

Eastleigh Borough Council
Eastleigh House
Upper Market Street
Eastleigh
SO50 9YN

Attn: Planning Department

BY EMAIL ONLY: planning@eastleigh.gov.uk

Copy to: Gary Osmond, Senior Planning Officer (gary.osmond@eastleigh.gov.uk)

Dear Council

Demolition and re-build of Cherry Court ("the Development")
Cherry Court, Salterns Lane, Bursledon, Southampton, SO3 8DH ("the Site")

OBJECTION

1. We are instructed by Mrs Sandra Milton-Tayler and Mr David Milton-Tayler who object to the proposal. Our clients live at Saltacre, Salterns Lane, Bursledon, SO3 8DH.

Background

2. Cherry Court is a 4 bedroom dwelling located within the Old Bursledon Conservation Area ("**the Conservation Area**") and within the Old Bursledon Special Policy Area ("**the Special Policy Area**").
3. The Development seeks consent for the demolition of the existing 4 bedroom dwelling and replacement with a new 4 bedroom dwelling, including excavation for a larger lower ground floor comprising a cinema and entertainment room, living room and outdoor cooking area. In total the Development encompasses a 455.3sqm footprint, an almost 67% increase on the 272.5sqm of the existing dwelling per 3.9 of the Planning, Design and Access Statement ("**the D&A**").
4. In addition to the larger footprint, the boundary between adjacent neighbours at Orchard Hill and Lynce Grove would be reduced by the Development from 26m to 20m per 3.9 of the D&A.
5. The Development adds a ground-floor terrace which runs the breadth of the south-facing exterior, and a further first floor balcony running along approximately 50% of that same side. Owing to the flat-roof design, these rear balconies sit at a higher elevation than the previous first-floor terrace, according to drawings at 3.6 of the D&A.

6. Additionally, larger windows are proposed at ground level on the East siding and at first floor level on the West.

Eastleigh's Local Plan

7. The planning policies governing the area are set out within the Local Plan 2016-2036. Policy BU7 is a key relevant policy which allows for extensions and replacement dwellings within strict constraints. BU7 provides:

"1. Residential extensions and replacement dwellings in the Old Bursledon Special Policy Area as defined on the policies map will be permitted provided they:

- a. do not increase the volume of the original dwelling (as existing when the conservation area was first designated in 1982) by more than 25%. Further extension beyond this limit will not be permitted;*
 - b. have regard to the impact of the development on the space between buildings and the openness of the area, ensuring that the character of the undeveloped landscape between buildings is conserved and enhanced;*
 - c. do not create a dwelling disproportionately larger than the one that is being extended or replaced;*
 - d. are subservient to and in proportion to the existing building in form, scale and design;*
 - e. do not contribute to the cumulative urbanisation of the area; and*
 - f. are not otherwise detrimental to the character of the area as viewed from the River Hamble."*
8. Other Local Plan policies relevant to the consideration of the Development include: DM26- Residential Extensions and Replacement Dwellings in the Countryside S8- Historic Environment, DM12- Heritage Assets, and DM1- the general criteria to assess the impact of new development on residential amenity.

The Old Bursledon Conservation Area and Hamble-le-Rice and Hound Conservation Area 2008 Appraisal SPD ("the 2008 SPD")

9. At the time off the previous local plan, the Council adopted the 2008 SPD for the Old Bursledon Conservation Area. This identifies the Old Bursledon Conservation Area at Annex D as *"characterised by its low-density housing, narrow lanes, woodland, open fields and views over the River Hamble estuary, with the scattered housing served by narrow country lanes with well- established hedgerows, banks, walls and trees. These country lanes and open layout are an essential part of its character and a distinctive feature of the local area."*

The Old Bursledon Conservation Area Appraisal

10. The Conservation Area Policy was updated in 2012 following the adoption of the Old Bursledon Conservation Appraisal and Management Proposals SPD (**"the CA Appraisal"**).
11. The CA Appraisal protects generous plot sizes in proportion to buildings (at sections 4.21 and reiterated at 4.30). It also protects against the erosion of plot sizes to avoid harmful urbanisation as explained at 4.31 *"when implementing policies, particular regard will be had for the impact of proposed development on the space between buildings and the openness of the area, with the expectation that the character between the buildings will be conserved and enhanced"*.
12. The importance of open space and high quality design is further evidenced at 4.40 which states *"development proposals that would contribute to the cumulative urbanisation of the area, or otherwise be detrimental to the character of the area as viewed from the River Hamble will not be permitted"*.
13. In addition the Development's expanded footprint and modern glazing and appearance is at odds with the general character of the Salterns Lane and its immediate surrounds, as it is illustrated on page 60 of the onwads, constituting the type of "Unsympathetic modern development" the CA Appraisal seeks to avoid.
14. The intent to maintain the character and appearance of the Conservation Area's existing buildings is seen in the almost absolute prohibition on demolition and rebuilding in the previous Local Plan, as detailed at Appendix A 170.B of the CA Appraisal- where rebuilding was only acceptable on basis of dereliction¹, or enhancement of the appearance of the area.
15. In relation to the Local Plan, the Development contravenes Policy BU7 in these material ways:
 - (i) On the developer's own admission, the Development exceeds the 25% overall volume increase as stated at 6.3 of the D&A. Policy BU7 (a) imposes a mandatory ground for refusal, stating that an "extension beyond this limit will not be permitted" which is absolute.
 - (ii) The calculations provided in the D&A in calculating the volume increase value should be scrutinised with the 67% increase in footprint value independently. The Development is disproportionately larger, see Policy BU7 (c). Careful attention should be paid to the drawings and attached statements **contained within the D&A. We note no individual numerical measurements accompany the plans to allow local residents to verify this assertion.**

¹ We note no building survey of the existing building fabric has been included with the application.

- (iii) The reduction of 6 metres separation distance between neighbouring properties to the East and West plainly reduces the expansive plot size and openness of the area, both recognised as fundamental elements of the Conservation Area's character as cited in the CA Appraisal at 4.21
- (iv) There appears to be (or has already been) a loss of the extensive tree belt, the removal of which at the Southern and Western end of the Site runs contrary not only to BU7 (b) as regards openness of landscape, but also to BU7 (f) as regards the character of the Conservation Area as viewed from the River Hamble.
- (v) The proposed wrap-around glazing and bank of elevated bedrooms present a marked departure both from the design features of the existing dwelling and from the neighbouring dwellings in the Conservation Area, as identified in the SPD at 4.155 onwards, which goes to BU7 (d), as does the introduction of glazing-at height to the skyline, cumulatively contributing to the urbanisation of the Area -BU7 (e).
- (vi) When read together, these policy documents set out a clear vision for the retention of the Conservation Area's rural character: in development as a ratio to plot size, maintenance of expansive open space, density of flora and emphasis on appearance.

Loss of Amenity

16. The D&A does not consider the impact on neighbouring amenity of the added and elevated windows, elevation and extension of balconies or significantly reduced space between the dwelling and its neighbours to the East and West. Taken cumulatively, the overall Site Development would present a far more imposing and overlooking structure to the immediate neighbours. It is therefore inaccurate at 3.9 of the D&A to state that there will be no impact on the amenity of the surrounding neighbours and the Development would contravene Local Plan Policy DM26 designed to protect residential amenity.

Design and appearance

17. As noted above, the Development contains large areas of glazing, in contrast to the former building, and a continuous run of glazing to new bedrooms above the height of the original first floor. This is achieved by the addition of a flat roof, allowing for large feature glazing. The scale of this glazing is a main feature of the design.
18. The D&A references Bauhaus and modernist architectural influences and states the Development intends to replicate these influences from the existing dwelling. That argument is not convincing given the sheer scale and monolith facades of the proposal. It is simply not credible to cite Bauhaus to justify a departure from the surrounding buildings and overall architectural heritage of the Conservation Area.

The Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act")

19. S72 of the 1990 Act imposes a general duty on the Local Planning Authority to exercise its planning functions by paying special attention to the desirability of preserving or enhancing

the character or appearance of that area. This duty is incumbent on a decision maker as regards considering any development within this designated conservation area, especially as to whether the Development enhances the appearance of the Conservation Area. For the reasons mentioned in paragraphs 16-18 of this letter, the Development would harm the Conservation Area and is a material factor against the grant of planning permission.

20. The NPPF at paragraph 212 treats favourably development which enhances or better reveals the significance of a Conservation Area. It is clear that the Development in its proposed form would neither enhance nor add anything in keeping with the general appearance or character of the Conservation Area.

Trees, Landscaping and Foliage

21. The Arboricultural Statement at 3.11 makes the emphatic statement that no trees will be impacted by the Development. However, our instructions are that tree removal has already been undertaken at the Site in preparation for starting works on the Development, some of which may have occurred in 2022 under notice of intent NC/22/92747 contrary to this statement.
22. The Applicant's Arboricultural Statement, even in its revised form, is lacking in a quantified tree survey, isolation of trees, pictorial survey of the Site and statement of precise intentions regarding removal of foliage.
23. The Arboricultural Statement at 8.19 limits its assessment of the trees (no 7) identified to be "significantly affected by the development", i.e. those in direct proximity to the existing dwelling. No foliage or trees have been identified or quantified in the lower half of the Site next to the Railway where removal has been reported.
24. For this reason, the Arboricultural Statement is incomplete and deficient for its incompleteness, and misleading as to the Applicant's intended extent of foliage and tree removal at the Site.

Ecology and the Habitat Regulations Assessment

25. The Council's Ecology Officer's response to the Applicant's Ecology Report highlights the report's absence of any consideration of the Development's impact on Great Crested Newts. The Officer notes the Development lies within a "red impact risk zone" for the newts. This absence is notable because of Saltern Lane's obvious proximity to the Solent Maritime SAC, Solent and Southampton SPA, Lincegrove and Hackett's Marshes SSSI, with the River Hamble, a designated Ramsar Site, lying 105 metres due south.
26. It is widely-known the newts are a listed species attracting full protection under the Habitats Regulations. Their recorded presence triggers a mandatory full assessment compliant with the Regulations and as required by the Local Plan as part of the Sustainable Drainage System ("SuDs") programme, applicable to this Development under Policy DM6. We note no SuDs assessment has yet been submitted as part of the application. The need for a fuller assessment is reflected in the Assistant Newt Officer's recommendation of a

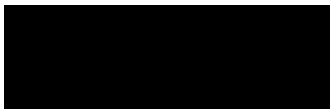
Reasonable Avoidance Measures programme devised by a qualified ecologist, to mitigate adverse effects.

27. Both the Ecology Officer and Assistant Newt Officer note the intention to remove foliage around the boundary and general landscaping. As the Council's tree response notes, and as outlined at paragraphs 21-25 of this letter, the Arboricultural Statement lacks detail on the retention of existing trees and foliage at Appendix 1, and landscaping in general. This provision of limited information constrains the Officers' capacity to advise as to impacts on the protected species identified and any suitable mitigation strategies. The Officers did not have the full scope of the intended tree removal and landscaping works before them at the time of issuing their responses and have therefore been unable to make a complete assessment.
28. The ecological/habitat assessments remain incomplete and deficient for these reasons. An incomplete appraisal of the risk of harmful impacts to protected species potentially puts the Council at risk of breaching their duty under section 40 of the Natural Environment and Rural Communities Act 2006. The recorded presence of the newts within 250m of the Site is a material planning consideration.

Conclusion

29. There is no justification to depart from planning policy and the strict requirements for redevelopment of residential properties in this historic and sensitive conservation area. It is fundamental to sound planning decision-making that the decision-maker require the Applicant to provide a clear justification for any such departure and none is provided. For this reason, the application should be refused.

Yours faithfully



RICHARD BUXTON SOLICITORS