the immediate area in comparison to the present situation.

Access, Parking and Highway Matters

48. As with the previously refused scheme, pedestrian and vehicular access will be via the shared service road which runs behind properties which

front Nightingale Avenue, Falcon Square and Magpie Lane. Whilst being shared, this arrangement has been deemed acceptable as vehicle speeds will be slow and pedestrians will only have to share a short section of the service road to access the site. Hampshire Highways have also confirmed that the additional traffic movements associated with the development raise no concerns.

49. Parking provision for the development would consist of 6No. spaces – 4No. allocated for each apartment; and 2No. visitor spaces, one of which is disabled compliant. Whilst less than the two spaces per unit requirement for fully allocated parking provision, as set out in the 'Residential Parking Standards' Supplementary Planning Document, the six spaces would meet the requirement for 50% or more unallocated parking, including the requirement for 20% visitor parking spaces.
50. Notwithstanding the above, in practice it is better for smaller developments such as that proposed to have dedicated allocated parking, so that it is clear to future residents exactly what parking provision is available to them. Whilst under the fully allocated requirement, the site is in a sustainable location, close to local facilities and public transport, meaning that a slightly lower than standard on-site provision could be deemed acceptable.
51. Some concern has been raised in relation to parking and potential blocking of the service road, which was a reason for refusal of the previous proposals. However, the parking ratio for this scheme is higher than that of the previously refused scheme, and its layout is such that there is easily scope for delivery vans, etc. to be able to temporarily pull into the central aisle of the on-site parking area, thereby keeping the service road clear for access to existing properties. In terms of servicing, a dedicated bin collection point at the end of the access to Nightingale Avenue is shown on the proposed drawings, allowing refuse to be collected as part of the current arrangements for neighbouring properties.
52. In terms of parking and highway matters therefore, that proposed is considered to be acceptable and to have addressed the previous concerns and reason for refusal.

Amenity

Existing Neighbours:

53. A further reason for refusal of the previous scheme was on the grounds of overlooking and loss of privacy to existing properties. This was principally as a result of that scheme's three storey scale and proximity to the rear elevations of Magpie Lane properties, which would have allowed views down into these dwellings, as well as gardens. The two storey scale of that now proposed and its position further away from Magpie Lane properties overcomes this previous reason for refusal. In terms of potential impact upon neighbouring properties in Nightingale

Avenue and Magpie Lane, that proposed meets and exceeds all minimum requirements in terms of privacy, light and outlook.

54. Repositioning the block further to the west, whilst improving the situation for Magpie Lane, will unfortunately result in a greater impact upon the immediate neighbours at Nos.13 & 15 Falcon Square. This was a concern raised during pre-application discussions and every reasonable attempt to limit this impact has been taken whilst balancing the ability to successfully redevelop the site and make best use of underused urban land.

55. In terms of privacy, all windows on the western elevation are perpendicular to the rear of No.13, thereby preventing any direct overlooking into the property itself. It is acknowledged that there will be some overlooking of No.13's garden from the proposed first floor apartments. However, the internal layout is such that where required obscure glazed and top-opening windows can be installed so as to maintain a reasonable degree of privacy for the most private part of No.13's garden, i.e. closest to the house, whilst maintaining an acceptable internal environment for the development. Overlooking of the remainder of the garden would be no worse in planning terms than is presently the case from existing neighbouring properties. This will also be assisted by the trees which lie just inside No.13's boundary, helping to provide some visual screening during the summer months when the garden is more likely to be in regular use.

56. In terms of light and outlook, there would be no unacceptable impact upon No.13 due to the orientation and proximity of the proposed development in relation to No.13. This is not entirely the case for No.15, where it is acknowledged the proposed development will have an impact upon north facing windows in the side elevation of this property. However, the majority of these windows do not serve main habitable rooms, with the exception of a single window at first floor which serves a bedroom. This window is positioned towards the rear of this side elevation. Whilst the proposed development will undoubtedly have an impact upon the outlook from this bedroom window, it will not completely dominate the outlook. Angled views past the development will still be available and it is far enough away so as to not result in any unacceptable loss of daylight. The southern elevation of the development also has no windows, meaning that there will be no loss of privacy to the bedroom window. Whilst not ideal, it is not considered that the impact in amenity terms upon this window to the side of No.15 is sufficient to warrant a refusal of the application.

57. Other than this single bedroom window, the proposed development is positioned as such so as to have no other impact upon No.15 in terms of loss of privacy, light or outlook. Whilst there may be a degree of overlooking of the garden, this would be no worse than is presently the case between No.15 and its existing neighbours.

58. In terms of the scheme's impact upon existing neighbours, that proposed is considered to accord with the requirements of the Council's 'Quality Places' SPD and Policy DM1 of the adopted Local Plan.

Future Occupiers:

59. In terms of the amenity of future occupiers of the proposed development, all apartments exceed the minimum internal space standards set out in Policy DM30, as well as the external private amenity space standards set out in the 'Quality Places' SPD for flatted development. All units are dual or triple aspect, will receive generous levels of natural light, as well as have a reasonable outlook from all habitable rooms. All have individual main entrances with an external store adjacent to the front door for convenience, as well as separate external storage for bins and bikes within the individual west facing private amenity spaces. Parking is kept away from windows and the development is surrounded by fairly generous areas of soft landscaping, including tree planting. Despite the constraints of the site, it is considered that the proposed development will provide a very good quality of environment for future occupiers, more than exceeding all of the Council's minimum design and amenity requirements.

Land Contamination

60. Given the site's history, ground investigations were undertaken which demonstrated evidence of various contaminants, which will need to be dealt with prior to the site being redeveloped. As such, conditions had previously been recommended by the Council's Environmental Health Team and have been copied over to this application in relation to the requirement for further investigations and remediation proposals to be submitted and agreed prior to works commencing.

Drainage and Flood Risk

61. Policy DM6 requires developments to incorporate Sustainable Urban Drainage measures (SUDs). Ideally, surface water would be dealt with via infiltration. However, existing ground conditions being predominantly clay will make this difficult. As such, it is proposed that water will be initially stored in an on-site attenuation tank and discharged at a controlled rate into the existing surface water sewer which runs along the adjoining service road. Foul drainage would connect to a separate foul sewer to the south of the site.

Ecology and Trees

62. The submitted ecological survey shows that the site has minimal biodiversity value, although there are records of various protected species in the locality. As such an ecological enhancement plan has been submitted which shows the potential for providing suitable soft landscape planting to encourage local wildlife, as well as including features such as bird and bat boxes/bricks into the building fabric. A

condition requiring these measures to be agreed and installed is recommended.

63. With regards to trees, whilst there are none in the vicinity which are subject to any preservation orders, there are a number of trees within the rear garden of No.13 Falcon Square, which as third-party trees still need to be taken into consideration and protected from any potential adverse impact resulting from the proposed development. A tree survey and arboricultural impact assessment has been submitted in support of the planning application and has been reviewed by the Council's Tree Officer, who has raised no objection provided a tree protection condition is applied to any planning approval.

Impact on Special Policy Areas

Nitrates:

64. Natural England have advised that the increase in wastewater from new housing developments within the borough is having a detrimental effect on the quality of water entering the Itchen and Solent catchment areas through nitrification. As such all developments for additional housing are required to reach nutrient neutrality (ensuring that development does not add to existing nutrient burdens), in order to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).
65. The application site will use the Chickenhall Lane wastewater treatment works, which discharges into the River Itchen. As such the proposed development is required to achieve nutrient neutrality for both nitrogen and phosphorus. To mitigate for the increase in nutrients the developer intends to purchase credits from the Eastleigh Borough Council schemes, which takes land out of agricultural uses and creates recreational spaces, thus reducing the nutrient output of the land. The developer will need to provide evidence of this mitigation via a pre-occupation condition.

Recreational Disturbance:

66. The site is within the 5.6km catchment area for the Solent Special Protection Area and Ramsar Site and 13.8km catchment area for the New Forest Special Protection Area. It is recognised that new housing developments within this catchment area is likely to result in additional visitors to these protected sites. In order to mitigate for this impact the developer has agreed to pay a contribution towards the Council's New Forest Mitigation Strategy (which provides Suitable Alternative Natural Green Spaces within the borough). These contributions will be secured by way of a S106 agreement or upfront payment if the Committee chooses to permit the development.

Habitats Regulations:

67. A habitat regulations assessment has been undertaken by the Local Planning Authority for the proposed development, which outlines the

likely impacts on the special protection areas and proposed mitigation. This has been reviewed by Natural England who have objected to the development on the grounds of adverse effect on the integrity of The New Forest Special Protection Area (SPA), Special Areas of Conservation (SAC), and Ramsar.

68. Whilst this objection is noted, as Competent Authority it is considered by the LPA that the Council's New Forest Mitigation Strategy is robust and will provide an appropriate level of mitigation for the proposed development's recreational impact upon the designated New Forest sites.

Sustainability Measures and Climate Change

69. In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.
70. The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy.
71. The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use.
72. When considering the impact of climate change, the proposed development would be expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use. No specific information has been provided as to what measures or systems it is proposed to incorporate within the development other than the intention to use a fabric first approach. However, there is scope to include

photovoltaic panels to the roofs, electric charging points within the parking area, etc.

Planning Obligations / Considerations

73. Given the development proposes a total of four units, it falls under the threshold for when planning obligations can be secured.

Other Material Considerations:

The Council's Five-Year Housing Land Supply:

74. The government has consulted on changing the requirements for having to demonstrate land supply. As such, it is not proposed to update the position until the NPPF is revised. However, the last published figure was 5.1 years in July 2022 and the current local plan is very recent, having only been adopted in April 2022. Notwithstanding, the addition of urban windfall sites, such as the proposal, makes a small but important contribution to the council's housing land supply.

Equalities Implications

75. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

76. When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications.

Conclusion

77. The application site lies inside the urban edge in an accessible and sustainable location not far from Eastleigh town centre. The site consists of an under used parcel of land within an existing residential area and therefore is considered suitable for residential development.
78. In terms of the scheme's specifics, a balance has to be struck between delivering a viable housing development that makes the most efficient use of urban land, whilst conforming to the various planning requirements and appropriately responding to the site's context and that of its locality. The previously refused scheme was considered to be lacking in this regard.

However, the current proposals are considered to have successfully addressed all the previous reasons for refusal and in a manner which would result in a far better quality development which will provide a high quality environment for future occupiers, whilst ensuring minimal possible impact upon existing neighbours, and in a manner which respects and complements the character of the Aviary Estate Special Policy Area.

79. As such, the application is recommended for approval, subject to the provisos and recommended conditions set out at the beginning of this report.

