

Andrew Burgess Planning

Planning and
Development
Consultant

Section 78 TOWN & COUNTRY PLANNING ACT 1990

RESPONSE TO STATEMENT OF CASE BY EASTLEIGH BOROUGH
COUNCIL

LAND AT 49 BISHOPSTOKE ROAD, EASTLEIGH, HAMPSHIRE,
SO50 6BF.

Appellant: Mrs. Jane Bray

LPA Ref: F/22/94046

PIN Ref: APP/W1715/W/23/3320124

13th July 2023

1.0 INTRODUCTION

- 1.1 This is a response to the Statement of Case issued by Eastleigh Borough Council dated June 2023.
- 1.2 The response focuses on paragraphs 7.4 to 8.4 as the preceding paragraphs are mainly descriptive.

2. Response to Section 7.0 Reasons for Refusal

Reason for refusal 1

2.1

Inappropriate siting, lack of buffer and close proximity to existing TPO'd trees and River Itchen (SAC) which would result in an unacceptably cramped layout

This statement from The LPA is somewhat misleading and the appellant strongly disagree this is a "cramped" development. The area of the house is 53.6 sq.m. and the total area of the garden, excluding the drive, is 308 sq.m.

The existing house is 65 sq.m. and the garden, excluding the drive, is 134 sq.m.

The proposed layout is designed to respond to the shape of the site, form a stop end to the terrace and retain the 8.0m buffer zone

The proposals are not within the buffer zone

The mass is deliberately scaled down so that it relates to the Itchen Navigation

No 49 steps back from the adjoining apartment block, responding to the shape of the site, and the proposed house steps back again, continuing the pattern

The setback maintains privacy for no 49, and retaining a relationship with the Itchen and the buffer zone

2.2

the proposal would not reflect the cohesive pattern of development of semi-detached and terraced dwellings within which it would be predominantly viewed

Development along this stretch is not a "cohesive" terrace

It is a mix, which includes an apartment block, a semi-detached house and individual houses, a Tesco shop and a car wash.

It is unlikely that the proposal would be viewed as a terrace of significant architectural quality that merits preservation.

It is a misleading to say the existing development is "cohesive" as claimed by the LPA.

The proposed dwelling does not have a harmful impact when viewed from the pedestrian thoroughfare alongside the Itchen Navigation.

The house, which replaces an existing garage, will be viewed across the river, through trees which afford a degree of privacy to both sides.

2.3

The Council have failed to identify the harm in specific detail to this proposal and merely making general statements without applying them to this proposal.

These comments are contrary to the Built Heritage Consultant's consultation response who stated,

49 Bishopstoke Road, Bishopstoke, SO50 6BF.

Context.

The site is situated on the south-western corner of the Bishopstoke Conservation Area overlooking the Itchen Navigation to the west with the boundary of the conservation area on the other side. To the northern rear are the fishponds in the grounds of the Grade II listed Bishopstoke Manor with the B3037 main road through Bishopstoke to the south.

This northern side of the main road consists of a row of some twelve buildings which used to end with the corn mill at the eastern end and has this site at the western end. The buildings are of various ages with this host building the most modern and marking the entrance to Bishopstoke as one enters from Eastleigh. This site is therefore important as the gateway to Bishopstoke.

The Proposal.

The existing No. 49 is two storey, faces west, is attached to and subservient to the three storey No. 51 which is an apartment block. The road frontage of No.49 is set back from that of No.51 and the proposal for No.49A is again both lower and set very well back albeit primarily to avoid the tree roots presumably.

The main live elevations are those to the north and west with that to the east virtually blank save for one high level window to avoid overlooking of the garden to the existing No 49 and that to the south facing the road, very low key with just one ground floor window to give a little life helped by an eaves dentil course and some other brick detailing shared with all elevations.

The entrance front faces west with a restrained amount of fenestration as it overlooks the footpath on the other side of the navigation with the garden elevation facing north having the major glazing. The materials are to match the existing, which look local like Michelmersh dark multi bricks and brown clay roof tiles.

Conclusion.

The form and massing of this proposal are entirely appropriate for the setting, forming a subservient bookend to this line of buildings, helping it to merge more gracefully into the countryside while presenting a low key road elevation, so it will hardly notice from the front and a live elevation toward the countryside gap facing those who approach from Eastleigh, giving a wrap-around finish to this block of built form. No objection.

08.11.2022.

Tim J S Dyer, B.Sc.,Dip.Arch.(Birm), Grad.Dip.Conservation(AA), RIBA.

Built Heritage Consultant.

2.4

Appeal Decisions

Appendices 2 and 3 are not relevant or directly comparable to this appeal.

The Inspector should give no weight to the appeal decisions which relate to different proposals in different locations. This appeal proposal should be considered on its own merits.

Reason for refusal 2

2.5

Scale, siting and close proximity to the eastern boundary, which would result in a sense of enclosure creating an unacceptable and overbearing impact and loss of privacy, as a result of the balcony of the amenities of the occupier of 49 Bishopstoke Road

The modest, 90cm wide, balcony does not result in a loss of privacy to No. 49 and only minimal, oblique views into the very rear of garden

The new house and No.49 look out to the tree lined boundary and pond to the North.

The separation between the proposed house and No 49 allows for access to the rear garden of No. 49.

The layout also maintains a view to the west .

The proposal complies with the Quality Spaces SPD.

Reason for Refusal 3

2.4

- **7.25:** Nonsense, no pruning will be required because of this appeal.
- **7.27:** The condition of T13 has nothing to do with this appeal, it does not need pruning because of the proposal, and the comments are irrelevant.
- **7.28 + 7.29:** So what! Our position is simply that if piled foundations are used, then no pruning is required. The Council identified a concern for them, and we came up with a solution that addressed it.

- **7.30:** It is quite reasonable and normal for the detail to be conditioned as long as the principle is agreed. It is quite clear that the building can sit above the ground without being intrusive or out of character.
- The noise point is ridiculous as this would be on one occasion and is not a material planning consideration.
- **7.31 + 7.32:** Again, it is quite reasonable and normal for the detail to be conditioned as long as the principle is agreed. There is plenty of space to ensure that any reconditioned surfacing can sit above the existing and the higher levels feathered off into the surrounding landscape without any adverse impact on trees.
-
- **7.33:** 1.8 of the original report states: *"We have considered the matters of overbearing relationships and daylight, and concluded that whilst there are several trees close to the proposed dwelling, the required pruning works will make them significantly smaller once complete, and so they will unlikely interfere with the normal use of the building once it is completed and occupied."* It is hard to see how the point the Council make can be reasonably extrapolated from this statement. That statement specifically applied to the option to prune, but that does not mean that it does not equally apply to the no-pruning option. It is quite clear that the trees are clear of the building footprint and our view remains that the LPA will be able to resist any unreasonable applications to prune.
- **7.37:** The building is not beneath the tree canopy.
- **7.39–7.40:** The plan extract below shows that the tree canopies in green do not dominate the rear garden area.

These issues are addressed further in the attached plan.

Reason for Refusal 4

2.5

- **7.37:** The building is not beneath the tree canopy.
- **7.39–7.40:** The plan extract below shows that the tree canopies in green do not dominate the rear garden area.

There is an argument that, with the changes in climate, the trees will provide shade and cooling from the west when heat gain peaks

This is particularly important for west facing façades and affords a desirable level of amenity

Less of an issue in winter the trees are bare and the sun filters through.

Reason for Refusal 5

2.6

It should be noted that the Environment Agency raise no objection to the appeal proposal subject to appropriately worded planning conditions that they have proposed.

Sufficient detail has been provided at the application stage for the Local Planning Authority (LPA) to agree that surface water drainage can be addressed through a planning condition. Indeed the proposed condition 5 does this.

It is considered that the LPA have acted unreasonably in requesting the submission of detailed information that can clearly be addressed through a planning condition.

Reason for Refusal 6

2.7

It is common ground that the appropriate mitigation to offset the impact on the European Protected Solent Complex can be addressed through the competent authority carrying out an Appropriate Assessment. (In this case the Inspector.)

The LPA have proposed Condition 15 to address this.

Nutrient Neutrality

2.8

The LPA have not commented on the issue of Nutrient Neutrality and Nutrient Budget Calculator that accompanied the application and this appeal.

This is a matter that can also be addressed through an Appropriate Assessment and covered by the following additional planning conditions as follows,

"The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority;
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied 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 the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority."

No further comments are offered on the Planning Conditions proposed by the Council including their additional condition proposed at paragraph 8.4.

Conclusion

2.9

It remains the position of the appellant that the LPA have not put forward a reasoned and justified case to refuse the proposal. On balance, taking account of the site being an addition to the existing developed residential frontage, absence of harm to the Conservation Area, Ecology and Trees and no issues in respect of Flooding and Drainage as well as a valuable contribution to housing delivery, and lack of any other significant planning impacts; Jane Bray asserts that this is an application that Eastleigh Borough Council should support through the planning approval process.

The proposed new house is an entirely acceptable form of development.

This appeal proposal has thoroughly assessed the relevant issues.

The key issues that have been addressed are;

- i) the design and external appearance of the building
- ii) heritage and conservation issues
- iii) flood risk and drainage
- iv) biodiversity and impact on wildlife
- v) compliance with National and Local Planning Policies

The proposed house is eminently suitably located within this location. There is no reason not to grant planning permission subject to suitably worded planning conditions.

Therefore, it is respectfully requested that in accordance with paragraph 11 of the NPPF that the appeal is allowed and approved without delay .

2.10

A separate Costs Application accompanies this Response to the LPA Statement.

AJB 13th July 2023