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PLANNING STATEMENT

Variation of Condition 3 of Planning Permission WIR.09076

For the

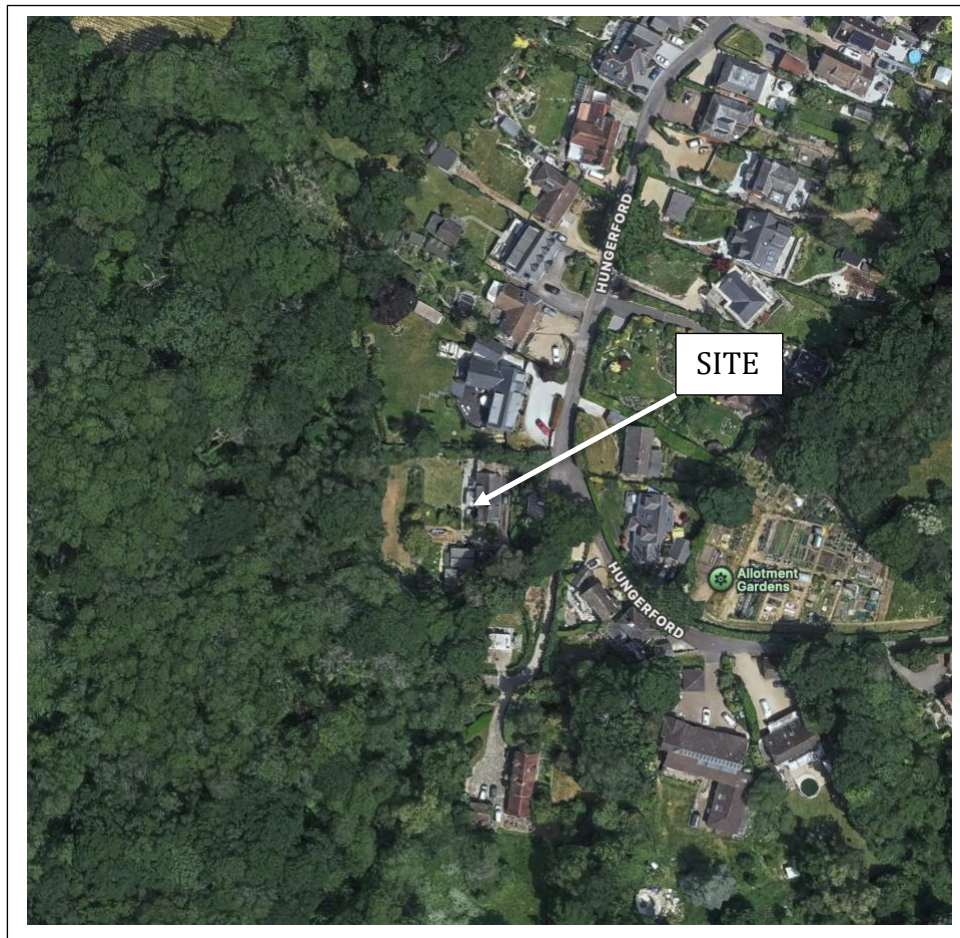
Erection of a Bungalow

Hungerford, Southampton SO31 8DE

(Now 'Birch Spinney')

MARCH 2026

1. THE APPLICATION SITE & SURROUNDINGS



- 1.1 The application site is located on the west side of Hungerford which is a narrow Lane comprising mainly linear residential development to the west of the main body of Bursledon village and to the south of Lowford.
- 1.2 The development comprises mainly detached dwellings in a mix of development styles on generally increasingly large plots towards the south.
- 1.3 The application site is a detached chalet style dwelling built in the 1960s with existing outbuildings to the south. The site slopes down from the Lane towards the west where land to the rear of the site, within the same ownership, lies within the Old Bursledon Conservation Area. The dwelling, garden and existing outbuildings are located outside of the Conservation Area.

2. THE APPLICATION PROPOSAL

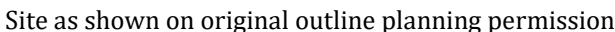
- 2.1 The original dwelling was constructed in the early 1960s, commencing with Outline Planning Permission WIR.09076 which was granted on 14th November 1961 subject to three conditions:

1. The submission to and approval by the Local Planning Authority of detailed plans showing the following particulars before development commences:-
 - a) the means of access from an existing or proposed highway to all buildings
 - b) the siting, design and external appearance of the buildings to be erected
 2. If detailed plans showing the particulars referred to in (1) above are not submitted within three years of the date hereof the permission shall lapse.
 3. Notwithstanding the provisions of the Town and Country Planning General Development Orders 1950 and 1960, no structures of any type shall be erected on the land without the prior consent of the Local Planning Authority.
- 2.2 The details were approved under WIR.09076/1 on 2nd October 1962.
- 2.3 A Variation of the Plans was approved under WIR.09076/1/V1 on 5th June 1964.
- 2.4 Final Design approved under WIR.09076/2 on 24th January 1964.
- 2.5 This application is to vary the original Outline permission by removing condition 3. The reasons for this will be explored in this statement.

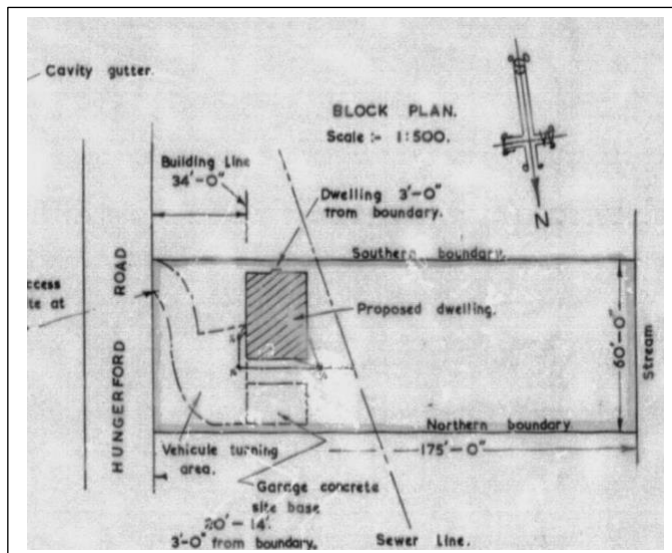
3. STATEMENT OF CASE

- 3.1 The case for the removal of this condition is set out under three headings:
- 3.2 **The Condition as worded is considered to be at best flawed and at worst Invalid –**
- 3.2.1 *The condition (which is now some 65 years old) specifically refers to the associated legislation which it seeks to override, namely the Town and Country Planning General Permitted Development Orders 1950 and 1960. The 1960 Order is incorrectly referenced as it came into force in 1959. What is crucial to note is that the potential developments being restricted were those explicitly PERMITTED by the referenced Orders. The Orders were revoked in 1963 through the adoption of a subsequent Order. This at the least, renders the Condition imprecise in that it is no longer clear as to the ‘Permitted Development Rights’ being removed.*
- 3.2.2 *In more recent years, Planning Conditions removing Permitted Development Rights have been required to make clear that the Condition will continue to refer to subsequent Orders that may over time replace or revise that referred to in its wording. It is also a requirement that a Condition removing Government granted Rights must make it clear what development is being restricted and why? The condition simply refers to all ‘structures’. The reason for the Condition is also unclear, reading “In order to secure a well-planned development”. This does not offer a clear insight into the reason for its*

The Application Site at the time of the Approval and Condition was considerably smaller than it is at present -



- 3.3.1 *Given the written reason for the imposition of Condition 3 in 1961 it is not possible to fully ascertain the actual planning justification for it (see Government Tests in Para.3.2.2 above). The best surmise is that the approved dwelling was relatively tightly constrained within its site which might have led to a potential 'overdevelopment' of the site were the full 'permitted development rights' to be implemented post construction.*



Original Dwelling sitting as approved

- 3.3.2 *Notwithstanding, the allowance under the original 1950 Order was 1750 ft³ (50m³) which is equivalent to approx. 3m x 7m x 2.5m flat roof extension. This is not large so that the test of the Condition as 'relevant to the development permitted' would not now be sustainable.*
- 3.3.3 *It may have been that the Local Planning Authority was concerned to contain development within the countryside however, given the modest size of permitted development (3.3.2) the removal of such rights would appear, now, to be 'unnecessary and unreasonable in all other respects'.*
- 3.3.4 *The residential site area is now more than twice the size of the original and a condition which at the time of implementation may (but arguably may not) have had justification, arguably, no longer does. The site is secluded and below the level of the Lane where extensions of the nature allowed under current 'permitted development rights' would not be harmful to the character of the area or the dwelling itself. The continued imposition of this 65 year old condition, which is out of pace with current planning policy and guidance cannot be justified.*
- 3.4 **The Site continues to be in the Countryside, but no Article 4 Direction is in force removing Class A Extensions to Dwellings.**
- 3.4.1 *The current residential property forms part of a coherent but spacious area of residential development beyond settlement boundaries. It is not apparent that other properties in the vicinity have had 'permitted development rights' expressly removed and many have been extended under the National*

allowances. These allowances have not been removed generally by the imposition of an Article 4 Direction such as has been the case with the land to the west (forming part of the Old Bursledon Conservation Area) where the right to erect outbuildings under Class E have been removed. The continued penalisation of the applicant and the site can only be considered unreasonable.

4. CONCLUSION

- 7.1 Condition 3 of Planning Permission WIR.09076 is 65 years out of date; it relates to legislation subsequently revoked; it was applied to a smaller site than is currently the case; it no longer fulfils the Government tests for the imposition of a planning condition; it has not been universally or fairly applied within the area; such development as would be permitted by its removal would not be harmful and would simply allow the freedoms given by Central Government, the curtailment of which no longer have justification.
- 7.2 The Local Planning Authority is requested to permit the variation of the Planning Permission by the removal of this outdated and unjustified Condition.