



KenParke
PLANNING CONSULTANTS

Anniversary House, 23 Abbott Road, Bournemouth, BH9 1EU
Tel: (01202) 538800 Fax: (01202) 538808
E-mail: info@kppcltd.co.uk
www.kenparkeplanning.com



RTPI

Chartered Town Planners

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

WRITTEN REPRESENTATIONS APPEAL

BY

MR E. BIZZEY, C/O MACRA LTD

AGAINST THE REFUSAL OF PLANNING PERMISSION BY

EASTLEIGH BOROUGH COUNCIL

FOR

**CONSTRUCTION OF 8.NO DETACHED DWELLINGS WITH
ASSOCIATED AMENITY SPACE, PARKING AND LANDSCAPING**

ON LAND AT

**THE ORCHARD, 5 WESTGATE MEWS,
KENILWORTH GARDENS, WEST END,
SOUTHAMPTON, SO30 3RE**

PREPARED BY

**JAMES BLAKE
BA (HONS) MSC MSC MRTPI
ASSOCIATE PLANNING CONSULTANT**

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August 2026

1.0 Introduction

- 1.1 This appeal Statement of Case has been prepared on behalf of Mr E. Bizzey, c/o Macra Ltd ('the Appellant') in support of an appeal, following the refusal of planning permission by Eastleigh Borough Council ('the Council') for full planning permission for the construction of 8No. detached dwellings with associated amenity space, parking and landscaping ('the appeal proposal') on land at The Orchard, 5 Westgate Mews, Kenilworth Gardens, West End, Southampton, SO30 3RE ('the appeal site').
- 1.2 The appeal proposal was prepared and submitted following the benefit of pre-application discussions with the Council under ref. Q/24/98653, whereby the Council issued their pre-application response on 10th March 2025. The Council's feedback was received positively and amendments were made to the appeal proposal to take account of the advice given.
- 1.3 Application ref. F/26/100809 was made valid on 26th January 2026, with a target determination date of 23rd March 2026. The Council's decision was subsequently issued on 20th March 2026.
- 1.4 The decision notice contains seven reasons for refusal relating to:
- Layout
 - Access
 - Amenity
 - Noise
 - Trees
 - Protected Species and Biodiversity; and
 - Nitrates and Recreational Disturbance.
- 1.5 The structure of this appeal statement is as follows: the site context and surrounds are discussed in Section 2. A summary of the relevant planning history associated with the site is provided in Section 3. A detailed description of the appeal proposal is set out in Section 4. A summary of the Development Plan is included in Section 5. Relevant material considerations are identified in

Section 6. The Appellant's Statement of Case is set out in Section 7. Conclusions are drawn in Section 8.

1.6 The following supplementary documents are provided in support of this appeal submission:

- Architecture, prepared by DMW Architects
 - Boundary Sections, drawing ref. PL14 Rev A
- Arboriculture, prepared by Barrell Tree Consultancy
 - Installing Structures in Root Protection Areas, document ref. SGN 10, V3.0
- Ecology, prepared by Ecosupport
 - BNG Habitat Management & Monitoring Plan, dated March 2026
 - The Statutory Biodiversity Metric, dated 3rd March 2026, Iteration 3
- Landscaping, prepared by The Landscape Service
 - Landscape Plan, drawing ref. 706-1-R4
 - Planting Plan, drawing ref. 706-2-R3
 - Tree Plan, drawing ref. 706-7-R1
- Noise, prepared by Clarke Saunders Acoustics
 - Acoustic Assessment, document ref. AS14071.260528.R1, dated 22nd June 2026
- Transport, prepared by Bright Plan
 - Technical Note, document ref. 2026-05-08-6785-TN01, dated 8th May 2026
- Unilateral Undertaking, pursuant to Section 106 of the Town and Country Planning Act 1990, dated 17th August 2026

2.0 The Site and Surrounding Area

- 2.1 The site comprises an area of garden land associated with The Orchard, an existing three-bedroom detached dwelling, which overlooks the site and which forms part of its curtilage. The site extends to approximately 0.5 hectares.
- 2.2 The site is of an irregular shape, made up of two overlapping rectangles; one larger than the other. The existing dwelling is located in the southern corner of the site and is set at a 45-degree angle to the other residential properties in the area, which face directly onto Westgate Mews. Views across the site from the existing dwelling therefore face directly toward the north-eastern corner.
- 2.3 The site is predominantly laid to lawn and is well-maintained, with established trees and hedging scattered across the site. A dense ornamental boundary hedge over five metres high is present along the length of much of the site's eastern boundary. In the north eastern corner of the site is a 4.2 metre high brick wall, which is a continuation of an existing high wall in the area around the Pitter Commercial Yard, which multiple residential dwellings back onto or are adjacent to.
- 2.4 Further trees and hedging are present along the remaining site boundaries, with close board fencing present along the northern/north-western and western boundaries. Established trees are present along the southern boundary, to the Utilita Bowl complex.
- 2.5 The site's topography is such that it is reasonably level around the existing dwelling, rising gently upward toward the western boundary behind the dwelling. The remainder of the site is set lower than the land immediately surrounding the dwelling, dropping away to the east and then reducing to a gradual slope by the eastern boundary. A low point is present near the north-eastern boundary of the site.
- 2.6 The existing dwelling and thus, the wider site, are accessed through a set of double gates via a private driveway from Westgate Mews, off of Kenilworth Gardens, Telegraph Road. Westgate Mews is at the bottom of a cul-de-sac which runs through a 1990s housing estate and features mainly two-storey detached dwellings, set within modest plots.

- 2.7 The site falls within the settlement boundary and 'urban edge' of West End, Eastleigh.
- 2.8 The site is not within a Conservation Area and does not contain any designated or non-designated heritage assets. There are no listed buildings, locally listed buildings or scheduled monuments within 200 metres of the site either.
- 2.9 The site is within Flood Zone 1 and is at very low risk from surface water flooding. Neither Westgate Mews nor Kenilworth Gardens are subject to any surface water flooding issues either, ensuring that access and egress from the site will remain functional, even during a 1-in-1,000 annual likelihood of flooding scenario.
- 2.10 The site does not contain any ecological designations. The Telegraph Woods SINC is located some 100 metres away to the south/south-east of the site.
- 2.11 There are no Tree Preservation Orders (TPOs) in effect over the trees on-site.
- 2.12 There are no Public Rights of Way (PRoW) within the site, or adjacent, or adjoining the site; however, there is a footpath linking Beacon Road to Hilldene Way and another footpath linking Telegraph Road to Botley Road via Telegraph Woods and the Utilita Bowl complex.
- 2.13 The character of the area is predominantly a moderately-dense area of residential dwellings, with dwellings to the immediate west and north of the site. The Utilita Bowl complex is located to the south of the site, with open land used for parking associated with the complex closest to the site. It is understood that the Council are, in principle, supporting the redevelopment of the Utilita Bowl complex for residential purposes.
- 2.14 To the site's east is the Pitter Commercial Yard site, which is a family run business that has operated from its present location since 1915, with significant residential development 'growing up' around the site in the intervening time period. The Yard comprises large areas of hardstanding used for the parking of commercial vehicles, plus several large buildings, the closest one being some 30 metres from the site's north-eastern boundary.

- 2.15 The site has good access to a range of local shops, services, facilities and amenities in the area, as well as opportunities for employment. Nearby bus links are available along the B3035 Botley Road, whilst access to the wider transport network, including the M27 Motorway are available from Junction 7, from the A27 to the south-west of the site. The nearest train station is Hedge End.
- 2.16 Further, the Hedge End Retail Park can be reached on foot within 30 minutes, providing access to a range of supermarkets and other shopping facilities.

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3.0 Planning History

- 3.1 Aside from the most recent planning application associated with this appeal, a search of the Council's online planning reveals that there is no relevant planning history for the site.
- 3.2 A request for pre-application advice was undertaken prior to the submission of the appeal proposal (ref. Q/24/98653). The response from the Council was largely positive in confirming that the principle of the development on the site for residential purposes was acceptable. However, the response was not overly supportive of the submitted layout and quantum of development.
- 3.3 Amendments to the scheme were undertaken by the project team to address the matters raised by the pre-application response and the Appellant considers that the changes made were positive and took account of the Council's comments.
- 3.4 Application ref. F/26/100809 was subsequently submitted with these changes. Once validated, correspondence with the Planning Officer and various consultees revealed that there were concerns raised about the submitted proposal. However, rather than accepting any further details and information to be submitted to address the matters of concern raised, the application was simply refused on 20th March 2026 for the following reasons:

- "1. Layout: The proposed development fails to adequately take into account the site constraints, resulting in an unnecessarily cramped and constrained development which fails to provide an appropriate quality of environment for future occupiers, or provide adequate room for soft landscaping and new/replacement tree planting, to the detriment of the amenity of future occupiers and the character of the locality. As such the application is considered to be contrary to Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document.*
- 2. Access: It has not been demonstrated that the existing site access via Westgate Mews is sufficiently adequate and suitable for the scale of the development proposed, and that it would not lead to an*

unacceptable impact upon the amenity and safety of existing Westgate Mews residents and future residents of the proposed development. As such, the application is considered to be contrary to Policies DM1 and DM13 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document.

3. *Amenity: The proposed site layout fails to mitigate the oppressive effect of the retained boundary hedge and wall, which will adversely impact the outlook of future occupiers of the development and light to the proposed dwellings and their gardens. This together with the excessive amount of hardstanding will dominate the development, to the detriment of the amenity and quality of environment for future occupiers. As such the application is considered to be contrary to Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document.*
4. *Noise: It has not been demonstrated that the amenity of future occupiers of the development would not be unacceptably impacted by noise and other forms of disturbance from neighbouring commercial uses, and the neighbouring sports stadium, contrary to Policies DM1 and DM8 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document.*
5. *Trees: It has not been demonstrated that sufficient new trees can be accommodated within the resulting development to replace those which has been removed in accordance with the Council's 'Trees and Development' Supplementary Planning Document, or that neighbouring trees would not be put under future pressure as a result of the development. As such, the application is considered to be contrary to Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 and the above-mentioned Supplementary Planning Document.*
6. *Protected Species and Biodiversity: It has not been demonstrated that the proposed development will not result in harm to protected species or their habitat. Neither has it been demonstrated that the development can provide a biodiversity net gain of at least 10%. As such, that proposed is considered to be contrary to Policy DM11 of the Eastleigh*

Borough Local Plan 2016-2036 and the requirements of Schedule 14 of the Environment Act 2021.

7. *Nitrates and Recreational Disturbance: The application fails to provide the require mitigation to offset the impacts of the development upon the European Protected Solent Complex (SPA, SAC and Ramsar sites), and New Forest National Park (SPA, SAC and Ramsar sites) from additional recreational pressure and nitrogen loading generated by the population increase and additional sewage resulting from the development. The proposal is therefore contrary to the requirements of Policies DM1, DM10 and DM11 of the Eastleigh Borough Local Plan 2016-2036, the provisions of the NPPF (2023) and the Conservation of Habitats and Species Regulations 2017.”*

- 3.5 It is considered that each of the above reasons for refusal is fully capable of being overcome as they relate to technical matters rather than matters of principle; hence the Appellant’s decision to proceed with an appeal. Further details of how each reason is addressed are set out in Section 7 of this statement (Appellant’s Statement of Case).

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4.0 The Appeal Proposal

- 4.1 The appeal proposal seeks full planning permission for the erection of eight dwellings (Use Class C3), including associated landscaping, parking and infrastructure.

Proposed Housing Mix and Size

- 4.2 A total of eight dwellings are proposed, with a mix of dwelling types and sizes to help meet local needs. Four no. three-bedroom detached dwellings are proposed, alongside three no. three-bedroom detached townhouses, and one no. detached four-bedroom dwelling.
- 4.3 No affordable homes are proposed as the development falls below the threshold for such provisions.
- 4.4 Units 1, 2, 7 and 8 are proposed to be 95 sqm; Units 3, 4 and 5 are proposed to be 146 sqm; and Unit 6 is proposed to be 122 sqm. Each unit will be two-storeys, except for Units 3, 4 and 5, which will be 2.5 storeys.

Design, Density and Layout

- 4.5 The site has been designed and laid out to make efficient use of the space available, as required by national policy, and to take account of the site's topography. The density of the development is appropriate and in-keeping with the density of the area in general. The height of dwellings is also consistent with the surrounding building heights in the locality.
- 4.6 The layout comprises a logical form, enabling ease of movement across the site. There are three areas of dwellings, comprising the 'gateway' Units 1 and 2, arranged to continue the line of dwellings along Westgate Mews; a 'terrace' of three staggered townhouses, comprised of Units 3 to 5 along the site's southern boundary; and a group of three detached dwellings in the northern corner of the site, comprising Units 6 to 8.
- 4.7 The design of the dwellings incorporates traditional, yet modern styles which are complementary of, and in-keeping with the surrounding dwellings, utilising

similar materials, colours and textures to ensure continuity, whilst also achieving a unique character for the proposed development.

- 4.8 The dwellings themselves comprise a mix of detached houses, seven of which are three bedroom, with one no. four bedroom unit. Careful consideration has been given to the orientation of dwellings, their placement within the site and location of fenestration on dwellings to ensure good levels of sunlight and daylight are achieved for all units, enabling bright and airy spaces to be created, with good levels of amenity.
- 4.9 All dwellings are to be provided with generously sized private garden spaces, with dedicated parking spaces, either on-plot or within designated parking bays. Each garden space has been designed to ensure these are of a similar size to those in immediate context of the site.
- 4.10 The existing dwelling will retain a significant frontage and private side and rear garden space as part of the proposal, ensuring it features, character and status is not harmfully diminished.

Access and Parking

- 4.11 The site will continue to be accessed from Westgate Mews, with the existing dwelling sharing this entrance with the proposed eight new dwellings, meaning the driveway will serve nine dwellings and Westgate Mews will serve 13 dwellings in total.
- 4.12 The proposed path of the internal road and movements across the site for pedestrians and vehicles has been carefully considered, taking account of the site's topography. A sweeping road is proposed to serve all nine dwellings within the site, with several turning heads to allow for ease of manoeuvrability for vehicles, with sufficient space for refuse freighters and fire tenders.
- 4.13 A total of 20 vehicle parking spaces are proposed across the site, with two visitor spaces included as part of this. The existing dwelling will retain two dedicated parking spaces, in addition to the double garage which adjoins the dwelling, with a turning space included to allow for vehicles to manoeuvre into and out of its retained curtilage in a forward gear.

- 4.14 To encourage more sustainable modes of transport, secure and covered bicycle storage sheds are proposed within the rear garden spaces of each unit, in addition to electric vehicle charging points.

Landscaping, Trees and Biodiversity

- 4.15 The site is proposed to include significant soft landscaping to create an attractive setting for the eight dwellings and will feature native species tree, hedge and shrub planting across the site, as well as the retention and enhancement of existing trees and hedging.
- 4.16 Each dwelling will benefit from a large private garden space, laid to lawn. Several pockets of green space are proposed across the site, to provide room for grass and trees along the road edges.
- 4.17 The existing large ornamental hedging along the north-eastern boundary will be pruned back to reduce its width. Additionally, several trees removed along the southern boundary and northern boundary to facilitate the development are to be replaced within the site.
- 4.18 The replacement trees and hedging across the site, in addition to new native species planting will help to encourage biodiversity and geodiversity across the site, as well as encourage linkages between the site and the surrounding area.
- 4.19 Hard landscaping will include a tarmacked internal road, permeable block paved driveways and permeable paving to rear garden spaces. The use of 1.8 metre close board fencing with hedgehog holes and brick retaining walls will feature across the site to provide privacy and to address the level changes across the site.
- 4.20 An extension to the existing 4.2 metre wall is proposed along the north-eastern boundary of the site to provide acoustic screening from the adjoining Pitter Commercial Yard. Currently this wall terminates part way along the boundary and so will therefore be extended from this point. The wall will be built behind the retained ornamental hedge along the north-eastern boundary which will help to act as a visual and acoustic screen to the neighbouring commercial use.

Ecology and Biodiversity Net Gain

- 4.21 The proposal seeks to enhance opportunities for biodiversity across the site through additional and replacement planting, as well as including swift bricks, bat bricks and insect bricks, hedgehog holes within fencing and hedgehog homes along the site's southern boundary.
- 4.22 A hybrid method of both on-site and off-site Biodiversity Net Gain (BNG) will be incorporated, with on-site enhancements and the purchase of off-site BNG units from a nearby scheme provider to ensure that the proposal achieves the 10% net gain required.

Recreational Impact and Nutrient Neutrality

- 4.23 To ensure that the development does not have an adverse impact on the New Forest and Solent Special Protection Areas (SPAs), the Appellant is willing to enter into a legal agreement with the Council for the purposes of securing appropriate mitigation fees to offset the net gain of dwellings and the potential impacts of future occupiers on the SPA areas.
- 4.24 To achieve nutrient neutrality, the Appellant will purchase off-site credits from a scheme provider, to be secured by legal agreement, to offset the nutrient impact of the proposal on the Solent catchment area.

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5.0 The Development Plan

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 advises Local Planning Authorities to determine planning applications in accordance with the policies of the Development Plan unless material considerations indicate otherwise.

5.2 In this instance, the relevant part of the Council's Development Plan comprises the Eastleigh Borough Local Plan 2016-2036 (April 2022). The following policies bear particular relevance to the proposal as they are cited in the reasons for refusal on the decision notice.

5.3 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 space;*
- 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."*

5.4 Policy DM8, Pollution:

- "1. *Development will not be permitted if it is likely to cause loss of amenity or impact on public health or other unacceptable environmental impacts through:*
- a. *air pollution (including odours or particulate emissions);*
- b. *pollution of surface, underground, coastal waters or other watercourses;*

- c. *noise or vibration;*
 - d. *light intrusion, both generally and with respect to the South Downs National Park's status as an International Dark Night Skies reserve; or*
 - e. *land contamination.*
2. *Development susceptible to particular forms of pollution will not be permitted:*
- a. *where it will be adversely affected by such pollution, unless measures can be taken that adequately mitigate the polluting effects; or*
 - b. *where it would inhibit existing economic or other activities giving rise to acceptable polluting effects.*
3. *Where a development site is known or suspected to be contaminated, before the site is developed the Borough Council will require the contamination to be remediated to a standard where as a minimum it cannot be defined as 'contaminated land' under Part IIA of the Environmental Protection Act 1990."*

5.5 Policy DM10, Water and Waste Water:

- "1. Where new water supply or waste water infrastructure is required or proposed in support of new development the development will be phased alongside the provision of the infrastructure to ensure:*
- a. *compliance with the Habitats Regulations;*
 - b. *that there is no deterioration of the status of water bodies which might impact adversely on Water Framework Directive requirements; and*
 - c. *the avoidance or mitigation of any other adverse impacts.*
- 2. Wherever possible measures should be implemented which would improve the water environment."*

5.6 Policy DM11, Nature conservation:

“General Approach

1. *The Council will work with statutory and voluntary agencies and developers, and will determine planning applications, to:*
 - a. *protect, conserve and enhance all:*
 - i. *international, national and local nature conservation designations; and*
 - ii. *networks of natural habitats and features, including the Local Ecological Network, Priority Biodiversity Areas and Priority Biodiversity Links, watercourses, wetland complexes, woodland trees, and trees and hedgerows important to biodiversity and local character; and*
 - iii. *facilitate their adaptation to climate change wherever possible;*
 - b. *assist in achieving national, county and local biodiversity targets as set out in Biodiversity Action Plans (BAPs);*
 - c. *seek a net gain of biodiversity on all development sites (including sites for redevelopment) through the protection, enhancement and connection of existing and provision of new habitats and features of nature conservation interest compatible with the native biodiversity characteristics of the Borough, having regard to local geodiversity and soils; and*
 - d. *contribute to major elements of the PfSH Green Infrastructure Strategy and other strategies for the provision and enhancement of multifunctional green infrastructure including green routes, ecological networks and biodiversity enhancements (see strategic policy S9).*

International Designations

2. *Development which is likely (either individually or in combination with other developments) to adversely affect the integrity of an international or European nature conservation site will not be permitted subject only to imperative reasons of overriding public interest and securing any necessary compensatory measures in the absence of alternative solutions. A 'project level' Habitat Regulations Assessment will be required where there are likely significant effects or uncertainty. Any mitigation measures required to ensure no adverse impact must be implemented at the appropriate time.*
3. *The Council will work with PFSH, Natural England, the Environment Agency and other wildlife organisations to develop and implement with developers a strategic approach to the protection and enhancement of international and European sites from the direct and indirect effects of development. Within Eastleigh Borough this will include:*
 - a. *Implementing:*
 - i. *the Solent Recreation Mitigation Strategy (requiring contributions from residential developments within 5.6 kilometres of the Solent Special Protection Area to the Strategy); and*
 - ii. *the interim and any future New Forest Recreation Mitigation Strategy if required; or alternative agreed site specific measures to address recreational disturbance;*
 - b. *preserving the water quality and flows within the Itchen and Hamble, Southampton Water and Solent;*
 - c. *protecting the River Itchen SAC, in particular the maintenance and where appropriate restoration of habitats and qualifying species to favourable conservation status (as defined by article 1 of the Habitats Directive); and*

- d. *seek contributions towards measures set out in the Southern Damselfly Conservation Strategy (or other strategy) specifically to deliver biodiversity net gain.*

National and Local Designations

- 4. *Development will not be permitted if it is likely (either individually or in combination with other developments) to have a direct or indirect adverse effect on a Site of Special Scientific Interest (SSSI), Site of Importance for Nature Conservation (SINC) or Local Nature Reserve (LNR) as shown on the policies map (or on a more recent plan provided by the Hampshire Biodiversity Information Centre) unless it can be demonstrated that:*
 - a. *there are no alternative solutions;*
 - b. *the adverse effects are unavoidable;*
 - c. *measures are taken to mitigate or, as a last resort, compensate for the adverse effects;*
 - d. *there is an overall biodiversity net gain; and*
 - e. *if there are any residual adverse effects which cannot be avoided, mitigated or compensated, the benefits of the development must clearly outweigh the adverse effects on the nature conservation value of the site and any broader impacts on national and local designations.*

Priority habitats, protected and priority species and the local ecological network

- 5. *Development will not be permitted if it is likely (either individually or in combination with other developments) to have a direct or indirect adverse effect on priority habitats, protected or priority species, or on the local ecological network unless it can be demonstrated that:*
 - a. *there are no alternative solutions;*
 - b. *the adverse effects are unavoidable;*

- c. *measures are taken to mitigate or, as a last resort, compensate for the adverse effects;*
- d. *there is an overall biodiversity net gain; and*
- e. *if there are any residual adverse effects, the benefits of the development clearly outweigh the adverse effects on priority habitats, priority and protected species, and the local ecological network.*

Irreplaceable habitats

- 6. *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.*

Buffers

- 7. *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.*

Surveys

- 8. *Development will not be permitted unless it can be demonstrated that:*
 - a. *there have been thorough habitat and species surveys;*
 - b. *the great crested newt strategic survey and strategy have been considered in all developments within 500m of a great crested newt pond; and*
 - c. *the strategic bat trapping survey has been considered in all developments within the locality of a woodland or connected habitat networks.”*

5.7 Policy DM13: General development criteria – transport

- “1. All new development must have safe and convenient access to the highway network and make provision for access to, and by, other transport modes including public transport and cycle and pedestrian routes as appropriate. Access arrangements to the highway network must:*

 - a. meet national and local guidance and standards with all highway improvements meeting the standard required to be adopted by the Highway Authority;*
 - b. not cause or increase danger to road users or have a significant detrimental impact on the operation or safety of the highway network; and*
 - c. be provided without unacceptable environmental impact.*
- 2. All new development will be assessed to establish whether it should contribute to off-site improvements to transport infrastructure in accordance with Hampshire County Council’s Transport Contributions Policy, to the extent that these are necessitated by the development and proportionate to the scale of development.*
- 3. Development proposals that will generate vehicle movements likely to have an adverse impact on traffic conditions beyond the immediate vicinity of the development site must be subject to Transport Assessment and will be required to incorporate and implement mitigation measures such as:*

 - a. provision of/contribution towards on and off-site highway improvements such as junction improvements and potentially new road links*
 - b. on-site pedestrian, cycle and public transport infrastructure*

- c. *contributions towards relevant off-site sustainable transport infrastructure, public rights of way and service improvements where appropriate*
 - d. *on-site measures aimed at increasing uptake of non-car travel options (e.g. Travel Plans⁴⁹) to reduce car use.*
4. *New development intended to serve or accommodate large numbers of people will only be permitted in locations that as well as having adequate road access, or will have as a result of the development, are or can be served by means of transport other than the private car, including bus, train, cycle and pedestrian access.”*

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6.0 Relevant Material Considerations

6.1 Section 70(2) of the Town and County Planning Act 1990 (as amended) requires that all relevant material considerations be taken into account in the decision-making process. The following documents are considered to contain relevant material considerations in this instance:

- National Planning Policy Framework (NPPF) (August 2026)
- Quality Places SPD (November 2011)
- Draft Quality Places SPD (2025)
- Trees and Development SPD (April 2022)

National Planning Policy Framework (2026)

6.2 Since the application was determined, an update version of the NPPF has been released (2026 version). The following paragraphs and policies are considered to be of particular relevance:

6.3 Paragraph 15: The purpose of the planning system is to contribute to the achievement of sustainable development, by managing the use and development of land in the long-term public interest.

6.4 Paragraph 17: Achieving sustainable development means that the planning system has three overarching objectives for the homes, commercial development, facilities and infrastructure which society needs. These objectives are independent and need to be pursued in mutually supportive ways.

6.5 Policy S3: Presumption in favour of sustainable development

1. Decisions on development proposals should apply a presumption in favour of sustainable development. This means:
 - a. Policy S4 in the NPPF should be applied when considering development proposals within settlements.

- c. In all locations, development proposals that accord with both an up-to-date development plan and the decision-making policies in the NPPF should be approved without delay.

6.6 Policy S4: Principle of development within settlements

- 1. Development proposals within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies of the NPPF.
- 2. In applying policy S4, the circumstances in which the benefits of approving development are likely to be substantially outweighed by adverse effects include (but are not restricted to) situations where the development proposal would:
 - a. Have a substantial adverse impact in relation to:
 - i. The allocation or safeguarding of land or buildings for particular uses in the development plan, unless there is no reasonable prospect of an application coming forward for the allocated use, or there is evidence that the safeguarding is no longer appropriate; or
 - ii. The application of the policies in this Framework for development within residential curtilages (L2(1)(d)).

6.7 Policy HO7: Meeting the need for homes

- 1. Substantial weight should be given to the benefits of providing homes which will contribute towards meeting the evidenced accommodation needs of the community.

6.8 Policy L2: Making effective use of land:

- 1. Substantial weight should be given to the benefits where a development proposal would achieve one or more of the following:

- b. Making better use of vacant and underutilised land and buildings; or
- d. Creating additional homes or floorspace within settlements through sensitive redevelopment or additional development within existing plots. Such proposals should:
 - i. be consistent with the overall street scene;
 - ii. Maintain safe access and egress for occupiers and users, and acceptable living standards for residents and neighbours in terms of access to daylight, sunlight, privacy and external amenity space.

6.9 Policy L3: Achieving appropriate densities:

- 1. Development proposals should make efficient use of land, taking into account the identified need for different types of housing and other development, local market conditions, the availability of infrastructure (including that supporting sustainable transport modes) and its scope for improvement, a site's connectivity and the importance of securing well-designed, attractive and healthy places.
- 2. To contribute to making efficient use of land:
 - a. Within settlements, development proposals for residential development should contribute to an increase in the density of the area in which they are situated. The only exception is where there is a clear justification that this is either inappropriate or not possible. In considering the potential to increase densities, the existing character of an area should be taken into account, in accordance with policy DP3, but should not preclude development which makes the most of an area's potential.

6.10 Policy DP3: Key principles for well-designed places:

- 1. Development proposals should respond to their context, so that they integrate with and enhance their surroundings; such as through the

arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets. This should not preclude innovation or change where appropriate, especially where an increased scale or density of development is justified in accordance with policies L2 and L3.

2. To create well-designed places, development proposals should also reflect relevant aspects of the following principles, as appropriate to the nature of the development and its location:
 - a. Liveability
 - b. Climate
 - c. Nature
 - d. Movement
 - e. Built Form
 - g. Identity

6.11 Policy TR3: Locating development in sustainable locations:

1. So that development is located where it can support sustainable patterns of movement, enable good accessibility for different users and make the most of existing and proposed transport infrastructure, development proposals should reflect the following principles, taking into account the vision for the site, the type of development and its location:
 - a. Development proposals which could generate a significant amount of movement, in the context of the area within which they would be situated, should be in locations that are sustainable (or which can be made so, taking into account planned improvements, including any provided for as part of the development itself).

- c. Any significant adverse impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, should be mitigated to an acceptable degree using a vision-led approach.

6.12 Policy TR4: Street design, access and parking:

1. To contribute to creating well-designed places, transport considerations should be integral to the design of development, proposals for which should:]
 - a. Give priority first to walking, wheeling and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating easy access to high quality public transport
 - c. Ensure that the arrangement of streets and other routes help to create places that are safe, inclusive and attractive for all users. This includes reflecting relevant aspects of policy DP3(2), as well as employing measures to:
 - i. Minimise the scope for conflict between pedestrians, cyclists and vehicles.
 - d. Allow for the efficient delivery of goods, and ease of access by service and emergency vehicles, in ways which do not compromise key place-making principles.
 - e. Provide a suitable number of parking spaces for a range of transport modes where appropriate, reflecting the location and nature of the development (including its connectivity), any locally-set standards in the development plan, and including adequate provision of spaces and infrastructure that allow for the charging of electric vehicles in safe, accessible and convenient locations.

6.13 Policy TR6: Accessing transport impacts:

3. In assessing movement patterns and potential impacts, including whether they are considered to be severe, reasonable future scenarios should be considered, taking into account impacts at relevant times of the day, potential cumulative impacts, multimodal trip generation and the promotion of sustainable modes of travel, and realising the transport vision for the development itself.
4. Development proposals should be refused if they would have a severe adverse impact on the transport network (in terms of capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety; taking into account any mitigation measures proposed as well as any wider network improvements, including measures to support sustainable patterns of movement.

6.14 Policy P3: Living conditions and pollution:

1. Development proposals should be appropriate for their location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, whether these effects are on or off-site; and whether this is as a result of the development itself or the product of preexisting conditions in its vicinity. In assessing the potential effects of pollution, consideration should be given to the potential sensitivity of the site, and its intended occupiers and users, as well as that of the environment and population in the surrounding area.
2. Within this context development proposals should:
 - a. Provide healthy living conditions for occupiers and users in terms of adequate access to light and avoiding exposure to levels of air, noise, artificial light or other sources of pollution which could have an unacceptable adverse effect on health and the quality of life. Where necessary suitable mitigation measures should be incorporated to secure acceptable living conditions;

- b. Not give rise to, or contribute to, an unacceptable level of access to daylight and sunlight for neighbouring residents and occupiers, or unacceptable levels of air, noise, artificial light, water, soil or other forms of pollution on or beyond the site. Adverse impacts of this nature should be avoided where possible, or else mitigated to an acceptable degree. Where possible, opportunities should be taken to reduce pollution affecting the wider area.
3. In applying this policy, it should be assumed, unless there is clear evidence to the contrary, that separate regulatory regimes for the control of pollution will operate effectively, as set out in policy DM7. This means that it will be appropriate to take into account emissions limits set through those other regimes.

6.15 Policy P4: Impact of development on existing activities:

1. Existing businesses, community facilities, public services and defence and security activities should not have unreasonable restrictions placed on their current or permitted operation as a result of development being approved after they were established. This means that development proposals should be capable of being integrated effectively with existing business, community and public service activities and infrastructure in their vicinity.
2. Where the operation of an existing activity could have a significant adverse effect on a proposed new development in its vicinity, development proposals should:
 - a. Identify the nature of the potential impacts, informed where necessary by early discussions between the applicant (i.e. the 'agent of change') and those existing uses which could be affected by the proposal to inform the scope for mitigation; and
 - b. Be able to demonstrate that suitable mitigation can be provided before first occupation of the development, if it is to be

acceptable. Planning conditions or obligations should be used to secure agreed mitigation measures.

6.16 Policy N2: Improving the natural environment:

1. To contribute positively to the natural environment, and support nature's recovery, development proposals should:
 - a. Consider the environmental qualities of land proposed for development, including habitats, landscape character and the natural beauty of the countryside, and identify opportunities for those qualities to be conserved or enhanced.
 - c. Take suitable opportunities to connect to and strengthen ecological networks that extend beyond the site.
 - d. Conserve and enhance existing natural features of visual, historic or nature conservation value (such as established trees and hedgerows) where possible; and use appropriate landscaping to help create a well-designed place and integrate the development into its surroundings.
 - e. Minimise any adverse impacts on biodiversity and include features which support priority or threatened species such as swifts, bats and hedgehogs. Development proposals should incorporate integrated nest boxes.

6.17 Policy N3: Trees in new development:

1. In recognition of the benefits which trees can provide for biodiversity, climate change mitigation and adaptation, and the character and quality of the built environment, development proposals should:
 - a. Make new streets tree-lined (unless there are strong reasons why this would be inappropriate in specific streets), and incorporate trees in other suitable locations, such as in parks and through the provision of community orchards;

- b. Ensure that the selection of species and their placement is compatible with highways and other infrastructure requirements and the needs of different users of public spaces; and will be effective in helping to adapt to the effects of climate change and delivering other environmental benefits.
- c. Make provision for the long-term maintenance of both existing and newly-planted trees which form part of the development.

Quality Places SPD / Draft Quality Places SPD

- 6.18 New development should provide for safe and convenient access to local facilities and frequent public transport and must integrate well with cycle, pedestrian and vehicular movement networks.
- 6.19 Proposals should analyse the character of a site and its context to identify positive and negative elements which will influence and inform the overall design and orientation of buildings and spaces. Density should be appropriate to the context and level of accessibility; make efficient use of land and address the needs of residents.
- 6.20 Development should have its own identity and variety so that it is easy for people to find their way around. The design and future management of all external spaces must be an integral part of the development.
- 6.21 Boundary treatments must be appropriate to the context, well-detailed and robust.
- 6.22 New development should be designed to respect the residential amenity of existing and new occupiers, and all dwellings should have adequate private amenity space.
- 6.23 Access within the site should be overlooked, safe and convenient to use. Surface car parking and cycle parking should be safe, convenient to use and have natural surveillance. Car parking should not visually dominate the public realm.

- 6.24 Waste and recycling and cycle storage should be safe, accessible and convenient for the intended users and properly integrated into the built design. Cycle storage should be secure.
- 6.25 The scale, form and design of elevations and external materials should respond positively to the defining and distinctive characteristics of the area. Design and materials should help create a new positive and distinctive character.
- 6.26 Buildings should be designed to enclose space and have active frontages onto the public realm.

Trees and Development SPD (April 2022)

- 6.27 Retaining and incorporating existing trees into a development requires attention to detail at the design stages to ensure that future problems with the spatial and structural relationships between trees and development are avoided, and that the full benefits of all trees are accrued over their lifetime.
- 6.28 Development layouts must be designed to ensure that retained trees are able to grow and mature in the space provided, both above and below ground, taking into account utilities, sightlines, lighting, structures and all other elements of the scheme.
- 6.29 Tree position in relation to buildings, private gardens and other development must be carefully considered by applicants as part of the design stages. A balance must be struck between usable, liveable environment and the benefits that trees provide.
- 6.30 High-quality landscape design must not be solely focused on tree replacement planting, it must include additional trees, other plantings, recreational spaces and public art. In order to give developments a sense of place and character, and to provide high-quality environments, landscape design must be integral to the planning process.

7.0 Appellant's Statement of Case

- 7.1 This section of the Appeal Statement of Case discusses the reasons for refusal and presents the Appellant's case for why this appeal should be allowed.
- 7.2 The Appellant is of the opinion that the proposal fully accords with the policies of the Development Plan when read as a whole, along with the aims of national policy, contained within the NPPF (2026). Any perceived harm by the Council is limited and can be mitigated by condition or obligation. Furthermore, the benefits of the scheme are clearly outweighed by any residual concerns.

General Observations relevant to the Principle of Development

- 7.3 The site is a brownfield site, within the settlement boundary and the defined 'urban edge' of Eastleigh, where the principle of higher-density residential development is acceptable, as set out within the provisions of the Local Plan.
- 7.4 It is worth noting at this juncture that the Local Plan was adopted in 2022 and preparations are therefore underway for a review of its policies. This is particularly important given that Eastleigh's current housing land supply position is one of 4.2 years and that the Government's increased housing figures require the Council to now provide 922 dwellings per annum, up from 729 dwellings per annum. Taking account of this position, the policies of particular relevance to the proposal in respect of housing are considered to be outdated and thus should be afforded only limited weight in the decision-making process.
- 7.5 As such, there exists a clear presumption in favour of sustainable development, alongside the tilted balance being engaged.
- 7.6 The Officer Report recognises that the proposed development will contribute to the Borough's housing supply need, but downplays the significance of this in the planning balance as 'carrying relatively modest weight'. However, the Officer Report also confirms that the "*basic principle of development is acceptable*" and that there is "*no objection in principle to further residential development*" in the area in general and on the site specifically.

- 7.7 The proposal delivers eight dwellings, in the form of three and four bedroom houses, with associated parking landscaping and infrastructure and includes biodiversity enhancement and sustainable drainage and represents the logical and efficient redevelopment of a sustainable and accessible site within the urban area of the Borough, where such developments are encouraged by both local and national policy.
- 7.8 Indeed, the Local Plan at Policy DM26, along with the updated version of the NPPF (2026), including the provisions of Policies L2 and L3, are clear that proposals which make efficient and effective use of land available should be afforded significant support.
- 7.9 Overall, it is considered that the proposal represents a logical and appropriate form of development in an urban edge location, which will contribute positively to local housing supply numbers, whilst making efficient and effective use of the land. Notwithstanding this, as set out in the application Planning Statement, the proposal will have a positive result in terms of the provision of housing for the borough of Eastleigh.
- 7.10 The reasons for refusal amount to matters of detail, rather than to the principle of the proposal and are fully capable of being overcome. It is important to emphasise that in addition to the above, none of the reasons for refusal demonstrate that the residential development of the site is unacceptable; rather they concern matters which have either been resolved through supplementary technical evidence submitted with this appeal or are capable of being addressed by appropriate planning conditions.
- 7.11 Taken as a whole, there are clear benefits which arise from the proposal, notwithstanding the positive contribution made to local housing supply numbers, which should weigh significantly in the planning balance. Other benefits include the positive impacts in respect of social, economic and environmental matters, as are explained in detail in the remainder of this statement.

Reason for Refusal 1 – Layout

- 7.12 The Council contend that the scheme is cramped, that it fails to respond to constraints and that it does not provide for adequate landscaping or living environment.
- 7.13 Policy DM23 seeks the efficient use of land, and this is encouraged by the NPPF (2026), which calls for the optimisation of site capacity to help meet housing needs.
- 7.14 The Council's policy further clearly sets out that a minimum density of 40 dwellings per hectare should be sought, unless site constraints or local character justify a lower density.
- 7.15 The suggestion of overdevelopment of the site is thus not substantiated and does not take into account the surrounding context of the area, which is of a similar density. As such, the proposal does not represent excessive density, but rather an appropriate level, which correctly takes into account the surrounding context and a policy-compliant use of land.
- 7.16 The Council's conclusions are therefore not supported by objective analysis. The site extends to approximately 0.5 hectares and seeks to deliver eight high-quality dwellings, equating to a modest density of 16 dwellings per hectare, which falls below the typical policy expectations for such urban-edge sites.
- 7.17 In this case, a lower density is entirely appropriate, and the proposal achieves this by being responsive to the local character of the site and its immediate surrounds, which is made up of lower density residential dwellings, commercial uses and open space associated with the cricket ground.
- 7.18 The layout has been carefully designed around the site's topography, responding appropriately to the site's context and physical constraints to ensure that the development does not appear cramped or overdeveloped. The layout has been further informed by the site's physical characteristics and surrounding context, with appropriate spacing between dwellings, satisfactory separation distances, generous private amenity areas and adequate provision for parking, circulation and servicing. This approach ensures a spacious

pattern of development which is reflective of the prevailing characteristics of the surrounding area.

- 7.19 The development therefore responds appropriately to the site's constraints whilst making an efficient and effective use of available land. The proposal cannot reasonably be described as cramped when considered against both its density and the quality of the proposed layout.
- 7.20 The proposal has been well-informed by the site's opportunities and constraints, including its relationship with adjoining development and the urban edge location of the site. Existing landscape features are proposed to be retained where suited, alongside being supplemented by new planting to help soften the appearance of the development, reinforce the site's boundaries and enhance biodiversity.
- 7.21 The combination of private garden space, hard and soft landscaping and the open, informal style of layout ensure that future occupiers will be afforded a high-quality living environment which maintains the attractive transition between the built-up area and the currently more open landscape to the east of the site.
- 7.22 The proposal therefore provides an appropriate balance between efficient use of land and environmental quality. Thus, it cannot be reasonably characterised as a cramped form of development, nor one which fails to take account of site constraints, presented by the site's sloping topography. The proposal will therefore achieve a high quality of amenity for future occupiers.
- 7.23 Furthermore, in design terms, the proposed building heights are reflective of surrounding development, the layout is legible and structured logically around a clear hierarchy of buildings and the access, allowing the development to be readily understood and navigated.
- 7.24 The siting and orientation of the dwellings have been carefully considered to respond to the site's sloping landform, with building heights and finished floor levels stepping naturally with the gradient, rather than seeking to impose significant engineering works or visually intrusive forms of development.

- 7.25 This approach has the effect of reducing the massing of the buildings when seen from the limited viewpoints beyond the site. As a result, the proposal successfully integrates the development into the urban edge landscape, creating a sympathetic transition.
- 7.26 As set out, the proposed dwellings are positioned to maintain appropriate separation distances across the site. This allows for good levels of privacy, outlook and natural light to be achieved for both future occupiers and existing neighbours, including those of the retained dwelling.
- 7.27 Thus, the space between dwellings, together with comprehensive opportunities for hard and soft landscaping, as depicted by the landscaping plans prepared by The Landscape Service, prevents the perception of visual congestion within the site and contributes to the creation of a spacious and well-balanced townscape appearance.
- 7.28 The proposal therefore demonstrates a clear design rationale in which the outlook, scale and relationship of the dwellings have been thoroughly informed by the site's constraints and opportunities, resulting in a high-quality residential development which appears visually coherent and respectful of the local character, embodying the principles of good design.
- 7.29 When considered as a whole, the scheme responds positively to the opportunities and constraints of the site and fully accords with the objectives of the Local Plan Policy DM1 and the Council's Quality Places SPD, which seeks to secure well-designed development which is appropriate to its context and delivers a high standard of amenity and landscape quality. This reason for refusal is therefore judged to have been overcome.

Reason for Refusal 2 – Access

- 7.30 In respect of this reason for refusal, the Council's main concerns stem from there being 'insufficient evidence' provided to demonstrate that the access via Westgate Mews is suitable to support the proposed development of eight new dwelling and that it would not lead to an unacceptable impact upon the amenity and safety for existing and future residents.

- 7.31 The NPPF (2026) is clear under Policy TR6 that developments should only be refused on highways ground where the impacts would be severe, taking into account suitable mitigation measures. This 'severe' threshold is not met by the proposal.
- 7.32 Indeed, the Local Highway Authority (LHA), as the statutory consultee on highway matters, raised no objection in principle to the development proposed, confirming that the access arrangements are acceptable in highway safety terms. Matters raised by the LHA related only to vehicle tracking, potential conflict points and management arrangements, all of which are fully capable of being resolved to the Council's satisfaction.
- 7.33 To address these matters, a Technical Note (document ref. 2026-05-08-6785-TN01) has been prepared by Bright Plan. This clearly sets out that a vehicle swept path analysis demonstrates the brick piers at the end of Westgate Mews are spaced at 3.7 metres apart, continuing for five metres before widening to a width of 4.7 metres.
- 7.34 Clearly, the 3.7 metre width prevents two-way vehicle movements; however, two-way passing is achievable on Westgate Mews past this point, as well as along Kenilworth Gardens.
- 7.35 Due to the straight nature of Westgate Mews, the inter-visibility between vehicles entering and exiting the site is clear both in the immediate vicinity of the access, and from points set well back on both Kenilworth Gardens and Westgate Mews, as demonstrated in Images a) and b):

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Image a): View from Kenilworth Gardens towards Westgate Mews and the site entrance (24th April 2026 @ 11:22am).



Image b): View from site entrance along Westgate Mews towards Kenilworth Gardens (24th April 2026 @ 11:24am).

- 7.36 As shown, drivers will clearly be able to see another vehicle approaching, meaning vehicles can give way, as necessary, with no need for the arriving vehicle to reverse onto the public highway. This also has benefits for keeping vehicle speeds low at the site entrance and exit and as vehicles pass through the road serving the dwellings on either side of Westgate Mews.
- 7.37 Drawing ref. 2024-6785-006 demonstrates that manoeuvres on Kenilworth Gardens and Westgate Mews, as well as inter-visibility between drivers arriving and departing Westgate Mews, is acceptable and suitable for the proposal.
- 7.38 Furthermore, there is no evidence that the development would result in an unsafe access arrangement, nor severe impacts on the local highway network.
- 7.39 The access from Kenilworth Gardens onto Westgate Mews is an existing access which is well established and the increase from serving five dwellings to serving 13 dwellings will be modest in terms of traffic generation and movements.
- 7.40 In respect of vehicle trip generation and the interaction of vehicles at the Westgate Mews access point, an assessment was carried out as part of the Transport Statement (TS), using the TRICS database.
- 7.41 The full details are set out in the TS, but in summary, it is anticipated that the highest number of vehicle trips would be in the AM peak hour, with three arrivals and six departures, equating to one vehicle arriving every 20 minutes and one vehicle departing every ten minutes. This is clearly not a 'high intensity' flow of vehicle movements.
- 7.42 A probability assessment has been undertaken using a 'Monte Carlo' simulation model to calculate the probability of vehicles encountering one another at the access point.
- 7.43 Based on these probabilities and using a 45-metre encounter zone with low vehicle speeds, the assessment identifies that in the existing scenario, 0.02 encounters would be expected in the AM peak hour and 0.01 encounters in the PM peak hour. This equates to one interaction every 50 hours in the AM peak hour and one interaction every 100 hours in the PM peak hour. The low frequency modelled indicates that on average, no encounters will occur.

- 7.44 In the post-development scenario, 0.19 encounters are expected in the AM peak hour and 0.13 encounters in the PM peak hour. This equates to one interaction every five hours in the AM peak hour and one interaction every seven hours in the PM peak hour. Again, on average, no encounters would occur.
- 7.45 Taking account of this position, the likelihood of any vehicles encountering one another at the site access would be a rare occurrence post-development and the access arrangements are acceptable in highways safety terms for existing and future users of Westgate Mews and will not result in severe residual impacts.
- 7.46 In the rare case that vehicles approach simultaneously, good inter-visibility exists to allow drivers to give way appropriately and avoid the need for vehicles to reverse along either Kenilworth Gardens or Westgate Mews or pull over onto the private driveways on either side of the road.
- 7.47 In addition to this, the internal road layout of the proposal has been designed to ensure that good levels of access and manoeuvrability are achievable, including for refuse and emergency vehicles, as set out in the TS.
- 7.48 The evidence presented demonstrates that the proposed access arrangements are acceptable in highways safety terms and will not result in any severe residual impacts.
- 7.49 In respect of the second limb of the reason for refusal, the Council has not identified any substantive evidence to demonstrate how the proposed development would give rise to an unacceptable impact upon the amenity or safety of existing residents of Westgate Mews or for future occupiers of the proposed development.
- 7.50 The proposal will result in a modest increase in vehicular activity associated with the development. Given its small-scale nature, this is unlikely to materially alter the character or operation of Westgate Mews, nor result in unacceptable living conditions for those using it and/or living alongside it. The traffic generation associated with the proposed development has been shown to be

inherently limited and would be distributed throughout the day, resulting in only a small number of additional vehicle movements during peak hours.

- 7.51 Such an increase will barely be perceptible and will thus not materially alter noise levels or result in disturbance to general residential amenity beyond what is already experienced in respect of the access serving existing dwellings.
- 7.52 Similarly, there is little evidence to suggest that the proposal will prejudice the safety of existing or future residents. As has been demonstrated, there is adequate intervisibility along Westgate Mews to ensure that all users (vehicles, cyclists and pedestrians) will be seen and can safely navigate the road.
- 7.53 Further, Westgate Mews is an established residential access, where drivers will already be used to travelling at low speeds and will therefore be accustomed to exercising an appropriate level of care for other users.
- 7.54 The modest increase in vehicle movements associated with the development will thus not fundamentally alter these characteristics or create conditions that would give rise to an unacceptable highway safety risk.
- 7.55 Taking account of this, the Council's concerns are unsubstantiated and there is no reasonable basis for concluding that the proposal will result in an unacceptable impact on the amenity or safety for existing residents, or that of future occupiers of the development.
- 7.56 The proposal therefore accords with Local Plan Policy DM1 and DM13, as well as the guidance within the Quality Places SPD and this reason for refusal is considered to be overcome.

Reason for Refusal 3 – Amenity

- 7.57 In respect of this reason for refusal, the Council consider the proposal will result in oppressive impacts for future residents due to boundary hedging, high boundary walls and excessive hardstanding.
- 7.58 In response to this, it is considered that the conclusions reached are wholly subjective, rather than based on measurable impacts. The assumption that the retained boundary hedge and extended wall will create an oppressive

environment for future occupiers is not supported by the design of the proposed development, or the relationship between the built form and the site's boundaries. Further, the Council's conclusion on the boundary treatments and in particular, the extended wall, fails to consider the purpose of the boundary treatment as a whole.

- 7.59 The proposed extension to the 4.2 metre acoustic wall is an essential mitigation measure, required to ensure future residents are not impacted by any noise generated by the adjoining Pitter Commercial Yard. This wall is no different to the wall used elsewhere within the immediate vicinity of the site to protect amenity and provide a suitable acoustic barrier to other nearby residential dwellings.
- 7.60 The wall is considered to form an integral part of the site's acoustic resilience whilst helping to achieve appropriate privacy and residential amenity for future occupiers, particularly for Units 5, 6 and 8.
- 7.61 The site's boundary vegetation, along the eastern site edge, is an existing feature which is proposed to be largely retained and managed to provide a natural visual screen to the development from the neighbouring commercial yard. The retention of the hedging forms an important component of the site's landscaping, preserving the existing character, maintaining biodiversity and providing a mature setting for the development to integrate with.
- 7.62 In relation to the extending the existing 4.2 metre wall along the boundary edge, behind the existing hedging, this is proposed to provide an effective acoustic barrier between the site and the commercial yard. This wall is not uncharacteristic of the local context, which features a number of large brick walls around the boundaries of residential properties, as evidenced by the following images a) to d).



Image a): High boundary wall between Pitter Commercial Yard and dwellings at 12-20 Botley Road.



Image b): High boundary wall between Pitter Commercial Yard and dwellings at 12-20 Botley Road.

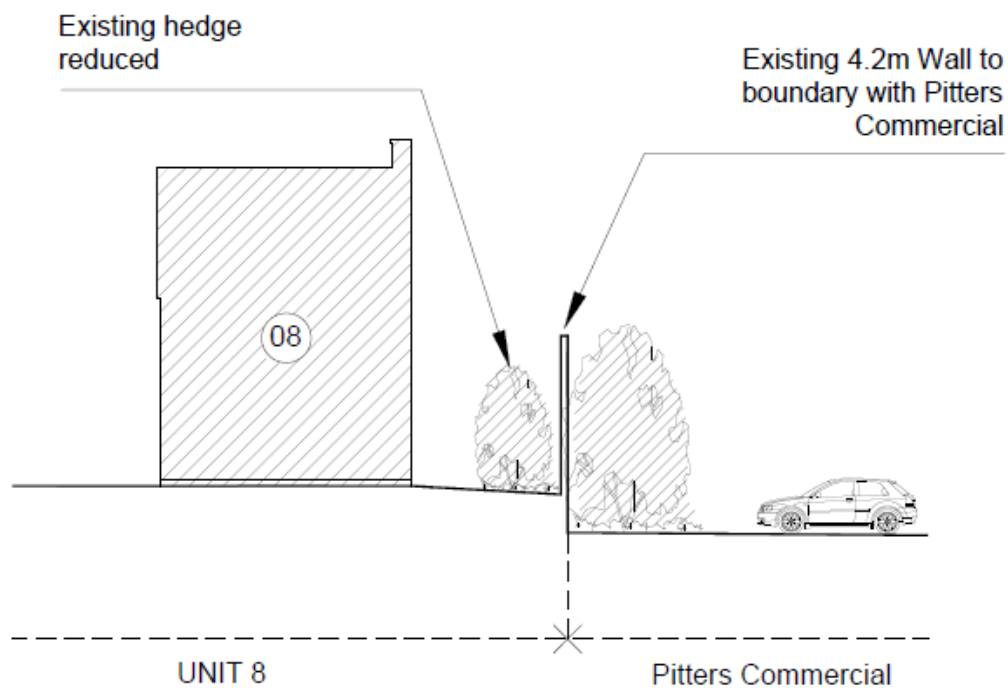


Image c): High boundary wall from Pitter Commercial Yard side, with dwellings at 12-20 Botley Road visible beyond.



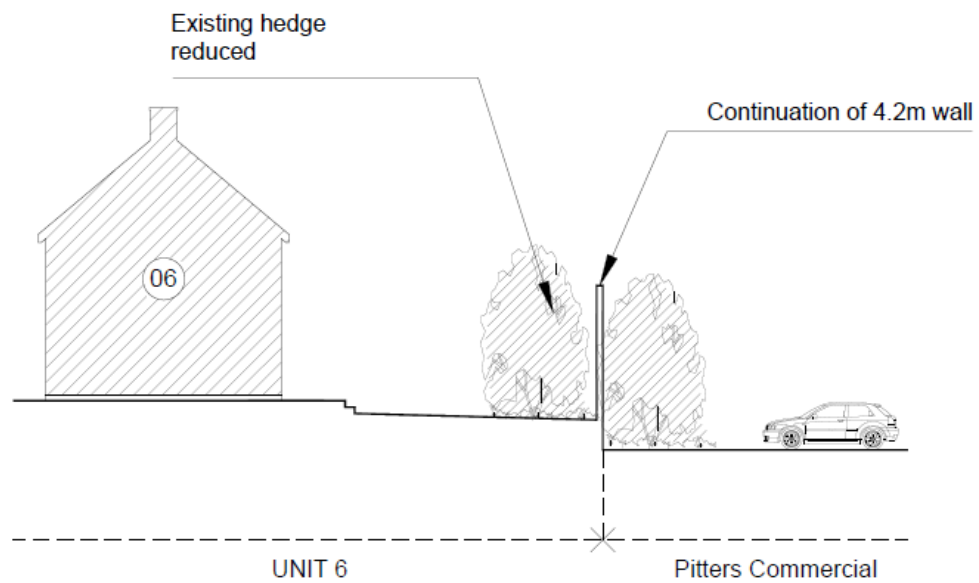
Image d): Existing high boundary wall between Pitter Commercial Yard and dwellings at 4-7 Kennilworth Gardens.

- 7.63 Whilst the boundary treatment will create a degree of enclosure along the site's north-eastern edge, this does not equate to the formation of an unacceptable living environment for future occupiers. Rather than representing incongruous features, the combined hedge and acoustic wall will provide both environmental protection and landscape enhancement, creating an attractive and functional boundary treatment.
- 7.64 To help clarify the relationship between the site and the neighbouring Pitter Commercial yard, and to demonstrate how amenity for future occupiers will not be adversely impacted by the boundary treatments, the architect has prepared several sections (A to D) along the eastern boundary of the site. The section plans are submitted as part of the appeal, but images of these are also provided below in Figures e) to h) for ease of reference.



Section A

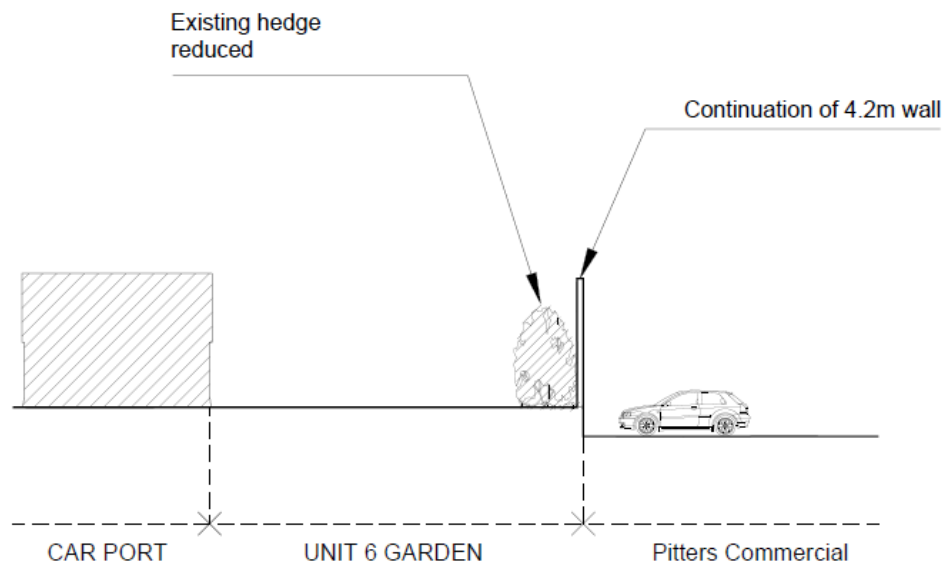
Figure e): Section A – Relationship between Unit 08 and Pitter Commercial Yard to the east.



Section B

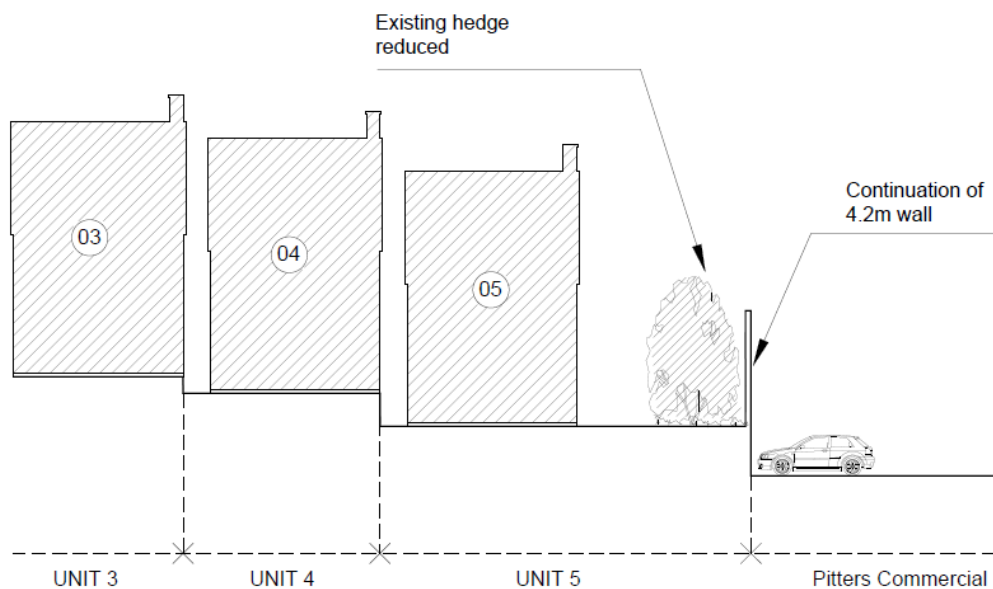
Figure f): Section B – Relationship between Unit 06 and Pitter Commercial Yard to the east.

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Section C

Figure g): Section C – Relationship between Unit 06 Car Port/Garden Space and Pitter Commercial Yard to the south.



Section D

Figure h): Section D – Relationship between Units 03, 04 and 05 and the Pitter Commercial Yard to the east.

- 7.65 The submitted boundary sections provide a clear illustration of the relationship between the proposed dwellings, the retained boundary vegetation and the proposed continuation of the 4.2 metre acoustic wall adjoining the Pitter Commercial Yard site. For clarity, where the wall is in close proximity of existing RPAs, no dig construction techniques will be used, alongside the use of a bridging lintels or voids, as necessary, if significant roots cannot be accommodated otherwise. This follows the guidance contained with Barrell Tree Consultancy's 'Installing structures in root protection areas' document.
- 7.66 The sections clearly demonstrate that the acoustic wall will form part of the site's mitigation measures to protect future residents from noise generated by the adjacent commercial vehicle yard, whilst the visual impact is moderated by the retention of the existing boundary hedging. As is demonstrated, rather than presenting an abrupt boundary, the combination of the wall and established planting creates a landscaped edge that will perform both an acoustic and visual screening function.
- 7.67 Importantly, the sections show that the proposed dwellings are not positioned immediately adjacent to the boundary treatments. This provides meaningful separate distances between rear elevations, private gardens and the acoustic wall, ensuring that this does not dominate the principal living accommodation with the dwellings closest to the north-eastern boundary. The acoustic wall therefore only forms part of the peripheral boundary to the development, rather than the primary focus of the residential setting.
- 7.68 The sections further demonstrate that the site's topography has been used effectively and positively to influence the design. Finished floor levels and external ground levels respond to the existing level changes across the site, allowing the development to sit comfortably within its setting and avoid unnecessary changes to the landform.
- 7.69 The relationship between the proposed dwellings and the boundary treatments is therefore one which has been carefully considered to balance protecting future occupiers from external noise, whilst delivering an attractive and functional residential development. The result is a proportionate and appropriate design response.

- 7.70 As set out, the north-eastern site boundary will exhibit a greater degree of enclosure than other parts of the site; however, this is fully justified given the adjoining commercial use and a degree of enclosure along the single site boundary does not equate to unacceptable living conditions. Further, all future occupiers will benefit from well-proportioned private gardens, generous spacing between dwellings, open aspects across the development and appropriate levels of daylight and sunlight afforded to each of the dwellings.
- 7.71 The proposed boundary treatments therefore represent a carefully considered mitigation measure, rather than an oppressive feature, and their inclusion will enable the development to achieve a high standard of residential amenity whilst safeguarding future occupiers from noise generated by nearby commercial activity. The sections presented clearly demonstrate that the Council's assertion of the proposal resulting in an oppressive form of development are thus not supported.
- 7.72 In addition, the proposed dwellings along the eastern edge of the site have been carefully orientated, designed and laid out having regard to these existing features to ensure that sufficient levels of daylight and sunlight are able to enter the dwellings themselves, along with private garden spaces. This ensures good levels of amenity are provided across the development. The relationship between the dwellings, gardens and boundary treatment is entirely consistent with that found in the immediate vicinity of the area, as identified in images a) to d).
- 7.73 In summary, the proposal provides functional and usable garden spaces, with the appropriate orientation of dwellings and adequate daylight into habitable rooms.
- 7.74 In relation to the Council's position with regard to outlook and daylight impacts for future occupiers, it has not been demonstrated that the retained hedge and extended wall would result in unacceptable impacts. Whilst mature landscaping inevitably influences the character of adjacent spaces, this does not equate to an unacceptable living environment for future occupants.
- 7.75 The proposed dwellings retain adequate levels of outlook from principal habitable rooms and benefit from generously proportionated private gardens

that provide ample opportunities for sunlight at different times of the day. The Council has not provided any objective assessment demonstrating that the relationship between the retained vegetation, the extended wall and the proposed dwellings will give rise to unacceptable effects on daylight, sunlight or residential amenity.

- 7.76 Indeed, in relation to the extended wall, through retention of the hedging, and constructing the 4.2 metre wall along the boundary of the site behind this, the visual impact from the development side will be imperceptible, as whilst the hedging will be trimmed to facilitate the wall and the dwellings, it will remain at a height greater than the 4.2 metre wall. As such, the only real visual impact would then be to the commercial yard beyond this, which is already largely enclosed by walls to its perimeter. This would therefore not be seen as being out of character or as a detractor in this context.
- 7.77 The Council's concern over the extent of hardstanding similarly does not consider the proposal as a whole. The hard surfaced areas have been limited to those reasonably necessary to accommodate vehicle access, parking and pedestrian movement, in accordance with design standards.
- 7.78 These are balanced by meaningful soft landscaping, private gardens and retained planting, ensuring the extent of hardstanding across the site does not dominate the character of the development.
- 7.79 The comprehensive landscape strategy, as shown on the plans prepared by The Landscape Service, combined with a relatively low density of development, results in the creation of a spacious and attractive residential environment in which built form, parking and planting are suitably balanced. Further, the landscaping strategy demonstrates the provision of ample areas for additional native species tree, hedge and shrub planting, in addition to grassed areas and private residential gardens. The proposal therefore effectively balances the need for soft landscaping against the functionality of hardstanding to ensure an appropriate and usable scheme is deliverable.
- 7.80 Consequently, the proposal provides a high-quality living environment for future occupiers, incorporating appropriate acoustic mitigation measures, and thus cannot be reasonably characterised as being dominated by hardstanding

or adversely affected by the retained and extended boundary features. Overall, the approach taken will result in a pleasant and attractive urban environment for future occupiers, in accordance with Local Plan Policy DM1 and the guidance within the Quality Places SPD.

Reason for Refusal 4 – Noise

- 7.81 In relation to this reason for refusal, the Council consider that insufficient evidence has been provided to ensure that future occupiers would not be affected by noise from adjacent uses.
- 7.82 It is well established that residential development can coexist with commercial uses where appropriate mitigation is secured. This typically includes the use of acoustic glazing, mechanical ventilation and boundary treatments.
- 7.83 A Noise Assessment, prepared by Impact Acoustics was submitted with the application to address matters of noise impact arising from two nearby uses; the Pitter Commercial Yard to the east and the Utilita Bowl complex to the south/south-east.
- 7.84 Whilst the Noise Assessment was thorough, an Environmental Health objection was received, which primarily related to the presentation and clarity of information and the need for further detail. However, the response did not set out that mitigation is unachievable.
- 7.85 A review of the Noise Assessment has been undertaken by Clarke Saunders, who found that there was nothing fundamentally 'wrong' with the assessment and have therefore built on this as part of their response to the reason for refusal.
- 7.86 To this end, an Acoustic Assessment (AA) has been prepared by Clarke Saunders to comprehensively address the reason for refusal. The AA has been prepared specifically in response to concerns raised by the Council's Environment Health Officer (EHO) and provides a significantly clearer and more detailed assessment of noise arising from both the neighbouring commercial operations at the Pitter Commercial premises and activities associated with the Utilita Bowl complex.

- 7.87 Importantly, the AA records that discussions have taken place with the Council's EHO post-decision, during which, it was agreed that the environmental noise measures obtained for the refused application were representative and appropriate for the assessment purposes. The principal concern raised was therefore not the underlying noise data, but the level of detail provided, demonstrating that suitable mitigation would thus achieve an acceptable standard of residential amenity.
- 7.88 The AA has been undertaken in accordance with recognised national guidance. It demonstrates that the proposed development is fully capable of achieve the recommended internal and external noise standards through a package of carefully considered measures.
- 7.89 These include the extension of the existing 4.2-metre boundary wall along the eastern boundary to provide acoustic mitigation, the orientation and layout of the proposed dwellings and the provision of mechanical ventilation, where beneficial to those units closer to external noise sources, to ensure that future occupiers are not reliant on opening windows to achieve acceptable internal environmental conditions.
- 7.90 The AA concludes that these measures are sufficient to avoid adverse impacts from neighbouring commercial activities, whilst maintaining desirable internal ambient noise levels, as well as appropriate and usable external amenity spaces.
- 7.91 In respect of the Pitter Commercial site itself, the AA specifically considers the site's most sensitive receptor and assesses both typical operations and non-typical, worst-case scenarios. This includes early morning activity and the operation of the on-site vehicle wash.
- 7.92 The AA demonstrates the proposed extension of the acoustic wall will substantially reduce the rating levels of commercial noise to a level where typical operations would only result in a low impact and will thus not give rise to an adverse effect on residential amenity.
- 7.93 Whilst the vehicle wash would remain audible on occasions, its use is limited in duration and frequency. Taking account of this, the AA concludes that, when

considered in the context of the site and its urban edge location, as well as the experiences of other neighbouring dwellings at Kenilworth Gardens (which are already protected by the same form of acoustic wall and which lie closer to the existing vehicle wash than the proposed dwellings on the appeal site), the resulting impact is not judged to be unacceptable.

- 7.94 Indeed, the expansion of the wall will not only protect the proposed dwellings but will undoubtedly help to improve the level of acoustic screening currently afforded to the existing residents of Westgate Mews.
- 7.95 The AA further provides a robust evaluation of the noise associated with the Utilita Bowl complex. Notwithstanding that this is understood to be ‘earmarked’ as a site for redevelopment for residential purposes, it confirms that the original monitoring captured representative cricket fixtures and associated live entertainment. The data recorded demonstrates that these events increase ambient noise levels only modestly, whilst remaining within the range considered acceptable by current professional guidance.
- 7.96 Noise from the adjacent stadium car park is shown to remain below existing maximum ambient noise levels experienced across the site, and major concerts, which only occur infrequently, are already subject to strict planning and licensing controls; established using noise measurements taken from this locality.
- 7.97 The AA notes that substantial areas of established residential development already exist at comparable distances from the complex and its associated car parking area, with no evidence of unacceptable living conditions arising as a consequence.
- 7.98 As a result, the updated AA provides the detailed technical justification that was absent from the original submission and demonstrates that the proposed development can provide a satisfactory standard of residential amenity, without prejudicing the continued operation of the neighbouring Pitter Commercial operation or the Utilita Bowl complex.
- 7.99 The proposal thereby satisfies the requirements of Local Plan Policies DM1 and DM8, which is supportive of development where impacts can be mitigated,

and the requirements of the Quality Places SPD, alongside the “agent of change” principle set out within the NPPF (2026), under Policy P4.

Reason for Refusal 5 – Trees

- 7.100 This reason for refusal relates to the Council’s concern that insufficient replacement tree planting has been demonstrated to compensate for the trees removed from the site, together with a concern that retained trees may be subject to future pressure for pruning and/or removal by future occupiers of the development.
- 7.101 The Appellant has undertaken works to remove some lower quality trees from the site in between the pre-application stage and submission of the full application for the site. The application was supported by Barrell Tree Consultancy’s detailed Arboricultural Impact Assessment and Method Statement and an accompanying Landscaping Strategy, prepared by The Landscape Service. These collectively demonstrate that the site is capable of accommodating a comprehensive landscaping scheme, including for meaningful replacement tree planting, retention of existing boundary vegetation and wider biodiversity enhancements.
- 7.102 In addition to the submitted Landscaping Strategy, an updated version was prepared to address the queries raised by consultees but was not issued to the Council prior to the application’s determination. This is now provided as part of the appeal submission, for consideration, at the Inspector’s discretion.
- 7.103 The Landscaping Strategy also sets out provisions for the long-term management of the site to ensure that all planting will be capable of establishing and flourishing.
- 7.104 These documents demonstrate that the development retains substantial areas of soft landscaping across the site, commensurate to the character of the urban area, whilst providing sufficient space for replacement trees to establish themselves and mature without resulting in conflict with buildings, access arrangements or utility infrastructure.
- 7.105 The Officer Report refers to the replacement planting requirements set out within the Trees and Development SPD. As demonstrated by the Planting Plan

and Tree Plan, it is judged that the proposed development includes a number of landscaped areas and opportunities for planting which are capable of accommodating the requisite replacement trees of appropriate species and specification, as called for by the SPD.

7.106 Notwithstanding this, the detailed number, species, size and location of replacement trees are matters that are routinely secured through appropriately worded planning conditions. The Landscaping Strategy clearly demonstrates that sufficient space exists across the site to accommodate meaningful replacement tree planting and wider landscape enhancements, with the final planting schedule capable of being agreed through the discharge of conditions stage.

7.107 There is therefore no reasonable basis upon which to conclude that the proposal is incapable of satisfying the replacement planting objectives set out in the Council's Trees and Development SPD.

7.108 Likewise, the Council's concern that retained trees may come under pressure for pruning or removal is entirely speculative and unsupported by any objective arboricultural evidence. The submitted Arboricultural Impact Assessment demonstrates that the layout has been carefully informed by the position, canopy spread and Root Protection Areas (RPAs) of retained trees, with appropriate distances incorporated between the proposed dwellings and existing vegetation.

7.109 The Officer Report itself accepts that the retained trees can be satisfactorily protected during construction through the measures contained within the submitted Arboricultural Method Statement. Accordingly, there is no identified arboricultural constraint that would prevent the long-term retention of these trees. Future occupiers will benefit from appropriately sized gardens, generous separation distances and satisfactory levels of outlook, daylight and sunlight, ensuring that there is no reasonable basis for anticipating pressure to undertake pruning or removal works.

7.110 Furthermore, should the Council consider that any retained trees are important enough to warrant additional long-term protection, there are appropriate measures already within the planning system. The implementation of the

proposed Landscape Management Plan, together with the Council's powers to serve Tree Preservation Orders (TPOs), where justified, provides robust mechanisms to ensure the long-term retention and management of any such 'important' trees.

- 7.111 The suggestion that future residents may seek works to retained trees is therefore not a sound reason for refusing planning permission.
- 7.112 The proposal must also be considered as a whole, and whilst a number of lower quality trees have been removed to facilitate the proposed development, the Arboricultural Impact Assessment confirms that no Category A or Category B trees are proposed to be removed, with high value specimens retained. These will be appropriately protected during the construction works.
- 7.113 The development therefore seeks to retain the most significant arboricultural features of the site, whilst providing opportunities for replacement planting, landscaping and biodiversity improvements. This represents a proportionate and balanced approach toward the site's development and an arboricultural strategy which accords with good planning and landscape design principles.
- 7.114 The proposal is further supported by a Biodiversity Net Gain (BNG) Assessment, which demonstrates that ecological enhancement of the site will be achieved through a combination of on-site habitat creation and the purchase off-site biodiversity units to secure the requisite 10% net gain.
- 7.115 The proposed landscaping should therefore be viewed not simply as replacement planting, but as part of a comprehensive green infrastructure strategy which will strengthen the site's landscape character, biodiversity value and visual appearance over time.
- 7.116 The Council has identified no arboricultural objection to the principle of the proposed layout, nor has it demonstrated that replacement tree planting cannot be successfully accommodated within the site. Instead, the refusal reflects a desire for further detail regarding the specification and distribution of replacement planting. These are matters which are routinely secured by an appropriate planning condition.

7.117 In these circumstances, it is neither necessary nor reasonable to withhold planning permission on arboricultural grounds. The proposal demonstrates that there are sufficient opportunities for replacement tree planting to take place on site, along with retaining trees, helping to delivering meaningful landscape and biodiversity enhancements.

7.118 Accordingly, the proposal is found to be consistent with Local Plan Policy DM1 and the guidance contained with the Trees and Landscaping SPD.

Reason for Refusal 6 – Protected species and biodiversity

7.119 The Council's concerns relate to an alleged failure to demonstrate that the proposed development would avoid harm to protected species and their habitats, together with an alleged failure to demonstrate the delivery of the requisite 10% biodiversity net gain.

7.120 The application was supported by a comprehensive suite of ecological information, including a Preliminary Ecological Appraisal (PEA), Reptile Mitigation Strategy (RMS), Biodiversity Net Gain Metric and Habitat Management and Monitoring Plan (HMMP). Collectively, these documents assessed the ecological value of the site, identified appropriate mitigation measures for any protected species and set out a clear strategy for habitat creation and enhancement, management and for long-term monitoring.

7.121 As part of assessing the proposal, the Council's Ecologist did not raise any objection to the ecological surveys undertaken or the mitigation proposed for protected species. Further, it was expressly confirmed that the mitigation and enhancement measures contained within Section 6 of both the PEA and the RMS were appropriate and should be implemented.

7.122 The matters raised by the Council's Ecologist instead related to requests for additional clarification over matters such as external lighting, the location of ecological enhancements, confirmation of the site area for BNG calculations and further details within the HMMP regarding future habitat management. These are clearly all matters which are able to be addressed, rather than matters relating to the principle of the proposal.

- 7.123 Following receipt of the comments, these were issued to the project Ecologist and Landscape Consultant for responses to be prepared. However, before the requested clarification could be submitted for consideration, the Council moved to determine the application, issuing its decision to refuse planning permission.
- 7.124 The refusal therefore occurred before the Appellant had been given the opportunity to provide the supplementary ecological information requested by the Council's Ecologist.
- 7.125 In response to the comments, an updated HMMP (March 2026) was prepared and is now submitted as part of this appeal. The revised HMMP provides greater detail on the establishment, management and monitoring of habitats across the site, confirming management requirements, maintenance responsibilities, monitoring arrangements and remedial actions over the proposed 30-year management period. The HMMP also confirms the correct size of the application site at 4,396 sqm, ensuring consistency between the proposed plans and the BNG Metric calculations.
- 7.126 In addition, the updated Landscape Plan and Landscape Management Plan responds directly to the Council Ecologist's comments by clearly identifying the location of ecological enhancements features across the site, as well as providing indicative external lighting principles designed to minimise impacts upon nocturnal species.
- 7.127 The details also clarify the management of the proposed hedgerows and tree planting, and updates the management requirements for the wildflower grassland, in accordance with the Royal Horticultural Society's guidance.
- 7.128 Together, these details provide a comprehensive and deliverable landscape and ecological strategy which will secure long-term biodiversity enhancements across the site.
- 7.129 In respect of BNG, the proposal adopts a hybrid delivery strategy, comprising of both on-site habitat creation and enhancements and the off-site purchase of units to address the residual shortfall.
- 7.130 This approach is set out in detail and demonstrates that the development is capable of achieving the mandatory minimum 10% net gain through this

approach. The updated HMMP then provides the necessary long-term management framework to secure these on-site ecological enhancements and ensure their successful establishment and maintenance for the statutory monitoring period.

7.131 As such, the updated ecological information presented with this appeal comprehensively addresses the matters raised by the Council's Ecologist. The details clearly demonstrate that protected species will be appropriately safeguarded through the implementation of the agreed mitigation measures and that the development is capable of delivering the statutory BNG requirements through a combination of on-site and off-site measures.

7.132 The reason for refusal is thus considered to have been capable of being addressed prior to determination of the application, had suitable additional time been afforded by the Appellant. As such, with the additional details now provided, this reason is found to be overcome and there is no conflict with Local Plan Policy DM11, or with the biodiversity requirements set out within the Environment Act 2021.

Reason for Refusal 7 – Nitrates and recreational disturbance

7.133 This reason for refusal centres around the Appellant's inability to secure appropriate mitigation in respect of the European protected Solent Complex and the New Forest National Park, for the additional recreational pressure and nitrogen loading generated by the population increase and additional sewage arising from the proposal.

7.134 The Council's main concern is not that the effects arising from the development are incapable of being mitigated; rather the reason for refusal has arisen because the necessary mitigation had not been formally secured at the time of the application's determination. As is set out below, mitigation mechanisms are established and available, to be secured through the legal agreement submitted as part of this appeal.

7.135 It is well established that obligations to address habitats-related impacts may be submitted and completed during the course of an appeal. Consequently, the absence of a completed legal agreement at the point of determination does

not preclude the matter from being satisfactorily addressed by the Inspectorate.

7.136 In respect of nutrients arising from the provision of additional residential dwellings and an increase in overnight accommodation, the Officer Report clarifies that the Council has set up a scheme to address this issue and confirms that the Appellant has stated that they intend to use this, which is correct.

7.137 The Officer Report further confirms that mitigation does not need to be secured prior to planning permission being granted but must be secured prior to the development being occupied.

7.138 The Appellant is committed to securing the requisite nutrient mitigation in accordance with the Council's mitigation scheme. The draft legal agreement submitted with the appeal contains the necessary mechanisms at Schedules 3), paragraph 7 and Schedule 4) to ensure that appropriate mitigation is secured prior to the occupation of the development.

7.139 As a result, this part of the reason for refusal is fully capable of being addressed as part of the appeal process.

7.140 In respect of the mitigation required to offset the recreational pressure on the New Forest National Park, arising from the increase in local population, the Officer Report outlines that a temporary mitigation scheme has been set up by the Council, which the Appellant would be able to use.

7.141 Had the application been recommended for approval, the Appellant would have sought to secure the necessary mitigation prior to the granting of planning consent for the development. The Officer Report confirms that this issue can also be suitably addressed at appeal.

7.142 The draft legal agreement sets out at Schedule 3), paragraph 5 and 6, that appropriate contributions will be secured for New Forest SANG mitigation prior to the commencement of the development.

7.143 As such, once secured, this part of the reason for refusal can be fully addressed as part of the appeal process.

- 7.144 On the matter of recreational disturbance to bird species within the Solent SPA/Ramsar zone of influence, the Officer Report confirms that the development will need to contribute to the Solent Recreation Mitigation Strategy and that as with the New Forest mitigation, this will need to be secured prior to any planning consent being granted.
- 7.145 As with the New Forest mitigation, had the application been recommended for approval, the Appellant would have sought to secure the necessary mitigation in advance of the application being granted planning consent. Again, the Officer Report confirms that this issue can be suitably addressed at appeal.
- 7.146 The draft legal agreement sets out at Schedule 3), paragraphs 3 and 4, that appropriate contributions will be secured for the Solent Recreational Mitigation Strategy prior to the commencement of development.
- 7.147 Again, once secured, this part of the reason for refusal can be successfully dealt with as part of the appeal process.
- 7.148 The Officer Report sets out that an Appropriate Assessment (AA) under the Habitats Regulations has not been undertaken due to the recommendation for refusal.
- 7.149 Given that the Council did not undertake an AA because it had already concluded the proposal should be refused for other reasons, as part of this appeal, the AA exercise can now be undertaken and submitted to Natural England for comment.
- 7.150 The appeal process provides the opportunity for the competent authority to undertake the AA on the basis that mitigation measures will be secured through legal agreement, following consultation with Natural England.
- 7.151 Under these circumstances, it is anticipated the competent authority will conclude the proposal will not result in any adverse effects on the integrity of the protected ecological sites, either individually or in combination with other plans and can thus be found acceptable.
- 7.152 Subject to the completion of the accompanying legal agreement and the undertaking of an Appropriate Assessment, the appeal proposal provides a

clear and deliverable mechanism to secure nutrient neutrality mitigation, alongside mitigation for the recreational impacts of new residential development on the Solent and New Forest designated sites.

- 7.153 The appeal proposal is therefore capable of fully addressing reason for refusal 7 and complies with Local Plan Policies DM1, DM10 and DM11, as well as the provisions of Policy N2 of the NPPF (2026) and the Conservation of Habitats and Species Regulations 2017.

Legal Agreement – Unilateral Undertaking

- 7.154 In respect of the legal agreement which has been prepared by the Appellant's solicitor and is submitted with this appeal, this was shared with the Council's Legal Team on 8th May 2026.
- 7.155 It is understood that no comments were received from the Council's Legal Team and so on 5th June, the Appellant's solicitor wrote to the Council's Legal Team to set out that unless substantive comments were received within seven days (12th June), it would be considered that the draft provisions of the legal agreement are accepted by the Council and capable of being used for the purposes of this appeal.
- 7.156 The legal agreement as drafted has now been signed and dated 17th August 2026. This is provided in support of the appeal proceedings.

Planning Balance

- 7.157 The appeal proposal should be considered in the context of the Development Plan as a whole. The site lies within a sustainable location on the edge of the urban area where the principle of further residential development is not disputed by the Council.
- 7.158 Importantly, none of the reasons for refusal identify any fundamental objection to the suitability of the site for housing purposes, nor do they demonstrate that residential development cannot be accommodated in an acceptable manner. Instead, the reasons for refusal relate to matters of detail, concerning design, landscaping, noise mitigation, ecology and arboriculture.

- 7.159 Each of these matters are capable of being addressed either through the submitted supplementary details or can be secured by an appropriate condition.
- 7.160 The evidence presented to the Inspector comprehensively addresses the reasons for refusal. Collectively, the details demonstrate that the proposal will deliver a high-quality residential development, which safeguards neighbouring and future occupiers' amenities, protects the site's existing landscaping features, ensures appropriate mitigation for protected species and can achieve suitable mitigation to fulfil environmental and biodiversity objectives.
- 7.161 Where elements of the proposal may require further detail to be provided, these are matters that are routinely dealt with and secured by appropriately worded planning conditions and do not justify the refusal of planning permission in principle.
- 7.162 The proposal also delivers a range of important planning benefits. Namely, it will provide eight additional dwellings in a sustainable and accessible location, contributing to the Council's housing land supply, whilst making efficient use of an otherwise underutilised site.
- 7.163 The development has been carefully designed to respond to the site's physical characteristics, including its topography, neighbouring land uses and existing vegetation. The result is the creation of a well-considered and attractive residential scheme in a sustainable, urban edge location that responds positively to the site's opportunities and constraints.
- 7.164 The scheme itself incorporates a number of benefits, including high-quality landscaping, replacement tree planting, habitat creation and enhancement, as well as measurable biodiversity gains through on-site improvements and off-site biodiversity units. Further, appropriate mitigation is proposed to ensure that future occupiers will benefit from good standards of residential amenity, whilst enabling neighbouring commercial operations to continue without undue constraints being applied; thereby successfully applying the 'agent of change' principle.

- 7.165 Taking account of this, when assessed as a whole, the proposal represents a balanced and sustainable form of development which accords with the overarching objectives of the Local Plan, the Council's adopted SPDs and the aims of the NPPF (2026) as a whole.
- 7.166 It has been demonstrated there are no adverse impacts which would significantly or demonstrably outweigh the benefits of the development; nor are there any technical matters that cannot be satisfactorily addressed through the planning process.
- 7.167 In the absence of any demonstrable planning harm, the proposal should be supported and planning permission granted.

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8.0 Conclusions

- 8.1 The Appellant's Statement of Case sets out that the appeal site is an appropriate form of development on a brownfield site, within the urban edge of Eastleigh, and will contribute positively to the housing needs of the area, in accordance with the Local Plan and National Policy.
- 8.2 The Council cannot demonstrate a five-year housing land supply position and so the policies of particular relevance to the proposal with the adopted Local Plan are found to be outdated and thus afforded limited weight for the purposes of decision making. As such, there exists a strong presumption in favour of sustainable development and the tilted balance is engaged.
- 8.3 Notwithstanding the Council's housing land supply position, the standard mythology for calculating housing need has been significantly increased for the Borough, so the contribution made by the proposal in helping to achieve this figure is considered to weigh positively in the planning balance.
- 8.4 Furthermore, as demonstrated in the preceding section of this statement, the reasons for refusal are either unsupported by objective technical evidence or have been comprehensively addressed through the submission of supplementary information, accompanying this appeal.
- 8.5 The proposal has been informed by detailed assessments relating to design, landscape, arboriculture, ecology and biodiversity, highways and acoustics, all of which confirm the site is fully capable of accommodating eight high-quality dwellings, without giving rise to any unacceptable impacts upon neighbouring residential and commercial occupiers, future residents or the wider environment.
- 8.6 The appeal scheme has been carefully designed to respond positively to the opportunities and constraints of the site. It provides an attractive and logical layout which makes efficient use of the space available on a sustainable urban edge location and delivers an appropriate density to the site, with suitable levels of residential amenity, robust acoustic mitigation, meaningful landscaping, including for replacement tree planting and biodiversity enhancements.

8.7 The proposal therefore satisfies the requirements of Local Plan Policies DM1, DM8, DM11 and DM13, together with the guidance contained within the Council's adopted SPDs on Quality Places and Trees and Development.

8.8 In summary of how the reasons for refusal are addressed:

- Layout – the proposal is at an appropriate lower density, taking account the site characteristics, ensuring adequate amenity, landscaping and separation distances are provided, in accordance with Local Plan Policy DM1 and the Quality Places SPD
- Access – highways impacts are fully addressed and there is no evidence of amenity or safety issues, thereby complying with Local Plan Policies DM1 and DM13, as well as the Quality Places SPD.
- Amenity – the proposal incorporates appropriate boundary treatments, including acoustic mitigation measures to demonstrate that acceptable living conditions for future occupiers can be achieved, in accordance with Local Plan Policy DM1, alongside the Quality Places SPD.
- Noise – the supplementary Acoustic Assessment resolves the Environmental Health concerns raised, enabling the proposal to accord with Local Plan Policies DM1 and DM8 and the Quality Places SPD.
- Trees – meaningful replacement planting is fully achievable on site and can be secured by way of an appropriate planning condition, in accordance with Local Plan Policy DM1 and the Trees and Development SPD.
- Protected Species and Biodiversity – the updated HMMP and landscaping documents fully address the Council Ecologist's comments and demonstrate that a BNG-compliant strategy is achievable and implementable, in accordance with Local Plan Policy DM11.
- Nitrates and Recreational Disturbance – the submitted legal agreement sets out the mechanism to secure appropriate mitigation to enable the development to be found acceptable in respect of nutrient neutrality matters, and recreational pressures on protected habitats, in accordance with Local Plan Policies DM1, DM10 and DM11.

- 8.9 The details presented demonstrate the Council's concerns do not amount to fundamental objections to the principle of the proposed development but instead relate to matters that have either been satisfactorily resolved through the submission of supplementary technical details, or are capable of being secured by appropriately worded planning conditions.
- 8.10 Under these circumstances, it is considered that there is no sound planning basis upon which planning permission should be withheld.
- 8.11 For all the reasons set out within this statement, and having regard to the Development Plan as a whole, along with all other relevant material considerations, including the NPPF (2026), the proposal is found to be entirely appropriate. The Inspector is therefore respectfully requested to allow this appeal and thereby grant planning permission for the development.