



Appeal Statement

63 Underwood Road, Bishopstoke, Eastleigh, SO50 6FX

15 September 2023

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1 QUALIFICATIONS AND EXPERIENCE

QUALIFICATIONS AND EXPERIENCE

- 1.1 I hold a 2:1 Planning Studies Bachelor of Arts Honours degree and a Diploma in Urban Planning from Oxford Brookes University. I am a member of the Royal Town Planning Institute.
- 1.2 I have worked in Hampshire since 1996. From 1996 to 2014 I worked at Eastleigh Borough Council as a Senior Planning Officer and then as a Principal Planning Officer in the Major Applications Team.
- 1.3 I have practised as a planning consultant since September 2014. I established my Town Planning practice, Wessex Planning Ltd, in September 2016, specialising in small to medium scale residential development.
- 1.4 I have been instructed to appeal against the refusal of planning permission F/22/94422 on 6th July for a first floor extension and proposed 4-bedroom, two storey end-of-terrace dwelling with associated parking provision at 63 Underwood Road, Bishopstoke, Eastleigh, SO50 6FX.

2 REFUSAL REASONS

- 2.1 The planning application was for a first floor extension and proposed 4-bedroom, two storey end-of-terrace dwelling with associated parking provision at 63 Underwood Road, Bishopstoke, Eastleigh.
- 2.2 Despite an officer recommendation for approval, the application was refused by planning committee on 6th July 2023 for the following reasons:

2.3 Reason 1

The proposed development would have a detrimental impact on integrity of adjacent Stoke Park Woods SINC and ancient woodland due to the proximity from the woodland boundary resulting in the increase in physical disturbance, the blocking of a linear feature used by protected species, light pollution and shading all contributing to a significant loss of important biodiversity which is contrary to policy DM11 of the Local Plan.

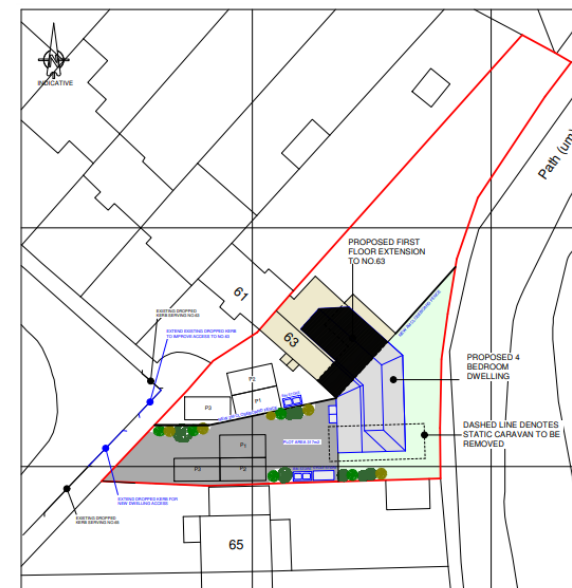
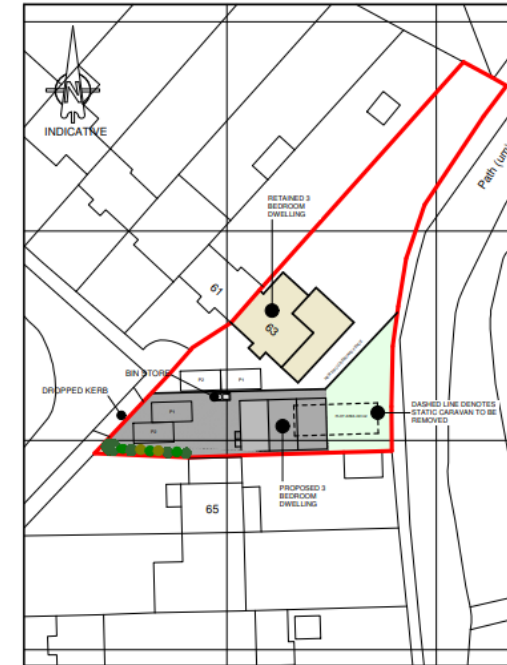
2.4 Reason 2

The level of garden provision for the proposed new dwelling would be out of keeping with the existing pattern of development and, due to the awkward shape and resultant overshadowing by adjacent trees, would have a harmful impact on the amenity of future occupiers contrary to policy DM1 of the Local Plan and the guidance set out in Quality Places SPD.

3 REBUTTAL OF REASON 1

REBUTTAL OF REASON 1

- 3.1 The site comprises a dwelling and garden in the suburban area of Bishopstoke. The dwelling is located on a corner plot, and has a large area of garden to the side as well as the front and rear.
- 3.2 To the rear of the dwelling is a large shed which houses a large number of birds, currently kept inside due to bird flu concerns. This is sited directly adjacent to the rear fence line, the other side of which is designated Ancient Woodland
- 3.3 To the side/rear of the dwelling, a large mobile home has been stationed for many years and was used as accommodation for the appellant's daughter. Again, this structure is positioned hard-up against the rear fence line.
- 3.4 The proposal includes the removal of both the mobile home and the large shed.
- 3.5 Following a previous refusal of planning permission for a new detached dwelling to the south (see block plan adjacent) on the grounds of overdevelopment and the proposal being out of character with the existing pattern of development, a meeting was held on site between the case officer and the case officer's manager on 3rd November 2022.
- 3.6 This meeting was insisted upon by the appellant as the refusal followed a formal pre-application enquiry that confirmed that the proposal was likely to be acceptable. (See Appendix 1)
- 3.7 E-mailed correspondence followed the meeting (See Appendix 1). The outcome was an agreed way forward that entailed attaching the new dwelling to the host dwelling (No 63 Underwood Road), angling the new dwelling around the 'corner' to better reflect the existing pattern of development in the area and have less impact upon the dwelling to the south. The block plan of the appeal application appears adjacent.



REBUTTAL OF REASON 1

- 3.8 The Committee decision to refuse the second application was taken by Members without the benefit of a site visit.
- 3.9 This is important because, whilst the formal boundary of the Ancient Woodland SINC abuts all the rear boundaries of the nearby dwellings in Underwood Road, the land slopes very steeply downhill away from the rear boundaries to an informal pathway used by Members of the Public for informal recreation within the woodland. There is a good degree of separation.
- 3.10 Additionally, there are no trees in the woodland that overhang the site. The nearest Ash tree was removed by Forestry England during the course of the application. There are also no root protection areas that cross over into the appellant's land.
- 3.11 Furthermore, there is good visual evidence that neighbouring dwellings have large outbuildings constructed on the fence lines in neighbouring gardens.
- 3.12 The officer recommended four important conditions: the first a requirement to install a landscape buffer along the rear fence line – the second – to remove any opportunity to install a gate that would allow pedestrian access into the woodland - the third – to remove permitted development rights to extend or construct outbuildings and finally, a condition recommended by Natural England for a construction environmental management plan.
- 3.13 It is contended that, rather than take a proactive approach to the application and consider the protections and benefits that would accompany a grant of planning permission in relation to the ancient woodland, the committee decision placed an overreliance upon their ecology officer's objection to the application.
- 3.14 During the course of the application, a full response was provided by the appellant and the planning officer to the ecology officer's objection. Both the appellant's response and the committee report

accompanies this appeal submission at Appendix 2 and 3 respectively.

- 3.15 In relation to ancient woodland, Policy DM11 of the Local Plan states that *"development will not be permitted if it results in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees), unless there are wholly exceptional reasons, and a suitable compensation strategy exists."*
- 3.16 In relation to buffers Policy DM11 states *"Buffers free from development will be provided to designated sites to avoid/mitigate impacts, including recreational impact and impacts on edge habitats, and to maintain dark skies"*
- 3.17 The Local Plan contains no measurement for an ancient woodland buffer.
- 3.18 The relevant elements of the reasons for refusal are considered below.

Physical disturbance

- 3.19 The existing site is a residential garden. It will remain a residential garden. There is no extension of this garden into the ancient woodland buffer. This is not a greenfield development.
- 3.20 The ancient woodland is clearly separated from the existing dwelling and its garden by a 1.8m high rear fence.
- 3.21 There is currently a large shed on the boundary and also a mobile home, both of which would have been removed as a result of the proposal.
- 3.22 Proposed conditions for a landscape buffer, the removal of any opportunity to insert a gate in the rear fence line, the removal of permitted development rights to extend or construct outbuildings and a construction environment management plan would have

REBUTTAL OF REASON 1

provided a planning benefit to the ancient woodland buffer, rather than a disbenefit, in terms of any physical disturbance.

3.23 It is contended therefore that there would be no significant likely effect from physical disturbance.

3.24 It is also notable that Natural England, the government's specialist ecology adviser, had no objection on these grounds.

Blocking of a linear feature used by protected species

3.25 It is not clear what either ecology officer or the committee members meant by this objection, as there is no linear feature used by protected species on the site.

3.26 The minutes of the committee meeting provide no elucidation and therefore it is considered unreasonable to include this element within the committee's refusal reason.

3.27 Natural England also raised no objection on these grounds.

Light pollution

3.28 The refusal reason contains a reference to light pollution caused by the proposal having a detrimental impact upon the biodiversity within the ancient woodland

3.29 There was no acknowledgement from either the ecology officer or the committee members that the site is currently a garden, not a pristine, edge of woodland, greenfield site where the impacts of development would be likely to be more significant.

3.30 As such, this woodland is already affected by light pollution and has been affected by such for almost a century. Any adaptations that the woodland would have needed to make would likely already have been made. One additional dwelling would not have any likely further significant cumulative effect.

3.31 Additionally, the existing dwelling has four very large rooflights to its rear kitchen extension and side lounge extension. These rooflights are proposed to be removed as the new dwelling will be built as an extension over these kitchen and lounge extensions.

3.32 Whilst it is acknowledged that the new dwelling will have both ground and first floor rear windows, the ground floor windows will be shielded from the woodland by the existing intervening 1.8m high fence, and the three first floor bedroom windows on the rear would not have any additional impact over and above the rooflights due for removal as part of the proposals.

3.33 Furthermore, natural human behaviour is likely to result in the closing of bedroom curtains or blinds at night, whereas there are no blinds or curtains to the large existing kitchen and lounge rooflights, which focus light directly upwards.

3.34 Therefore, the light pollution impact would likely be improved rather than worsened by these proposals. In the worst-case scenario, the impact would be no different to existing impact.

3.35 It is also notable that there was no objection in 2018 from the Local Planning Authority to the large lounge and kitchen rooflights on the grounds of light pollution when it granted planning permission for the existing rear and side extensions. (See officer report at Appendix 4)

3.36 In conclusion, it is contended that there would be no significant likely effect upon the ancient woodland from light pollution, and, upon consultation, Natural England raised no objection on these grounds.

Shading

3.37 The woodland to the rear is located directly to the east on a very steep bank which slopes downhill away from the properties in Underwood Road. As such, the woodland, at ground level, is currently in constant partial shade. This is evident on site.

REBUTTAL OF REASON 1

- 3.38 The ecology officer's comments, upon which members of the planning committee appeared to rely, suggested that the proposed dwelling would increase this shade and have a detrimental impact upon the growth of indicator species (such as bluebells), and the felled hazel coppice regrowth.
- 3.39 However, it is well-known, even among non-experts, that ancient woodland indicator species such as blue bells are dependent upon partial shade, and that Hazel is also a shade tolerant tree often found within ancient woodland.
- 3.40 In terms of the larger ancient woodland trees themselves, it is evident on site (and in the photograph contained within the arboricultural statement), that the woodland trees significantly exceed the height of the existing dwellings in Underwood Road, and their crowns will therefore not be affected by any shade created by the proposal for a new dwelling.
- 3.41 Furthermore, the removal of the Ash tree and the hazel stool (carried out by Forestry England separately from the planning application) is likely to significantly increase light into the woodland.
- 3.42 As such it is contended that there would be no likely significant effect upon the ancient woodland as a result of shading, and Natural England, upon consultation, raised no objection on these grounds.

Conclusion on Reason 1

- 3.43 It is concluded that the proposal, rather than being contrary to Policy DM11, is in accordance with its requirements.
- 3.44 The proposal would not result in a loss or a deterioration of the ancient woodland. In fact, with the planning conditions recommended by the planning officer, the proposal would be likely to result in a long term enhancement and protection for the ancient woodland.

4 REBUTTAL OF REASON 2

REBUTTAL OF REASON 2

- 4.1 The second reason for refusal relates to the size of the garden area proposed.
- 4.2 The first element of the refusal reason states that “the level of garden provision would be out of keeping with the existing pattern of development”. It is considered that this reason relates to the size of the garden area in relation to the size of neighbouring dwelling’s gardens.
- 4.3 In response, it can be seen from a cursory ‘google aerial view’ that the gardens in the area come in many sizes. Whilst many are extensive, there are others that are small. In an urban area, this element of variation is normal.
- 4.4 As the Inspector cannot visit every garden in the area, a Google Earth view is shown below, indicating the site in a red cross and smaller, more constrained gardens in the area, often on corner plots, in a yellow cross.



- 4.5 As such, the evidence demonstrates that the garden size for the proposed dwelling is considered comparable with those smaller and more constrained garden areas that are commonly found on corner plots within the area.
- 4.6 Therefore, the garden size is contended to be in keeping with the existing pattern of development.
- 4.7 As mentioned by the planning officer in her committee report Eastleigh Borough Council has a Quality Places Supplementary Planning Document that provides guidance recognising that there are variations in garden sizes in urban areas. It requires a percentage of plot coverage rather than a strict garden dimension. The percentage of non-developed area required is 60% of the total plot. It can be seen from the plans that the garden area significantly exceeds this figure.
- 4.8 The second element of the refusal reason states that “due to the awkward shape and resultant overshadowing by adjacent trees, would have a harmful impact on the amenity of future occupiers” contrary to policy DM1 of the Local Plan and the guidance set out in Quality Places SPD.
- 4.9 Policy DM1 of the Local Plan requires, amongst other things, for development to “make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;” as well as taking “full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood”.
- 4.10 Taking each point in turn, whilst the Committee Members considered that the garden was an ‘awkward shape’, this shape is not considered unusual in residential urban areas, especially on more constrained corner plots. What the rear garden area lacks in depth, it makes up

for in width. The rear garden also wraps around the side of the property.

- 4.11 The front garden is notably larger, and also provide opportunities for amenity. Although currently appearing less private than the rear and side garden, depending upon the conditioned landscaping scheme (recommended by the planning officer) this frontage area could quite easily be included in the more private areas of garden available to the future occupiers.
- 4.12 The pre-application advice from officers considered the balance between making efficient use of the site, maximising the opportunities to increase density, providing an appropriate design for the new dwelling, and the provision of garden space. The officer report demonstrates that this balance is appropriate in terms of both Local Plan policy, supplementary planning guidance, the character or the area and future amenity levels for the occupants.
- 4.13 In terms of being overshadowed by trees, it is evident on-site that the rear, side and front garden is not overshadowed by trees, with the nearest trees located at some distance from the rear garden. With a wraparound garden facing east, south and west, sunlight is available to the occupants at any time of the day. A site visit by members of the planning committee would have made this clear.
- 4.14 It is therefore considered that the neither the shape of the garden nor its proximity to ancient woodland would harm the amenity of the future occupiers.
- 4.15 Rather than being contrary to Policy DM1 of the Local Plan and the Quality Places SPD, it is contended that the proposal is in full accordance.

5 OTHER MATTERS

- 5.1 This site is required to mitigate for the impacts caused upon protected sites (in this case the River Itchen SAC and the Solent and Southampton Water SPA) from the increase in nitrates and phosphates from the development's wastewater. The impact is eutrophication which both reduces oxygen in water available to fish and also causes dense algae matting along coastlines reducing the availability of food for seabirds.
- 5.2 The proposal would result in a net increase of 1 dwelling within the Chickenhall Eastleigh Wastewater Treatment Works catchment area, the wastewater from which ultimately feeds into the Solent SPA by way of the River Itchen.
- 5.3 A nutrient budget for the scheme has been produced in line with Natural England's published guidance demonstrating a net change in nitrogen load from the development of an additional 3.41kg/TN/year. This calculation is on the basis of 110 litres of water use per person per day which was proposed to be secured by way of a planning condition. The increase in phosphate load would be 0.11k/P/year.
- 5.4 The impacts of this increase in nitrogen and phosphate load are such that the development would have a likely significant effect on the Solent designated sites due to the increase in wastewater. In order to remove these likely significant effects, avoidance and mitigation measures are required.
- 5.5 The mitigation for this development would be through the applicant purchasing nitrate and phosphate credits from the Eastleigh Borough Council nitrates and phosphates mitigation scheme. The details of this scheme are provided in Appendix 5.
- 5.6 In relation to nitrates, Eastleigh Borough Council has 3773 spare nitrate credits (1 credit = 1 kilogram of nitrates per year), which are provided across 238 hectares of council-owned land. To date the nitrate credits being made available by Eastleigh Borough Council are all through the cessation of farming practices, although in future further credits may be generated from proactive interventions such as creation of wetland, planting of woodland, installation of nitrate retaining SUDs features, or similar.
- 5.7 In relation to phosphates, the Council also has several phosphate credits (147) available for purchase within the Itchen catchment, at a cost of £50,000 + VAT per credit.
- 5.8 Upon purchasing the credits, applicants receive a vesting certificate that identifies the nitrate credits that have been assigned to the development and a record of this investment is retained by the Council. The purchase of credits is then usually secured by condition.
- 5.9 To mitigate for the increase in nutrients the developer intends to purchase nitrate and phosphate credits from the Eastleigh Borough Council scheme, which take land out of agricultural uses and create recreational spaces thus reducing the nutrient output from the land.
- 5.10 In this appeal situation, a Unilateral Undertaking is provided to secure the payment of the required mitigation contributions. This will follow once completed.
- 5.11 Whilst Eastleigh Borough Council, as competent authority, are confident in their phosphate mitigation scheme, Natural England retain some concerns on the basis that some of the land taken out of agricultural use – the mitigation land parcels - feed into the River Itchen downstream of the Chickenhall Wastewater Treatment Works leaving a stretch of river unmitigated (See Appendix 6).
- 5.12 However, it is confirmed that, for this particular site, the mitigation land used would be upstream of the Chickenhall Waste Water Treatment Works. This confirmation is provided in Appendix 6.
- 5.13 On this basis, it is contended that there will be no likely significant environmental effects as a result of this proposal.

6 CONCLUSION

CONCLUSION

- 6.1 The proposal was refused on the grounds of proximity to ancient woodland and the size and configuration of the garden area.
- 6.2 The above statement contends that no harm will come to the ancient woodland through proximity, shading, lighting or physical disturbance and that there will be no likely significant effect upon biodiversity. Indeed, the above statement demonstrates that with the conditions recommend by the professional planning officer, there would be a long-term benefit and protection to the ancient woodland. As such the proposal is in accordance with Local Plan Policy DM11.
- 6.3 The statement also contends that both the size and configuration of the garden is in-line with those gardens found in the area, especially on corner plots, and will have no harmful effect upon the amenity of future occupiers. Neither will the garden be overshadowed by trees. As such the proposal is in accordance with Local Plan Policy DM1 and the Quality Places SPD.
- 6.4 A Unilateral Undertaking will be provided to the Inspector which provides for the mitigation payments for the additional nitrate and phosphate entering the River Itchen SAC, and therefore there will be no cumulative significant likely effects upon water quality from this proposal.
- 6.5 As such, it is respectfully requested that the inspector allow the appeal.