

Andrew
Burgess
Planning

Planning and
Development
Consultant

Section 78 TOWN & COUNTRY PLANNING ACT 1990

APPEAL AGAINST EASTLEIGH BOROUGH COUNCIL

STATEMENT OF CASE

BURLAIR, BOTLEY ROAD, HORTON HEATH, HAMPSHIRE, SO50 7DQ

Appellant: Mr and Mrs Sinclair

LPA Ref: H/23/95399

PINS/Ref: TBC

Our ref: Sinclair

28th November 2023

T: 07767 483290 E: andrew@andrewburgessplanning.co.uk W: andrewburgessplanning.co.uk

Andrew Burgess Planning Limited. Registered Office: Sullivan Court, Wessex Way, Colden Common, Winchester, Hampshire, SO21 1WP.

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and relevant plans.

1. Introduction

1.1 This Statement of Case (SoC) sets out Mr and Mrs Sinclair's (the 'Appellants') case in respect of an appeal made against Eastleigh Borough Council (the Council) in respect of the refusal of planning permission for residential development, involving two storey rear extensions, interior and elevational changes and alterations to fenestration (the 'Appeal Development').

1.2 The appeal is in respect of an Householder application.

1.3 This SoC is structured as follows:

- **Section 2** – Appeal Development: Provides a description of the Appeal Development
- **Section 3** – Appeal Site and Surrounding Area: Provides a description of the Appeal Site and surrounding area
- **Section 4** – Reasons for Refusal: Describes the Reasons for Refusal
- **Section 5** – Relevant Policy Framework: Sets out the relevant policy framework
- **Section 6** – The Appellants Case: Sets out the Appellants case with specific regard to the reasons for refusal, the officers' delegated report, National Planning policy, the development plan policy and the planning balance.

2. Appeal Proposal

- 2.1 The Appeal Proposal is described in the decision notice dated 11th September 2023 as follows:

‘Two storey rear extensions. Interior and elevational changes. Alterations to fenestrations.

Full planning permission was sought.

- 2.2. The application was accompanied by the following supporting documents,

Proposed Floor Plan – D01 Rev C
Proposed Elevations – D02 Rev C
Section Plan – D03 Rev C
Street Scene – D04 Rev A
Roof Plan – D05
Location and Block Plan -900 Rev A
Existing Floor Plan - 901
Existing Elevations -902

and validated on 27th June 2023.

- 2.3 The proposal seeks to reuse and improve upon the current dwelling, rather than demolish and rebuild from scratch as has been done in many other locations on the street in recent years. However the structure of the building is fundamentally solid and can be improved and brought up and beyond current standards with careful design and thought, and that is what this proposal aims to do. This clearly has a massively reduced impact on the local environment and less disruption to neighbours.

Sustainable and Practical Design

- 2.4. Extending and remodelling the house will result in a much lower carbon footprint and generally a far lower environmental impact than demolition and rebuilding. The current building was completed in 1969 and has had some improvements since including the clearance of the back garden, removal of a two storey workshop and the removal of a lean to structure at the rear of the garage. See figure 1. The front garden has been landscaped and a new resin driveway provided. The house was connected to mains gas in 2016.

- 2.5. Despite this the house is in need of a vast amount of improvements. There is no insulation in the house. The upstairs is dysfunctional with sloping ceilings and low skirting heights, with no headroom or room for furniture and wardrobes. For the past eight years the appellants have had to use clothes rails rather than wardrobes. The existing house is not currently suitable to bring a family up in and the appellants wish to start a family shortly in this house rather than move.

3. Appeal Site and Surroundings

- 3.1 The 'Appeal Site' comprises the land edged-red on the submitted Site Location Plan. The Appeal site is described in the Design and Access Statement that accompanied the planning application and states,

Background

- 3.2 The construction of the dwelling was completed in 1964 as a two storey bungalow.

Materials

- 3.3 The materials comprise,

Facing Red-Brick walls to match the existing
Timber cladding along parts of the North and South elevations
Zinc cladding to the East (rear) elevation as well as a Zinc fascia to the single storey
Render
Concrete roof tiles to match existing Aluminium Powder coated doors/windows where new



Fig 1. Aerial view prior to removal of two storey workshop and lean to.



Fig 2. View of Front Elevation.



Fig 3. View of the from elevation and Conifer.



Fig 4. View of Les – Claire.



Fig 5. View of Les- Claire from the rear garden.



Fig 6. View from rear garden and of adjoining dwellings.



Fig 7. View towards Conifer from the first floor.



Fig 8. Street view with Burlair in the distance



Fig 9. The cramped space on the first floor.

4. Reasons for Refusal

Delegated Decision

- 4.1 The planning application (LPA ref. H/23/95399) was subject of an officer delegated report which is attached as Appendix 1. The officer refused planning permission under delegated powers on 11th September 2023.

Reasons for Refusal

- 4.2 The decision of the Local Planning Authority to refuse planning permission was issued on 11th September 2023. The reason for refusal is listed in the Decision Notice and copied below for ease of reference:

1

The proposed development due to its design, massing and siting would create a visually dominant and incongruous feature at odds with the character and appearance of dwelling, neighbouring properties and the pattern of development within Botley Road. As such the development is contrary to Policy DM1 of the Eastleigh Borough Local Plan [2016-2036], provisions within The National Planning Policy Framework and the Council's Quality Places Supplementary Planning Document.

- 4.3. A Note to the applicant states

Note to Applicant: The application was refused following the assessment of the following plans: D01 Rev C, D02 Rev C, D03 Rev C, D04 Rev A, D05, 900 Rev A, 901, 902 and 903 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.

5.0 Relevant Policy Framework

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine applications for planning permission in accordance with the provisions of the development plan unless material considerations indicate otherwise. This Section of the SoC sets out the relevant planning policy framework for the consideration of this appeal.
- 5.2 The policies detailed within the Council's reasons for refusal (RfR) are detailed within this Section.

National Planning Policy

- 5.3 The LPA refer to Framework in very broad terms in the first reason for refusal using the phrase
- ' guidance contained within the National Planning Policy Framework 2021. '
- 5.4 It would have been helpful if the LPA could identify particular paragraphs of the Framework which they rely on in to oppose the appeal proposal and where they consider there is a conflict or harm with the Framework. It is wrong to take a blanket approach referring to the entire document or a whole section with not one paragraph highlighted or any analysis of the degree of harm in the reasons for refusal.
- 5.5 The appellant considers that the following paragraphs of the Framework are relevant. National Planning Policy is contained in the National Planning Policy Framework(NPPF) July 2021. The NPPF sets out the Government's planning policies for England. The NPPF provides the Framework for the production of local plans or development plans. Under Planning law the determination of planning applications must be in accordance with the development plan unless material considerations indicate otherwise.
- 5.6 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three overarching objectives to achieve sustainable development and in paragraph 8 it states,

“

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

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

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

5.7 The NPPF provides a presumption in favour of sustainable development and in respect of determining planning applications, decision making; paragraph 11 states this means,

“

c) approving development proposals that accord with an up to date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. “

5.8. In respect of decision making paragraph 38 of the NPPF states,

“

38. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic,

social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”

5.9 In respect of new Housing paragraph 60 states,

60. To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Paragraph 69 goes on to state,

69. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;

b) use tools such as area-wide design assessments and Local Development Orders to help bring small and medium sized sites forward;

c) support the development of windfall sites through their policies and decisions—giving great weight to the benefits of using suitable sites within existing settlements for homes; and

d) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

5.10 Paragraph 130 relates to well designed development and states,

130. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design⁵², taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

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

The appellant considers that the appeal proposal complies with criterion a) and b)

5.11 It should also be noted that paragraph 130 of the Framework states that being sympathetic to local character should not prevent or discourage appropriate innovation or change. Similarly, paragraph 134 b) of the Framework states that significant weight should be given to innovative design more generally in an area provided the proposal fits in with the overall form and layout of their surroundings.

National Design Guidance 2021

5.12 The National Design Guidance states and emphasises at paragraph 44 that well designed places do not need to copy their surroundings and that it is appropriate for new development to include innovation and change to reflect how we live today.

5.13 This Statement of Case demonstrates that the appeal proposal,

- a) has taken fully into account National Planning Policy, National design Guidance and the Development Plan
- b) will raise the standard of design in the area with an emphasis on reuse and improvement of the housing stock to create a highly sustainable development which minimises construction impact and maximise energy efficiency.

The Development Plan

5.14 The development plan relevant to the consideration of this appeal comprises the following documents:

Eastleigh Borough Local Plan [2016-2036]

5.12 Only policy referred to in the Reason for Refusal, is Policy DM1 which states,

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*
- 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.*

5.13 The appellants consider that they comply with a-e of the policy and that f – k are not relevant to this proposal.

6.0 The Case for the Appellants

6.1 The Delegated Officer Report is included as Appendix 1. In response to the

Officer's Delegated report the appellant refutes the concerns in the reason for refusal and raises concerns and queries in the approach taken by the LPA especially in relation to Design.

- 6.2. The following section responds to the particular topics in the Delegated Report.
- 6.3 The architects have prepared a graphic site analysis drawing included as Appendix 2, which is a simple and effective way to present the argument for the appeal proposal for the extension and remodelling of Burlair.

This demonstrates,

- 1. It is clear there is a mix of house types in this area of Horton Heath but they are predominantly two storey.
- 2. The main focal point of the area is the row of 2 storey houses opposite Burlair which have open gardens
- 3. Burlair is set 1.7m lower than the main road, and the high timber fence effectively screens the dwelling.
- 4. Even when the roof is raised 60 cm it will still be lower than Conifer next door.
- 5. The orientation also means that any shadow created by Burlair will have little impact on Les-Claire and none on Conifer.

Character and appearance

- 6.4. It is not accepted that it is necessary for there to be a transition in size between the bungalow to the north (Les Claire) or the proposal to be subservient. The proposal involves the remodelling of the house and an assessment should be made of the comprehensive proposal as a whole.
- 6.5 A key feature of the properties on Botley Road is that they comprise a mixture of old and new, ranging from chalet bungalows to new build detached houses and other modern infill development. There is no uniform design or character to these properties which vary in terms of their scale, form, layout, siting, roof forms and palette of materials.

- 6.6 The proposed two storey rear extensions, interior and elevational changes form part of the complete remodelling of the host property. Whilst the bulk of the original host property would increase this would not be harmful to the street scene or to the character of the area in that: the existing footprint would be largely retained to ensure that the remodelled property continues to sit comfortably in the plot; the proposed two storey element at the rear would be in keeping with the two storey scale of the immediate neighbour to the south *Conifer*. This is clearly shown in the Plan 2145 D04 rev A street Scene as Existing/Proposed.
- 6.7 All the above factors combine to secure a high quality more contemporary design. It is accepted that there would be a material change to the scale and design of the host property when viewed from Botley Road, but, even so, all the proposed changes would refresh and modernise the appearance of the whole property, including its rear elevation even though this is hidden from public viewpoints. The result would be a significant improvement on the existing host property, whose design is not of any merit or quality. Also, a proposal that would sit comfortably on the appeal site and be compatible with its suburban surroundings.
- 6.8 The appellants disagree with the Council and consider that the new additional rear storeys would not be visually intrusive or harmful to the character and appearance of the area. On the contrary, the additional storey combined with the complete remodelling of the host property would represent an innovative and high quality design that would accord with the guidance in the Quality Spaces SPD. It would also comply with the aims and objectives of policies DM1 of the EBLP in that it would secure a high quality design, it would be compatible with its surroundings, it would make efficient use of land whilst respecting local character. The proposed addition would also be proportional and the resulting two storey elevation to the rear would be in keeping with the character and scale of its neighbour to the south and many of the other properties on Botley Road.
- 6.9 Implicit in the Council's reasoning is that the appeal property should act as a transition in respect of design and scale and be subservient to the property to the south and in respect of the host property itself. The appellants are not convinced that such a consideration is relevant or overriding in the context of a proposal to add an additional two storeys to the rear, where the existing property is being completely remodelled and where the Quality Spaces SPD and the EBLP support innovative designs provided the bulk of the proposal is not excessive and an appropriate palette of materials is chosen.

6.10. It is noted that Planning Officer states on page 3 paragraph 1 of the unnumbered report that,

"...The design approach at the front is an improvement on the previous refused application and retains some elements of the character of the existing dwelling and no longer stretches the entire width of the plot at a two storey level."

It is extraordinary that anyone could consider that the "some elements of the existing character" need to be retained. The building is of no architectural merit or quality that justifies retention of its features and the design is appropriate for this location and area.

Development within the wider area

6.11. Within the wider area there are examples of the redevelopment or remodelling of houses during the last ten to fifteen years.

These include,

- a) St Martins, Botley Road Horton Heath, Eastleigh SO50 7DU LPA ref F/15/75793
- b) Villa Cervino Botley Road, Horton Heath, Eastleigh, SO50 7DT LPA ref F/23/94918
- c) Woodlands Cottage Botley Road, Horton Heath, Eastleigh SO50 7DT LPA ref F/13/73423
- d) St Piran, Botley Road, Horton Heath, Eastleigh, SO50 7DW LPA ref X/21/90535
- e) Santa Ponsa, Botley Road, Horton Heath, Eastleigh SO50 7DW LPA ref F/09/64457
- f) Le Fral, Botley Road, Horton Heath, Eastleigh, SO50 7DU LPA ref F/07/59834
- g) Fernlea, Botley Road, Horton Heath, Eastleigh, SO50 7DW LPA ref F/04/51542

Further details are included in Appendix 3 and these examples clearly demonstrate that Botley Road has undergone significant change and redevelopment. The appellants wish to highlight that consistency in planning decision making underpins planning law and practice.

6.12 The previous Planning Appeal

A previous planning appeal for a larger proposal was dismissed on 17 March 2022 for the erection of a rear extension and the raising of the roof line to form accommodation over and elevational alterations. The appeal decision and relevant plans are included in Appendix 4.

6.13. Despite the LPA using identical wording from the reason for refusal for this appeal and the earlier appeal the appellants consider that the previous Inspector's concerns have been addressed through the redesign of the proposal. In particular, the three overlapping gable elements have been removed with one new gable. The revised design is now sympathetic to the host property and the properties either side. There is no development over the garage. The current

appeal proposal will not appear dominant and obtrusive in the street scene and there will be no harm to the character and appearance of the area. On the contrary the proposed design will improve the appearance of the area.

- 6.14. It should be noted that there is no objection from the Parish Council or the occupiers of the adjoining houses see page of the Delegated Officer Report.
- 6.15. The Appellants will seek to agree a list of planning conditions with the Council.

Other Material Policy Considerations

- 6.16 Other material policy considerations relevant to the determination of this planning appeal include the following documents:
- National Planning Policy Framework (2021)
 - National Planning Practice Guidance (PPG)
 - National Design Guidance (2021)
- 6.17 On balance, taking account of the site being a well designed extension to the existing dwelling, no harm to Ecology and Trees and no issues in respect of Flooding and Drainage as well as a valuable contribution to improving the housing stock and lack of any other significant planning impacts; Mr and Mrs Sinclair assert that this appeal should be allowed.
- 6.18 The proposed extension is an entirely acceptable form of development. This planning application has thoroughly assessed the relevant issues.
- 6.19. The key issues that have been addressed are;
- i) the design and external appearance of the building
 - ii) compliance with National and Local Planning Policies

- 6.20. While the Officer's report reaches a conclusion it does not carry out a '*planning balance*' to weigh and assess the benefits and the harm.
- 6.21. The proposed extension is entirely acceptable given its relationship to the character of the area, residential amenities, and to the host building in terms of materials, size, scale and design. The appeal proposal is simply an addition and remodelling of the existing house. The adverse harm alleged in respect of the existing chalet bungalow is to the surrounding character or residential amenity is not identified and no parking issues are identified. The application is therefore considered to be acceptable and in accordance with the Framework, the development plan when read as a whole.
- 6.22. The benefits outweigh the harm and the adverse effects of the scheme would not significantly and demonstrably outweigh the benefits describe above. For all these reasons the appeal should be allowed.
- 6.23. The proposed extension 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 .

Appendix 1 Officers Delegated Report 23/95399 (Undated)

Appendix 2 – Site Analysis

Appendix 3

Development within the wider area.

Appendix 4

Appeal Decision APP/W1715/D/3290958
and relevant plans.