

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL

APPELLANT'S STATEMENT OF CASE

Brighstone, Botley Road, Horton Heath, Hampshire, SO50 7DT

On behalf of Alderbury Homes Limited

February 2024 V1.0



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Contents

1. Introduction.....	2
2. Appeal Context	3
3. Planning Policy Context.....	5
4. The Appellant’s Statement of Case: Reasons to Allow the Appeal.....	9
Reasons for Refusal One	9
Reasons for Refusal Two	14
Reasons for Refusal Three.....	16
5. Other Material Considerations	18
6. Conclusions	20
Conditions.....	21
Appendix 1 – Decision Notice	i
Appendix 2 – Officer’s Committee Report	ii

1. Introduction

- 1.1 Nova Planning Limited has been instructed by the Appellant, Alderbury Homes, to submit an appeal against the decision of Eastleigh Borough Council (hereafter referred to as EBC) to refuse planning permission for proposed development, as follows:

“Construction of 5.no dwellings, landscaping, parking and associated works following demolition of existing dwelling, site clearance and preparation”

- 1.2 This Appeal Statement sets out the Appellant’s Statement of Case in accordance with Part 2 of The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 as amended by The Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013, as well as the Planning Inspectorate’s recent Procedural Guidance (November 2020, Annexe D).
- 1.3 This Statement sets out the context for the appeal and the planning policy framework relevant to its determination, as well as the case for the Appellant, including the reasons to allow the appeal with specific reference to the Council’s reasons for refusal.

2. Appeal Context

- 2.1 The appeal is submitted as a result of EBC's refusal to grant planning permission for the erection of 5 dwellings. The Applicant's Planning Statement and Officer's report to committee provides a full context for the appeal, including site description, summary of the proposal and planning history.

Planning History

- 2.2 The appeal site has no planning history.

The Planning Application Process

- 2.3 The planning application was submitted to EBC on 3rd July 2023 and was made valid on the same day with the reference F/23/95549. The application went before planning committee with a recommendation to approve but the committee voted against the recommendation and refused the application. A decision notice dated 7th February 2024 was issued, citing three reasons for refusal:

1. That proposed, by virtue of its layout, form, height and scale, would result in a visually intrusive development to the detriment of the amenity of neighbouring properties through loss of outlook, together with an unacceptable level of disturbance as a result of vehicle movements in close proximity to shared site boundaries. As such, that proposed 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. The close proximity of Plot 5 to trees which are subject to a Tree Preservation Order will result in these trees dominating the residential amenity space of the proposed development, to the detriment of the amenity of future occupiers, as well as increased future pressure for unnecessary works to be undertaken to the trees, to the detriment of the trees' and wider site ecology. As such, that proposed is considered to be contrary to Policies DM1 and DM11 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' and 'Trees and Development' Supplementary Planning Documents.
3. The application fails to provide the required mitigation to offset the impacts of the development upon the European protected Solent Complex (SPA, SAC and Ramsar sites), River Itchen (SAC) and New Forest National Park (SPA, SAC and Ramsar sites) from additional recreational pressure and nitrogen and phosphate loading generated by the population increase and additional sewage resulting from the development. The proposal is therefore contrary to the requirements of Policy DM11 of the Eastleigh Borough Local Plan 2016-2036, the provisions of the NPPF (2021) and the Conservation of Habitats and Species Regulations 2017.

2.4 The Decision Notice is enclosed at **Appendix 1**, and the Officer's report to committee is enclosed at **Appendix 2**.

2.5 A total of five third-party representations were submitted in response to the initial consultation, with a further five third-party representations (four from the same properties) submitted in response to a second consultation on amended plans. These representations are summarised in detail by the Officer's report.

Appeal Proposal

2.6 The Appeal proposal is for the construction of five (5) dwellings, landscaping, parking and associated works following demolition of existing dwelling, site clearance and preparation.

2.7 The development consists of a pair of three bedroom two storey semi-detached dwellings (Plots 1 & 2); a three bedroom detached chalet style dwelling (Plot 3); a two storey detached four bedroom dwelling (Plot 4); and a two storey detached five bedroom dwelling (Plot 5). Each dwelling is provided with its own private amenity space and dedicated parking in accordance with adopted standards. Access to the site would be via a revised existing dropped kerb onto Botley Road, and a shared access road along the northern edge of the site. The proposal includes new landscaping and tree planting throughout.

2.8 The development proposals were amended through consultation with Officers and consultees during the determination period to address the comments received. Notable amendments included elevational changes to plot 2 alongside additional landscaping to introduce more visual interest at the entrance and to soften the approach into the site, and rationalisation of the parking layout and integration of informal passing places. Changes were also made to plot 5 to improve the relationship with the adjacent property of Southview and retained boundary trees. This is discussed in more detail at Section 4 of this Statement.

3. Planning Policy Context

- 3.1 Section 38 (5A, 5B and 5C) of The Planning and Compulsory Purchase Act 2004 (as amended) states that:

(5A) For the purposes of any area in England, subsections (5B) and (5C) apply if, for the purposes of any determination to be made under the planning Acts, regard is to be had to—

- *the development plan, and*
- *any national development management policies.*

(5B) Subject to subsections (5) and (5C), the determination must be made in accordance with the development plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

(5C) If to any extent the development plan conflicts with a national development management policy, the conflict must be resolved in favour of the national development management policy.

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

- 3.2 The policy framework relevant to the consideration of this proposal comprises the National Planning Policy Framework (the Framework), and the Eastleigh Borough Local Plan 2016-2036 (adopted on 25 April 2022).

National Planning Policy Framework

- 3.3 The Framework was revised in December 2023 in response to the Levelling-up and Regeneration Bill: reforms to national planning policy consultation and sets out the government’s planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018, updated in February 2019, revised in July 2021 and updated in September 2023.
- 3.4 The revised Framework retains the presumption in favour of sustainable development (paragraph 11). For decision-taking, this means that development proposals should be approved without delay if they are in accordance with an up-to-date development plan. Where there are no relevant development plan policies, or they are out of date, permission should be granted unless:

- *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

3.5 In accordance with Footnote 8 policies are considered to be out-of-date for applications involving the provision of housing where (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.

3.6 In accordance with the revised NPPF Local Planning Authorities are not required to maintain a five-year housing land supply if they meet the two criteria in paragraph 76. These are where the adopted Local Plan is less than 5-years old, and that the Local Plan identified at least a five-year supply of specific deliverable sites when the examination concluded.

3.7 The Eastleigh Borough Local Plan was adopted in April 2022 and the final Inspector's report accepted that the Council met the requirement for a five-year supply at that point in time. However, the Inspector noted that a shortfall against the housing requirement over the latter years of the plan period. This has arisen due to the removal of a Strategic Growth Option during the Examination. The Inspector's report noted that:

"Legislation requires a review of the Plan to take place within 5 years from the date of adoption. However, in the case of this Plan, I have concluded that this shortfall will necessitate an early review. This is important for a number of reasons, primarily to ensure that the shortfall is suitably addressed through the Plan making process. This is necessary to ensure that the Plan is sound. MM11 therefore outlines the requirements for an early review which the Council should commence within 1 year from the adoption of this Plan."

3.8 The Local Plan accounts for this by way of a review of the Local Plan that is to take place within 1 year from its adoption. The window for the Local Plan review to begin expired in April 2023. Approval from EBC Cabinet to commence work on the review was not given until 15 June 2023. Although the delay commencing the Local Plan Review is modest it is notable nonetheless. This is particularly the case when considering the timeline for the conclusion of the Review as set out in Local Development Scheme (June 2023), which indicates that submission stage will not be until Spring 2028 assuming all milestones are met (6 years beyond the adoption of the current Local Plan), with adoption not anticipated until Spring 2029 at the earliest.

3.9 Whilst the publication of the revised Framework means that the Council is not required to maintain a five-year housing land supply and the tilted balance will not apply going forward, transitional arrangements have been put in place and Footnote 79 of the Framework states that the policy contained in paragraph 76 and the related reference in Footnote 8, should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework. Consequently, notwithstanding the new position, the transitional arrangements mean that in this particular case, as it was originally submitted prior to the 19 December 2023, the original housing land supply requirements apply.

3.10 EBC published its latest figure in July 2022 which was said to be 5.1 years. However, this was tested through the recent appeal reference APP/W1715/22/3292580 where the Inspector concluded that the Council's supply of deliverable sites is closer to 4.7 years. Accordingly, it is considered that the authority does not meet the necessary housing supply requirements and the tilted balance at paragraph 11 of the Framework is engaged.

Eastleigh Borough Local Plan (2016-2036)

3.11 The Appellant's Planning Statement and the Officer's report summarise the planning policy context for the site. The Decision Notice identifies conflicts with the following policies of the adopted Eastleigh Local Plan:

Policy reference	Description
DM1	General criteria for new development
DM11	Nature conservation

Table 1: Eastleigh Local Plan Policies

3.12 The Decision Notice also identifies conflicts with the following Supplementary Planning Documents:

- Quality Places
- Trees and Developments

3.13 The site is located within the defined settlement boundary of Horton Heath as shown on Figure 1 below. The settlement boundary extends southwards from the site across open land current used as paddock.

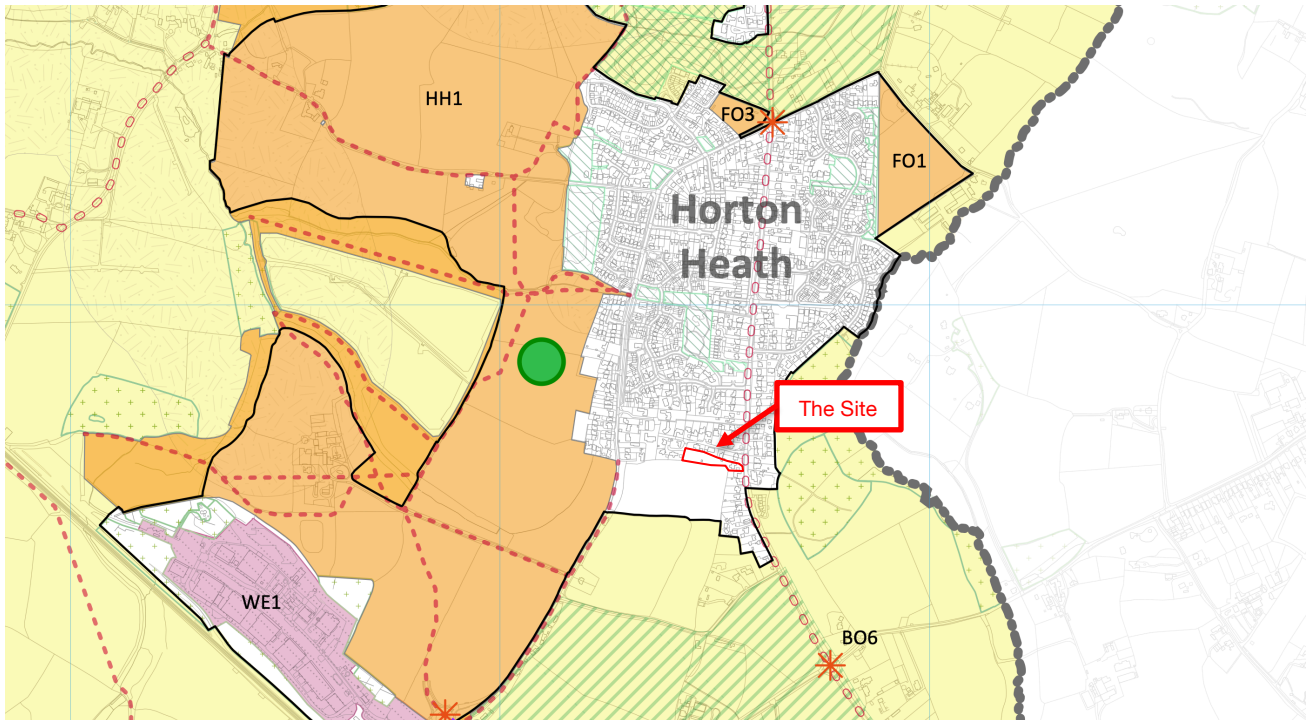


Figure 1: Extract from Eastleigh Local Plan Policies Map (site outlined in red)

4. The Appellant's Statement of Case: Reasons to Allow the Appeal

- 4.1 This section sets out the Appellant's case, with specific reference to the reasons for refusal set out in the decision notice dated 7th February 2024.

Reasons for Refusal One

That proposed, by virtue of its layout, form, height and scale, would result in a visually intrusive development to the detriment of the amenity of neighbouring properties through loss of outlook, together with an unacceptable level of disturbance as a result of vehicle movements in close proximity to shared site boundaries. As such, that proposed 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.

- 4.2 Reason for Refusal One asserts that the proposed development would have negative impacts on neighbouring properties' amenity through loss of outlook due to a visually intrusive form of development together with disturbance from vehicle movements, thus contravening Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document. However, it is important to examine the specific details of the proposed development and assess its potential impacts.
- 4.3 **Visual Intrusion:** The assertion that the proposed development would be visually intrusive is not supported by substantive evidence or a thorough assessment of the site context. The Framework emphasises the importance of considering the design and visual impact of developments in their local context (NPPF, Paragraph 130) and the Eastleigh Borough Council Local Plan and supplementary guidance recognises the need for development that respects the character and appearance of the area (Policy DM1 and Quality Places SPD). The proposal for the site was developed from a contextual understanding of the area as outlined in the Design and Access Statement and EBC's design officer has ratified the design rationale for the proposals considering it to be sympathetic to the character of existing surrounding development.
- 4.4 The application was accompanied by Site Elevation (extract below at Figure 2), which demonstrates that the proposed dwellings fit well with the prevailing heights of the surrounding development. In addition, in the case of plots 4 and 5 what is not immediately apparent from the site elevation is the transition of building heights across the site, which are shown most clearly on the individual plot elevations (extracts below at Figures 3 and 4). These show that the development steps down to the northern boundary with built form sitting lower in height than the neighbouring properties.



Figure 2: Site Elevation (looking north)

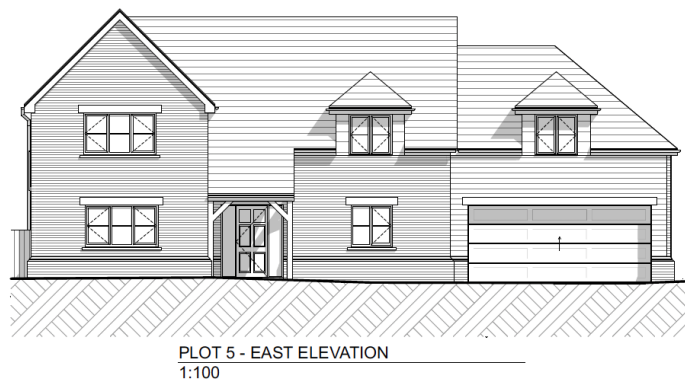


Figure 3: Plot 5 – East Elevation (looking west)



Figure 4: Plot 4 – West Elevation (looking east)

4.5 In their assessment of the proposal the planning officer found that:

“In terms of the development’s impact upon the wider character of the area, that proposed would not be dissimilar in form or density to a number of other relatively recent developments within the area, including Westfield Close, Orchard Drive, Cedar Row and Cherry Drove, which neighbours the application site. Overall therefore, it is not considered that the proposed development would result in any unacceptable harm in terms of the visual amenity of the locality or go against the prevailing pattern of development already present. As such, it is considered to accord with the requirements of Policy DM1 of the adopted Local Plan and the Council’s ‘Quality Places’ SPD in these respects.”

4.6 The Appellant supports the officer’s assessment and is of the opinion that the proposals would integrate harmoniously within the local context. It would not appear incongruous or visually intrusive as a consequence of its layout, form, height or scale.

4.7 **Loss of Outlook:** The reason for refusal alleges that neighbouring properties would experience an unacceptable loss of outlook as a result of the proposed development. However, the extent of this loss and its impact on neighboring properties' amenity is not clearly defined. The Appellant considers that the Council has overstated the impact of the development on neighbouring occupiers.

4.8 The appeal proposal has been carefully designed to include measures to minimise any potential loss of outlook, through for example strategic building placement, landscaping, and sensitive design that preserves privacy and access to sunlight. This is illustrated on Figure 5 overleaf showing storey heights, view corridors and separation distances.

4.9 The positioning of the individual plots on the site has been carefully arranged in a staggered format such that each of the existing properties to the north retains a southerly aspect across open land and landscaped areas formed by the breaks between development. To achieve this, plots 4 and 5 have been arranged broadly perpendicular to the existing dwellings to the north. To manage the relationship of these plots with existing properties the proposed dwellings step down from 2 storey on the southern boundary to a reduced 1.5 storey with dormered windows serving accommodation in the roof over garages along the northern boundary. This stepped form adds visual interest to the dwellings and also provides relief, reducing the overall scale and massing of the proposed dwellings on the closest boundaries. The height of the proposed dwellings is not considered to be unduly tall and the roof profile of plots 3, 4 and 5 all slope away from the site’s northern boundary. The garage of plot 5, which has the closest relationship to neighbouring properties, is also proposed to be clad in timber weatherboarding to further reinforcing the subservience of this part of the dwelling. This perpendicular arrangement means that the principal elevations face east-west and there are no windows directly facing north and only oblique views towards neighbouring property boundaries may be possible.

4.10 In the case of plot 3 the entire property is 1.5 storey with no first-floor fenestration providing any aspect to the north, except velux windows which are all above head height internally.



Figure 5: Proposed site relationships diagram (building heights, view corridors and separation distances)

4.11 Whilst the proposal will inevitably change views experienced by existing properties the Appellant considers that this would not diminish outlook to a degree that would have an overbearing relationship. The proposed design response to the site is considered to be well-conceived and strikes the appropriate balance between making efficient use of an underutilised site within the defined urban boundary of Horton Heath whilst also protecting the amenity, privacy and outlook of neighbouring occupiers.

4.12 **Disturbance from Vehicle Movements:** The reason for refusal raises concerns about unacceptable levels of disturbance from vehicle movements near shared site boundaries. It is acknowledged that the proposals will introduce a new shared access road along the northern boundary of the site, however as set out in the Highways Note prepared in support of the application the development of five houses would generate approximately 20 vehicle movements during the course of a day. This would include 3 vehicle movements in the AM peak and just 2 in the PM peak. Over the course of a 12-hour period, the additional traffic impact from the proposed development is likely to result in less than 2 movements per hour within the site, or one vehicle every 30 minutes. By any reasonable estimation this is a low level of activity and given the design and nature of the internal estate road traffic speeds will be low. Indeed in recommending approval paragraph 56 of the officers report to committee notes that the number of movements would not be excessive and concludes:

“Whilst there will be some impact in terms of noise – less so in terms of air pollution – it would not be to any unacceptable extent in planning terms.”

- 4.13 Vehicle passbys of neighbouring property boundaries will be objectively infrequent and any associated noise or disturbance would be very short-lived. The reason for refusal reflects the vague and generalised objections made orally at committee by members of the public who were opposed to the development. Indeed, there are many instances locally where similar arrangements have been approved by the Council and which operate without issue or complaint, these include The Hedges opposite Cherry Drove, as well as Cedar Row, Orchard Drove and Westfield Close north of the appeal site.
- 4.14 The relevant requirement of the adopted Policy DM1 and paragraph 191(a) of the Framework against which development should be assessed is whether the proposal, individually, or cumulatively, would have an unacceptable adverse environmental impact on neighbouring occupants. The Appellant contends that the objectively low level of vehicle movements along the boundary of neighbouring properties would not give rise to adverse impacts on health or quality of life, and no conflict with adopted local or national planning policy is therefore acknowledged.
- 4.15 It is notable also that the site is sustainably located with good access to existing public transport connections on Botley Road, and new cycle infrastructure being implemented as part of the One Horton Heath development¹, including the proposed strategic footway/cycle route along Botley Road (B3354) under Policy S12 of the Local Plan. Taken together there are opportunities for accessing the site by foot, cycle and public transport which will reduce the reliance on car-based travel.
- 4.16 Each dwelling is also provided with electric vehicle (EV) charging points, thereby encouraging more sustainable alternatives. EVs are generally quieter because they use electric motors to power the wheels, which produce much less noise compared to the internal combustion engines found in petrol/diesel cars. Accordingly, as we transition to greater use of EV the sound profile associated with vehicle movements is likely to lessen over time.
- 4.17 **Policy Compliance:** The reason for refusal asserts that the proposed development is contrary to Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document. However, the reason for refusal raises generalised objections about the proposal's impact which were supported by the officer recommendation to committee nor the Council's consultees. By contrast the Appellant has taken great care to understand and respond to the sensitivities of the Site

¹<https://www.eastleigh.gov.uk/latest-news/new-cycle-routes-to-connect-one-horton-heath-and-surrounding-areas>

in recognition of the need for new dwellings to assimilate within the existing pattern of development and in the interests of neighbouring amenity, privacy and outlook.

- 4.18 In conclusion, while the reason for refusal raises concerns about potential impacts on neighboring properties' amenity and compliance with planning policies, it lacks specific details and evidence to support its assertions. By contrast to the Officer's report to committee recommending approval includes a detailed and balanced assessment of the proposals impact confirming that the proposals are not so harmful as to warrant a refusal. The Appellant contends that EBC has overstated the effects of the development by exaggerating its impact. Having regard to the facts of the case, the Appellant does not consider there to be any substantive conflict with Policies DM1 of the adopted Local Plan, the Quality Places SPD nor the Framework.

Reasons for Refusal Two

The close proximity of Plot 5 to trees which are subject to a Tree Preservation Order will result in these trees dominating the residential amenity space of the proposed development, to the detriment of the amenity of future occupiers, as well as increased future pressure for unnecessary works to be undertaken to the trees, to the detriment of the trees' and wider site ecology. As such, that proposed is considered to be contrary to Policies DM1 and DM11 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' and 'Trees and Development' Supplementary Planning Documents.

- 4.19 Reason for Refusal Two alleges that the close proximity of Plot 5 to retained boundary trees subject to a Tree Preservation Order (TPO) will result in these trees dominating the residential amenity space of the proposed development, which in the Council's opinion could lead to unacceptable pressure on the trees in the future to either be pruned or removed. The Appellant contends that the effect of these trees is being overstated and does not have regard to other material considerations, including the layout, design and orientation of the proposed dwellings.
- 4.20 Firstly, the mere presence of trees does not automatically equate to them dominating the residential amenity space. The Appellant has submitted an Arboricultural Implications Assessment and Method Statement including Tree Protection Plan (TPP), which shows the position of the retained trees, their crown spread and root protection areas. This reflects the surveyed position on the site and is accurate and reliable.
- 4.21 Plot 5 has been specifically designed with a wraparound garden that includes a southerly aspect off the main living area which is unconstrained by trees. The easterly aspect of the dwelling coupled with the internal configuration of the dwelling also ensures that all habitable rooms are provided with ample natural daylight throughout the day and will not be susceptible to excessive overshadowing from the retained boundary trees.

4.22 In respect of the associated garden area, the Quality Places SPD states that the minimum garden sizes should be at least 60% of the floor area of the proposed dwelling, which should be increased where constraints exist. In the case of Plot 5 the garden area represents approximately 171% of the floor area of the dwelling which vastly exceeds of the minimum policy requirements. As set out above significant parts of the garden land is un-shaded, including principal southerly patio areas. The proposed dwelling is therefore well catered for in terms of usable private amenity space in accordance with the Council's own policy guidance. It is the Appellant's contention that the proposed dwelling will therefore be wholly acceptable and will not result a dark and overly shaded plot as suggested by the Council. Indeed, in recommending approval paragraph 68 of the officers committee report states:

"Whilst the concerns raised by the Borough Tree Consultant with regards to the proximity of the Plot 5 dwelling to these trees and possible future pressure to have these trees cut back is acknowledged, the rear garden of this plot is of a more than sufficient size to still be useable, with a sizable south facing area which would not be unduly shaded."

4.23 Additionally, the assertion that the proposed development will lead to increased future pressure for unnecessary works to be undertaken on the trees, to the detriment of their health and the wider site ecology, lacks substantive evidence. Modern development practices prioritise sustainable and ecologically sensitive approaches, including adherence to TPOs and conservation efforts. Any works undertaken on the trees would be subject to rigorous scrutiny to ensure compliance with relevant policies and guidelines.

4.24 In summary, it is considered that the occupants of the dwelling will have good access to unshaded garden areas with a good light level in all internal habitable rooms. With ample garden space it is not considered that the proposals will place any undue pressure to cut back or prune these trees.

4.25 The reason for refusal alleges detrimental effects on wider site ecology, however it is notable that the application is supported by a suite of detailed biodiversity surveys and there is no objection from the Council's ecologist on ecological grounds, who supports the mitigation measures proposed. It is unclear from the reason for refusal what the Council considers the detrimental effect on wider ecology to be and in this context this part of the reason for refusal represents a vague and generalised assertion that is unsupported by any objective analysis and the advice of the Council's own experts.

4.26 The proposed development has given due consideration to the presence of the retained boundary trees and biodiversity. The design response ensures that the development coexists harmoniously with the existing trees and mitigation measures can be secured to retain and enhance identified habitats, which will contribute positively to the visual amenity and biodiversity interest of the site and surrounding area. No conflict with adopted policies or associated guidance is recognised.

Reasons for Refusal Three

The application fails to provide the required mitigation to offset the impacts of the development upon the European protected Solent Complex (SPA, SAC and Ramsar sites), River Itchen (SAC) and New Forest National Park (SPA, SAC and Ramsar sites) from additional recreational pressure and nitrogen and phosphate loading generated by the population increase and additional sewage resulting from the development. The proposal is therefore contrary to the requirements of Policy DM11 of the Eastleigh Borough Local Plan 2016-2036, the provisions of the NPPF (2021) and the Conservation of Habitats and Species Regulations 2017.

4.27 The site is located in an area where Natural England has raised concern regarding the continued discharge of nitrates and phosphorus (nutrients) due to its proximity to and impact, resulting from eutrophication, on the Solent water environment, recognised as being internationally important for its wildlife and safeguarded by Special Protection Area designations.

4.28 The Appellant has prepared a Nutrient Neutrality Budget Calculator following the latest Natural England methodology. The latest calculation demonstrates that the development would result in additional nitrogen and phosphorous being released into the sewerage system which requires appropriate mitigation in order to achieve neutrality. EBC operate a mitigation scheme within their jurisdiction which has been approved by Natural England. The Appellant has submitted an expression of interest to EBC, and will confirm through this appeal that there are sufficient mitigation credits for the proposed development.

4.29 The Officer's report to committee also ratifies the Appellant's position where it is stated that:

"The applicant has confirmed that they intend to make use of these schemes and a condition is recommended requiring confirmation that the appropriate level of nitrate mitigation has been secured prior to occupation."

4.30 The Appellant confirms that they are happy to accept an appropriately worded planning condition as follows (as set out in the Officer's report to committee):

The development hereby permitted shall not be occupied until a mitigation package addressing the additional nutrient inputs arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such a mitigation package shall address all of the additional nutrient loading upon protected European sites from the development and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity

of those European Sites, having regard to the conservation objectives for they are designated. The mitigation package shall be implemented in full and evidence of this provided to the Local Planning Authority in writing prior to first occupation of the development.

Reason: To mitigate the nitrates impacts arising from the development upon the European protected Solent Complex in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017.

- 4.31 A Nitrate Mitigation Strategy will also be secured by unilateral undertaking as part of this appeal.
- 4.32 The site falls inside the 5.6km buffer zone for the Solent Special Protection Area (SPA) and also within the 13.8km catchment area for the New Forest and the proposed dwellings are likely to result in additional visitors to these protected sites.
- 4.33 To mitigate for these impacts, the Appellant has agreed to provide contributions towards the Solent Recreational Disturbance Strategy and the Council's New Forest Mitigation Strategy (which provides Suitable Alternative Natural Green Spaces within the borough), which will be secured by unilateral undertaking as part of this appeal.
- 4.34 It is common ground between the parties that these obligations are necessary to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. They accord with the tests that are set out in paragraph 57 of the Framework and the Community Infrastructure Levy Regulations (as amended, 2019), where they apply to each of the obligations. They address the matters that are set out in the Council's third reason for refusal.

5. Other Material Considerations

- 5.1 The revised Framework retains the presumption in favour of sustainable development (paragraph 11). Key to the consideration of this appeal proposal is paragraph 11d) which states that:

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

- *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 5.2 In accordance with Footnote 8 policies are considered to be out-of-date for applications involving the provision of housing where (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.
- 5.3 In accordance with the revised NPPF Local Planning Authorities are not required to maintain a five-year housing land supply if they meet both of the criteria in paragraph 76. These are where the adopted Local Plan is less than 5-years old, and that the Local Plan identified at least a five-year supply of specific deliverable sites when the examination concluded.
- 5.4 Whilst the publication of the revised Framework means that the Council is not required to maintain a five-year housing land supply and the tilted balance will not apply going forward, transitional arrangements have been put in place and Footnote 79 of the Framework states that the policy contained in paragraph 76 and the related reference in Footnote 8, should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework. Consequently, notwithstanding the new position, the transitional arrangements mean that in this particular case, as it was originally submitted prior to the 19 December 2023, the original housing land supply requirements apply.
- 5.5 EBC published its latest figure in July 2022 which was said to be 5.1 years at that time. However, this was tested through a more appeal reference APP/W1715/22/3292580 where the Inspector concluded that the Council's supply of deliverable sites is closer to 4.7 years. Accordingly, it is considered that the authority does not meet the necessary housing supply requirements and paragraph 11d) of the Framework is engaged.

- 5.6 Footnote 7 confirms that the policies in the Framework referred to in part i) of Paragraph 11d) are those affecting specific designations. The appeal site does not fall within any of these designations and therefore, i) is not considered applicable.
- 5.7 With no relevant designations to consider, the 'tilted balance' is engaged in accordance with part ii) of Paragraph 11d). In this respect, the alleged harm as cited in the reasons for refusal needs to be both 'significant' and 'demonstrable' to outweigh the benefits of the proposed housing provision.
- 5.8 Against the identified shortfall the proposed delivery of additional housing should, in accordance with the above decisions and judgement, be provided very significant weight in any decision-maker's planning balance.
- 5.9 In this context the proposal strikes an appropriate balance between making efficient use of land in a sustainable location within the defined settlement boundary and the careful consideration of the constraints of the development site, and detailed understanding of the pattern and grain of the local context. For the reasons set out above the proposal will not result in any adverse harm to neighbour amenity, privacy or outlook, or to retained boundary trees through increased future pressure to prune or cut back. The proposal itself is a sustainable and environmentally responsible form of development and it would deliver a range of benefits, including making a modest contribution to an identified shortfall of housing in an area of high demand.
- 5.10 If however, the Inspector shares the Council's position that the proposal will result in some harm, in the Appellant's opinion the level of harm cannot be said to be significantly and demonstrably adverse in the context of paragraph 11d) of the Framework.
- 5.11 It is also material that the Council has failed to commence the review of its Local Plan within the 1-year window from its adoption in April 2022. In line with the LDS roadmap, adoption of the Local Plan Review is not anticipated until Spring 2029 at the earliest, seven years beyond the adoption of the current Local Plan.

6. Conclusions

- 6.1 The appeal proposal is for the construction of five (5) dwellings, landscaping, parking and associated works following demolition of existing dwelling, site clearance and preparation. The proposals represent the culmination of a thoughtful design process that has had proper regard to environmental and technical considerations of the development site. The proposals have also been adapted through positive dialogue with the Council and their specialists during the determination period. The appeal proposal received an Officer recommendation for approval having had due and proper regard to relevant material planning considerations. The planning committee rejected the Officer's recommendation and refused the application.
- 6.2 The reasons for refusal cite conflicts with the Development Plan, comprising the effects of the development on the outlook and amenity of neighbouring occupiers, future pressure on retained boundary trees and a lack of mitigation to offset recreational pressure on local designated sites and to achieve nutrient neutrality.
- 6.3 The Appellant contends that EBC has overstated the effects of the development firstly by overstating the impact on the amenity and outlook of neighbours, as well as overstating the effect of retained boundary trees in terms of overshadowing and future pressure to prune. In both instances EBC's position is not reflected in the findings of the studies that accompany the application, nor is this position supported by the EBC Officer's professional judgement.
- 6.4 The proposed development strikes an appropriate balance between making efficient use of land in a sustainable location within the defined settlement boundary and the careful consideration of the constraints of the development site, and detailed understanding of the pattern and grain of the local context. Inspiration has been drawn from the existing architectural vernacular and the proposed dwellings and their arrangement will deliver a contextually appropriate response to the site, as guided by officers. For the reasons set out above the proposal will not result in any adverse harm to neighbour amenity, privacy or outlook, or to retained boundary trees through increased future pressure to prune or cut back. The proposal itself is a sustainable and environmentally responsible form of development and it would deliver a range of benefits, including making a modest contribution to an identified shortfall of housing in an area of high demand.
- 6.5 For the reasons set out in this statement and having regard to the available information and material planning considerations, it is respectfully requested that this appeal be allowed.

Conditions

- 6.6 The Appellant reserves the right to comment on conditions put forward by EBC through this appeal in due course, but in principle supports the conditions as outlined in the Officer's report to planning committee.

Appendices

Appendix 1 – Decision Notice

MR JACOB GOODENOUGH
NOVA PLANNING LTD
BUILDING A
UNIT 3
STATION ROAD
WICKHAM
PO17 6JA

Application	F/23/95549
Please ask for	Gary Osmond
Direct dial	023 8068 8490
Working hours	Mon to Fri 8:30am to 5pm
Email	gary.osmond@eastleigh.gov.uk

Wednesday 7 February 2024

Town and Country Planning Act 1990
The Town and Country Planning (Development Management Procedure) (England)
Order 2015

Application No. F/23/95549

In pursuance of their powers under the above Act and in accordance with your application received on Monday 3 July 2023 the Council, as Local Planning Authority hereby **Refuse Planning Permission For** the following :

Description:	Construction of 5.no dwellings, landscaping, parking and associated works following demolition of existing dwelling, site clearance and preparation.
Site:	BRIGHSTONE, BOTLEY ROAD, HORTON HEATH, EASTLEIGH, SO50 7DT

For the following reasons:

- 1 That proposed, by virtue of its layout, form, height and scale, would result in a visually intrusive development to the detriment of the amenity of neighbouring properties through loss of outlook, together with an unacceptable level of disturbance as a result of vehicle movements in close proximity to shared site boundaries. As such, that proposed 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 The close proximity of Plot 5 to trees which are subject to a Tree Preservation Order will result in these trees dominating the residential amenity space of the

proposed development, to the detriment of the amenity of future occupiers, as well as increased future pressure for unnecessary works to be undertaken to the trees, to the detriment of the trees' and wider site ecology. As such, that proposed is considered to be contrary to Policies DM1 and DM11 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' and 'Trees and Development' Supplementary Planning Documents.

- 3 The application fails to provide the required mitigation to offset the impacts of the development upon the European protected Solent Complex (SPA, SAC and Ramsar sites), River Itchen (SAC) and New Forest National Park (SPA, SAC and Ramsar sites) from additional recreational pressure and nitrogen and phosphate loading generated by the population increase and additional sewage resulting from the development. The proposal is therefore contrary to the requirements of Policy DM11 of the Eastleigh Borough Local Plan 2016-2036, the provisions of the NPPF (2021) and the Conservation of Habitats and Species Regulations 2017.

Note to Applicant: The application was refused following the assessment of the following plans: 20/001/100 P8, 20/001/101 P5, 20/001/102 P5, 20/001/103 P4, 20/001/104 P5, 20/001/105 P6, 20/001/106 P4 (Drainage Plan), 20/001/106 P4 (Constraints Plan) & 20/001/110 P3. In accordance with paragraph 38 of the National Planning Policy Framework (February 2019), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

Yours faithfully

A handwritten signature in black ink that reads "N Parker". The signature is written in a cursive, slightly stylized font.

Nicholas Parker
Planning Manager

N.B. See Attached Notes

Appendix 2 – Officer’s Committee Report

Application Number: F/23/95549
Case Officer: Gary Osmond
Received Date: Monday 3rd July 2023
Site Address: Brighstone, Botley Road, Horton Heath, Eastleigh, SO50 7DT
Applicant: Alderbury Homes Ltd.
Proposal: Construction of 5.no dwellings, landscaping, parking and associated works following demolition of existing dwelling, site clearance and preparation.

Recommendation: Subject to:

- Receipt of the outstanding consultation response from Natural England, and any actions required as a result of comments received; and
- Securing mitigation towards recreational impact of the development upon the Solent and New Forest SPAs.

Delegate to Service Director for Planning and Environment to PERMIT subject to the following conditions:

CONDITIONS & REASONS:

- 1) The development hereby permitted shall be implemented in accordance with the following plans numbered: 20/001/100 P8, 20/001/101 P5, 20/001/102 P5, 20/001/103 P4, 20/001/104 P5, 20/001/105 P6, 20/001/106 P4 (Drainage Plan), 20/001/106 P4 (Constraints Plan) & 20/001/110 P3.
Reason: For the avoidance of doubt and in the interests of proper planning.
- 2) The development hereby permitted shall start no later than three years from the date of this decision.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- 3) The development hereby permitted shall not be commenced for a period of at least 21 days from the date of the decision.
Reason: To comply with Section 28I(6) of the Wildlife and Countryside Act 1981 (as amended) as this permission is being granted otherwise than in accordance with the advice of Natural England.
- 4) No development shall start until details for the sustainable disposal of surface water and disposal of foul sewerage from the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. These details shall include assessments of the site's ground

conditions and suitability for filtration drainage. The development shall then accord with the approved details.

Reason: To ensure satisfactory provision of foul and surface water drainage.

- 5) The approved Sustainable Drainage Scheme shall be fully implemented and written verification by an appropriate drainage consultant of its implementation in accordance with the approved plans and supporting drainage statements shall be provided to the Local Planning Authority prior to the first occupation of the development. The sustainable drainage scheme shall thereafter be retained, maintained and managed in accordance with the approved management and maintenance statement.
Reason: To prevent flooding and pollution.
- 6) The development shall accord with the submitted Arboricultural Impact Assessment and Method Statement by 'ecourban Arboricultural', Ref: 231543 - AIA dated 20 June 2023. All tree protection measures shall be installed prior to any works commencing on site.
Reason: To retain and protect the existing trees and hedges which form an important part of the amenity of the locality.
- 7) No construction or demolition works shall commence until a Construction Environment Management Plan (CEMP), has been submitted to, and approved in writing by, the Local Planning Authority. Demolition and construction shall only take place in accordance with the approved details which shall include:
 - a) a programme and phasing of the demolition, construction and development works;
 - b) the location and height of temporary site buildings, compounds, construction material and plant storage areas used during demolition and construction;
 - c) safeguards to be used within the construction process to ensure surface water contains no pollutants on leaving the site;
 - d) safeguards for fuel and chemical storage and use, to ensure no pollution of the surface water leaving the site;
 - e) the arrangements for deliveries associated with all construction works, loading / unloading of plant & materials and restoration of any damage to the highway [including any vehicle crossovers where applicable];
 - f) the parking of vehicles of site operatives and visitors;
 - g) the protection of pedestrian routes during construction;
 - h) management measures to control the emission of dust generated by demolition and construction works;
 - i) a scheme for controlling noise and vibration impacts on noise sensitive properties from site preparation and construction activities (to include details of any piling if proposed);
 - j) provision for storage, collection, and disposal of waste from the development during the demolition and construction period;
 - k) measures to prevent mud and dust on the highway during demolition and construction; and
 - l) measures to protect wildlife, including reptiles, hedgehogs and badgers during the construction process.

Reason: To limit the impact the development has on the amenity of the locality, neighbouring residents, and biodiversity and hydrology during the demolition and construction process.

- 8) No construction, demolition or deliveries to the site shall take place during the construction period except between the hours of 0800 to 1800 Mondays to Fridays or 0900 to 1300 on Saturdays and not at all on Sundays or Public Holidays.

Reason: To protect the amenities of the occupiers of nearby dwellings

- 9) No burning of materials obtained by site clearance or any other source shall take place during the demolition, construction and fitting out process.

Reason: To protect the amenities of the occupiers of nearby properties.

- 10) No vegetation clearance shall occur on site during the bird nesting season [between 1st March & 31st August] unless supervised by an appropriately qualified ecologist.

Reason: To prevent harm to breeding birds.

- 11) No development shall start on site until the accesses to the application site and 'Neerome', including the footway and/or verge crossing has been constructed and lines of sight of 2.0 metres by 43.0 metres provided in accordance with the approved plans. The lines of sight splays shown on the approved plans shall be kept free of any obstruction exceeding 0.6 metre in height above the adjacent carriageway and shall be subsequently maintained so thereafter.

Reason: To provide satisfactory access and in the interests of highway safety.

- 12) No development above damp-proof course level shall proceed until details (and samples where requested) of the materials to be used in the construction of the external surfaces of the development hereby permitted, to include all walls, roofs, fenestration, window surrounds, rainwater goods and balcony barriers have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory visual appearance in the interest of the amenities of the area.

- 13) No development above damp-proof course level shall proceed until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall cover all hard & soft landscaping, including trees and boundary treatments, and shall provide details of timings for all landscaping and any future maintenance. The works shall be carried out in accordance with the approved plans and to the appropriate British Standard.

Reason: In the interests of the visual amenity of the locality and to safeguard the amenities of neighbouring and future residents.

- 14) All hard & soft landscaping, tree planting and boundary treatment shall be carried out in accordance with the approved details and to the appropriate British Standard prior to occupation of the last dwelling. For a period of 5 years after planting, any trees or plants which are removed, die or become seriously

damaged or defective, shall be replaced as soon as is reasonably practicable with others of the same species, size and number as originally approved in the landscaping scheme.

Reason: In the interests of the visual amenity of the locality and to safeguard the amenities of neighbouring residents.

- 15) No development above damp-proof course level shall proceed until details of bin & cycle storage provision, including the communal refuse collection point, has been submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until its associated bin & cycle storage has been provided in accordance with the approved details and thereafter retained and kept available.

Reason: To ensure the adequate provision of on site facilities.

- 16) All works shall be undertaken in accordance with the recommendations set out in the Preliminary Ecological Appraisal & Precautionary Measures report prepared by EcoSupport dated 11th September 2023. No works above damp-proof course level shall proceed until final details of biodiversity enhancement measures, including construction details for the replacement bat roost above the carport for Plot 2, and how future occupiers of the development will be informed of the measures have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect bats species and provide biodiversity net gain.

- 17) No development above DPC level shall start until details of external lighting strategy has first been submitted to and approved in writing by the Local Planning Authority. The agreed strategy shall be fully implemented prior to occupation of the last dwelling.

Reason: To ensure that the external lighting strategy does not have a detrimental impact on protected species including commuting and foraging bats, and in the interest of neighbour's amenity.

- 18) The first floor windows to the northern and southern side elevations of Plots 1 & 2 shall either be obscure glazed to Pilkingtons level 3 or equivalent with no opening parts less than 1.7 metres above the floor level of the rooms which they serve, or be positioned with their lower sill at least 1.7 metres above the floor of the room in which they are installed. Once installed the windows shall be permanently maintained in that condition.

Reason: To protect the amenity and privacy of the adjoining residential properties.

- 19) No additional or altered windows shall be constructed in the northern elevations of any plot within the development hereby approved.

Reason: To protect the amenity and privacy of the adjoining residential properties.

- 20) Notwithstanding the provisions of the Town and Country Planning [General Permitted Development] Order 2015 [or any order re-voking or re-enacting that order with or without modification] no development permitted by Classes A, B,

C & E of Schedule 2 of the order shall be carried out to Plot 5 without the prior written approval of the Local Planning Authority.

Reason: To protect the amenities of the locality, to protect trees subject to preservation orders and to maintain a good quality environment.

- 21) No dwelling hereby permitted shall be occupied until its requisite parking area, including garage and carport where relevant, has been provided in accordance with the approved plans and thereafter permanently retained and used only for the purpose of accommodating private motor vehicles incidental to the enjoyment of the dwelling house as a residence.

Reason: To make provision for off street parking for the purpose of highway safety.

- 22) Before use of the development is commenced the sections of redundant existing access from the site to Botley Road shall be permanently stopped up and effectively closed with the footway provided or verge reinstated, in accordance with details which have been submitted to and approved by the Planning Authority.

Reason: In the interests of highway safety.

- 23) The development hereby permitted shall not be occupied until a mitigation package addressing the additional nutrient inputs arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such a mitigation package shall address all of the additional nutrient loading upon protected European sites from the development and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of those European Sites, having regard to the conservation objectives for they are designated. The mitigation package shall be implemented in full and evidence of this provided to the Local Planning Authority in writing prior to first occupation of the development.

Reason: To mitigate the nitrates impacts arising from the development upon the European protected Solent Complex in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017.

Note to Applicant: In accordance with paragraph 38 of the National Planning Policy Framework (July 2021), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

Note to Applicant: This planning permission does not convey the right for the development to encroach over, under or on land which is not within your ownership, without the consent of the landowner.

Note to Applicant: The permission does not authorise the undertaking of any works involving excavations in the carriageway, footway or verge. A road opening permit must be obtained from Hampshire Highways.

Note to Applicant: It is requested that the building works are carried out considerately to minimise disruption to the occupiers of the neighbouring properties. The council operates a code of best practice, which is available on the council's website www.eastleigh.gov.uk by following the links to Planning, Guidance on the process, scroll down to Guidance on Aspects of the Planning & Construction Process and select considerate builders' advice note.

Report:

This application has been referred to committee by Councillors Broomfield, Caws, Couldrey and Parker-Jones.

Description of Application

1. The application seeks consent for the construction of 5No. two storey dwellings (3No. three bedroom, 1No. four bedroom and 1No. five bedroom) with private amenity space, parking and landscaping, accessed from Botley Road. The scheme to be determined is an amended version of that originally submitted in July 2023.
2. The application is accompanied by the following reports and technical assessments which can be viewed on the Council's website [here](#) together with the proposed plans and drawings:
 - Planning Statement
 - Design & Access Statement
 - Arboricultural Impact Assessment and Method Statement
 - Preliminary Ecological Assessment
 - Bat Survey Report
 - Biodiversity Net Gain, Assessment, Monitoring and Management Plan
 - Transport Assessment
3. The proposal has been screened out under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2017 due to the size and nature of the proposed development.
4. Screening under the Habitats Directive is required due to the development's impact in combination with other development upon the Solent and New Forest SPAs (see below).

Site Characteristics and Character of the Locality

5. The application site lies along the southern edge of Horton Heath, with open fields to the south and residential development to the north. Whilst open undeveloped garden, the application site and the field to the south is designated as being within the urban edge for the purposes of the current adopted Local Plan.

6. Existing neighbouring development consists of predominantly one and two storey detached dwellings, together with a number of large chalet style dwellings on good size plots. Access to the site would be via Botley Road, which is currently shared with the neighbouring property to the north known as 'Neerome', a 1930s semi-detached two storey dwelling. To the south of the access is a large and relatively modern two storey red brick dwelling called 'Meadow View'. Along the northern edge of the site are three further chalet style dwellings, known as 'Southview', 'Hideaway' and '14 Cherry Drove'. There are a group of further large detached dwelling beyond the western end of the site, separated by a number of mature trees.
7. The site itself is relatively flat and level and shaped like an elongated hourglass, i.e. wider at the eastern and western ends but narrowing in the middle just behind the existing bungalow which would be demolished. All boundaries are generally marked by mature hedgerows, with a group of three large oak trees at the western end of the site which are subject to a preservation order. The existing garden also has a number of mature fruit and ornamental trees, as well as timber sheds and greenhouses but is predominantly lawn. The exiting bungalow dates from the 1970s and is of limited architectural value.

Relevant Planning History

8. Other than a number of modest domestic extensions, there is no recent planning history directly associated with the application site. However, it did form part of an application for proposals for eight dwellings in 1987 (Ref: Z/29608/000/00).

Representations Received

9. A total of five representations were received to the originally submitted proposals, all objecting to the application for the reasons set out below:
 - Overlooking and loss of privacy.
 - Visually intrusive.
 - Height and scale.
 - Loss of light and overshadowing.
 - Noise and air pollution from cars.
 - Loss of current views.
 - Existing properties will overlook proposed.
 - Road and parking spaces close to neighbouring boundaries.
 - Overdevelopment.
 - Poor design.
 - Out of character with the locality.
 - Unsustainable.
 - Loss of trees.
 - Loss of biodiversity.

- Boundaries are shown incorrectly.
 - Proposed new trees will cause structural damage to existing dwellings.
 - Will devalue neighbouring properties.
10. Following submission of amended proposals, neighbours were reconsulted. Again, five representations were received, four from the same properties, all objecting to the amended scheme and raising the additional points:
- Existing access is unsuitable for five dwellings.
 - Communal bin collection point will be unsightly and obstruct the pavement.
 - Drainage impacts.
 - Impact upon existing access to Neerome.
11. A response to the main planning related issues is given where relevant below. With regards to the devaluation of existing properties, whilst this concern is noted, the devaluation or otherwise of land or property is not a material planning consideration and cannot be taken into account when determining any planning application. With regards to boundaries being shown incorrectly, officers are satisfied that the submitted drawings accord with Ordinance Survey plans.
12. **Fair Oak Parish Council** – The design of the houses as traditional and lower is pleasing but the proposal seems overdeveloped.

Consultation Responses

13. **Urban Design – No objection in principle.** The proposed layout and setting of the dwellings are sympathetic to the character of existing surrounding development, as is the general design and appearance of the proposed dwellings. However, the heights of Plots 3, 4 and 5 are considered to be out of keeping with existing neighbours. There is the potential for overlooking into adjacent properties as a result of the restricted distances between existing and proposed buildings. Drawings do not show proposed bin and cycle storage, nor vehicle charging points, which needs to be considered at an early stage so as to not result in the loss of landscaping.
14. **Ecology – No objection subject to conditions.** The existing dwelling's loft space is used by brown long-eared bats. If approved, a suitable alternative open loft space will need to be provided with a similar access and aspect. This type of loft space could be achieved above the proposed carport for Plot 2.
15. The enhancement measures proposed within the supporting ecological assessment are generally acceptable and should be conditioned. Further details in relation to landscape planting are required to ensure the proposed trees have enough space to establish and to encourage wildlife through plants which will attract pollinators.

16. Amendments to the currently proposed drainage strategy are required to remove soakaways out the root protection areas of trees. Details as to how the access road and parking areas will be drained are also required.
17. **Trees – Objection.** The site is largely tree-free, with the only significant arboricultural features located on the far western boundary: three large oak trees, subject to Tree Preservation Orders.
18. We do not have an issue with the removal of the small, back-garden trees (e.g. the fruit trees) because they are not significant from an amenity perspective, but they will have to be replaced as per the Tree Replacement Policy.
19. However, at this stage, we do have some concerns regarding the impact of the placement of Plot 5 (the furthest west). We have concerns that the oak trees will be dominant over the residential amenity space and impact the proposed solar arrays on the roof. This could lead to unacceptable pressure on the trees in the future to either be pruned or removed, as per Section 15 of the Trees and Development SPD.
20. **Hampshire Highways – No objection.** Further details in relation to the proposed revisions to the existing Botley Road access have now been received and are considered acceptable. Suggestions made in relation to internal site layout and width of access road, so as to ensure adequate room for two-way traffic and vehicle passing places. Conditions requested in relation to: submission and approval of a Construction Method Statement; provision of adequate sightlines at access; stopping up of old access; and provision of secure cycle storage for all plots.
21. **Natural England** – Comments awaited.

Policy Context and Designations Applicable to Site

- Within Built-up Area Boundary

Eastleigh Borough Local Plan 2016-2036

Strategic Policies:

- S1 (Delivering sustainable development);
- S2 (Approach to new development);
- S3 (Location of new housing); and
- S11 (Transport infrastructure).

Development Management Policies:

- DM1 (General criteria for new development);
- DM2 (Environmentally sustainable development);
- DM3 (Adaption to climate change);

- DM6 (Sustainable surface water management and watercourse management);
- DM11 (Nature conservation);
- DM13 (General development criteria - Transport);
- DM14 (Parking);
- DM23 (Residential development in urban areas);
- DM24 (Creating a mix of housing);
- DM29 (Dwellings with higher access standards); and
- DM30 (Internal space standards for new residential development).

Hampshire Minerals and Waste Plan

- Policy 15 – Safeguarding of Mineral Resources.

Supplementary Planning Documents

- Quality Places (November 2011);
- Trees and Development (April 2022);
- Residential Parking Standards (January 2009);
- Environmentally Sustainable Development (March 2009); and
- Biodiversity (December 2009);

National Planning Policy Framework

22. At national level, the National Planning Policy Framework (the 'NPPF' or the 'Framework') is a material consideration of significant weight in the determination of planning applications. The NPPF states that (as required by statute) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and sets out a general presumption in favour of sustainable development unless material considerations indicate otherwise. A deliverable five-year supply of housing within each local authority area is required, and if this is not demonstrated a tilted balance in favour of the development applies.
23. Three dimensions of sustainability are to be sought jointly: economic (supporting economy and ensuring land availability); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst local circumstances should also be taken into account, so that development responds to the different opportunities for achieving sustainable development in different areas.

National Planning Practice Guidance

24. Where material, the Planning Practice Guidance which supports the provisions and policies of the NPPF should be afforded weight in the consideration and determination of planning applications.

Assessment of Proposal: Development Plan and / or Legislative Background

25. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require a Local Planning Authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the policies of the Eastleigh Borough Local Plan 2016-2036 and the Hampshire Minerals and Waste Plan 2013. The NPPF and the Planning Practice Guidance constitute material considerations of significant weight.

Policy & Principle

26. The application site lies within the urban edge where the basic principle of development is considered to be acceptable, with any planning approval being dependent upon whether the proposals are considered to accord with the relevant policies and guidance of the adopted development plan. The most relevant policy in this instance is DM1.
27. Policy DM1 requires new development to have no unacceptable impact upon the “amenities of new and existing residents; the character and appearance of urban areas, the countryside and the coast”, make efficient use of the site, as well as “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.” It goes on to state that “Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area”.
28. In addition to these requirements, DM1 also requires development to include appropriate landscaping for external spaces, together with ensuring development proposals “incorporate provision for people with disabilities and create accessible communities that cater for all”.

Sustainable Development

29. Section 2 of the NPPF (December 2023) states that the purpose of the planning system is to contribute to the achievement of sustainable development, which can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
30. Achieving sustainable development means that the planning system has three overarching objectives – economic, social and environmental (which are interdependent and need to be pursued in mutually supportive ways) that should be delivered through the preparation and implementation of plans and the application of the policies in the Framework.

31. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
32. National legislation and guidance, together with local policy ensure that all planning applications are tested for their resilience to and impact on the Environment. Details elsewhere in this report set out the Climate Change and Environmental implications of this application and their proposed mitigations.

Economic Sustainability

33. Section 2 of the NPPF, states that the objective of economic sustainability is “to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure”.
34. In economic terms, redevelopment of the application site would provide new homes and bring additional residents into the area who would be able to access local facilities and provide custom for businesses. There would also be benefits to the construction industry and suppliers during the build process, as well as to the management company appointed to look after the development.
35. In economic terms therefore, it is considered that the proposed scheme would meet the requirements of being economically sustainable.

Social Sustainability

36. In relation to social sustainability, section 2 of the NPPF states that the objective is “to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being;” Section 5, ‘Delivering a sufficient supply of homes’ goes on to state that “it is important that a sufficient amount and variety of land can come forward where it is needed,” and “that the needs of groups with specific housing requirements are addressed”.
37. Redevelopment of the site would meet the requirements of the NPPF in this regard. Whilst that proposed would be for general private housing provision, it will nonetheless meet an acknowledged need. In terms of social sustainability therefore, that proposed is considered to meet the requirements of being socially sustainable.

Environmental Sustainability

38. Section 2 of the NPPF goes on to state that the objective of environmental sustainability is “to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”
39. There are a number of different components to Environmental Sustainability, including consideration of site-specific planning matters and the impacts of the development on its surroundings, which are considered below under the relevant subheadings.

Layout

40. As set out above, the application seeks consent for the construction of 5No. two storey dwellings consisting of: a pair of three bedroom two storey semi-detached dwellings (Plots 1 & 2); a three bedroom detached chalet style dwelling (Plot 3); a two storey detached four bedroom dwelling (Plot 4); and a two storey detached five bedroom dwelling (Plot 5). All would have their own private amenity space and dedicated parking in the form of garages, carports and driveways. Access to the site would be via a revised existing dropped kerb onto Botley Road, and a shared access road along the northern edge of the site, with new landscaping and tree planting. The scheme to be determined is an amended version of that originally submitted in July 2023, with the main revisions being the position of the garage serving Plot 5, the parking areas serving Plots 1 and 2, as well as to the site access, together with some internal amendments.
41. Due to the elongated shape of the site, the smaller semi-detached dwellings are positioned towards the Botley Road frontage, with plots increasing in size and building scale towards the rear of the site where it is at its widest. This general layout is intended to limit impact upon neighbouring properties to the north, with proposed dwellings being positioned in ‘gaps’ between neighbouring dwellings.
42. The revisions made to the originally submitted plans were to address site constraints and consultation responses received. The most noticeable change is to the position of Plot 5’s garage, which has been pushed back from its original location at the front of the dwelling. The reasons for this are intended to reduce impact upon the outlook from the rear of the neighbouring property, ‘Southview’. The original garage would have been directly in front of the main bedroom window and Juliet balcony. Whilst not sufficient to result in any unacceptable loss of light, it would have significantly impacted outlook. By moving the garage further back, impact upon the outlook from this window would be lessened, with views to the fields beyond still available between the dwellings on Plots 4 and 5.
43. Given the site constraints and capacity of the site access, that proposed is considered to be an acceptable layout which balances the site’s development potential against its constraints. Whilst concerns in relation to

overdevelopment have been raised, the resulting development would not be dissimilar in form or character to others found elsewhere in Horton Heath, something which has been highlighted in the Council's Urban Design Officer's response. As such, the proposed development would accord with the general requirements of Policy DM1 of the adopted Local Plan and the Council's 'Quality Places' SPD.

Form, Scale & Design

44. All proposed dwellings would be two storeys in height and scale, other than Plot 3, which is more of a chalet style dwelling with first floor accommodation within its roof space. All would be of a traditional pitched roof form and use traditional facing materials of brick and tile hanging, with slate roof covering. Architecturally, the designs are traditional in form but not unattractive, akin to the vast majority of more recent residential development in and around Horton Heath. As such, the proposed development would accord with the general requirements of Policy DM1 of the adopted Local Plan and the Council's 'Quality Places' SPD.

Street Scene & Area Character

45. The existing bungalow is not easily seen from Botley Road due to its single storey scale, low pitched roof and set back position. It is also shielded by a 1.8 metre high boundary fence and planting. Although Plots 1 and 2 will be more visible within the street scene, due to their two storey height, they will still be set back from the site frontage, coming no further forward than either of the existing neighbouring two storey properties to the north and south. Whilst alterations to the site access are proposed, it is still intended that the frontage with Botley Road would be marked by a hedge, with good levels of soft landscape planting to provide an attractive outlook for occupiers, as well as to the public realm.
46. Within the site, these good levels of soft landscape and tree planting would continue along the access road, helping to provide an attractive green setting for the development, and to help mitigate the removal of existing fruit and ornamental trees within the current garden. In terms of the internal and more public street scenes, therefore, that proposed is considered to be appropriate and a modest enhancement in terms of the Botley Road frontage.
47. With regards to the general character of the locality, comments have been made that the proposed development would result in an overdevelopment of the site. Whilst noted, this is not considered to be the case. Although the existing single dwelling would be replaced by five, the site is large and can easily accommodate the number of dwellings proposed. It should be noted Policy DM23 of the adopted Local Plan requires new residential development within the urban edge to achieve a minimum density of 40 dwellings per hectare (dph). The five units proposed on this 0.3 hectare site would equate to a density of just under 17dph, considerably under the policy requirement. To accord with the policy therefore, a total of twelve dwellings would be required.

However, this is unlikely to be feasible because of the site constraints – principally its shape and relationship with existing neighbouring properties. Whilst that proposed is not in accordance with Policy DM23, the policy does allow for lower densities where “site constraints or local character justify a lower density.” It is considered that this site is one of those exceptions.

48. In terms of the development’s impact upon the wider character of the area, that proposed would not be dissimilar in form or density to a number of other relatively recent developments within the area, including Westfield Close, Orchard Drive, Cedar Row and Cherry Drove, which neighbours the application site. Overall therefore, it is not considered that the proposed development would result in any unacceptable harm in terms of the visual amenity of the locality or go against the prevailing pattern of development already present. As such, it is considered to accord with the requirements of Policy DM1 of the adopted Local Plan and the Council’s ‘Quality Places’ SPD in these respects.

Access, Parking, Servicing & Highway Matters

49. The existing dropped kerb access to Botley Road currently serves the application site and the neighbouring property, ‘Neerome’. This would be altered in order to provide separate dropped kerb entrances for Neerome and the proposed development. This arrangement has been reviewed by Hampshire Highways who have raised no objection. Separate entrances will prevent possible confusion and still ensure that adequate sightlines will be achievable. Conditions have been requested in relation to provision of the revised entrances before the main construction work commences.
50. Comments in relation to the proposed internal road layout and whether there is sufficient width to allow for two way traffic were also raised within the Highway comments received. This is noted but not considered to be a significant issue. There are appropriately positioned passing places along the length of the roadway. As such, it is not considered necessary or desirable to increase the width of the access road, with the increased width required being better used for landscape and tree planting.
51. Parking provision to meet the ‘Residential Parking Standards’ SPD would be provided for all plots, together with scope for informal visitor parking at points along the access road and large turning area at the end of the road.
52. The proposals include a bin collection point adjacent to the Botley Road access, which would be screened with appropriate landscaping and should prevent bins obstructing the pavement or site access.
53. It is not envisaged that the development would result in any adverse traffic impact upon the local highway network, or highway safety concerns with the revised access arrangement now proposed.
54. Now that the previous queries raised by Hampshire Highways have been appropriately addressed, that proposed is considered to accord with the

requirements of Policies DM1, DM13 and DM14 of the adopted Local Plan, together with the 'Quality Places' and 'Residential Parking Standards' SPDs.

Amenity

Neighbouring residents and uses:

55. Objections have been received from all immediate neighbours to the north and south of the site, raising issues of loss of privacy, light and outlook, as well as noise and air pollution resulting from vehicle movements along the access road.
56. With regards to vehicle movements, it is acknowledged that the close proximity of the access road to the northern boundary will result in some disturbance to neighbouring properties, in particular No.14 Cherry Drove. However, the top section of the road would only be used for access to Plots 4 & 5, meaning that the number of movements should not be excessive. It is also the case that these affected neighbouring properties are also separated from the road by the existing boundary hedge, which it is intended to retain. Whilst there will be some impact in terms of noise – less so in terms of air pollution – it would not be to any unacceptable extent in planning terms. Notwithstanding, care will need to be taken as to what surface treatment is used for the access road to minimise noise, i.e. a solid surface, such as tarmac or pavements would be preferable to loose gravel.
57. Although the concerns of overshadowing and loss of light are noted, the proximity and relationship between the proposed and existing dwellings is such that there would be no loss of daylight or direct sunlight.
58. With regards to overlooking and loss of privacy, the proposed dwellings have been designed in such a way so as to ensure that there are no first floor windows which would directly face or allow views into existing neighbouring properties or gardens. Plots 1 & 2 do include first floor side facing windows, which would serve a landing area and bathroom. As such these can easily be obscure glazed. Plot 3 has been designed so as to have its main first floor outlook to the east, south and west. The rooflight windows to the northern elevation would be positioned above head height, so would not allow views to any properties to the north. Equally, no views into Plot 3 from existing neighbours would be available. Plots 4 & 5 have no north facing windows. Although there is a window above the garage to Plot 4 which could allow oblique views towards the rear of 'Southview', this window serves a bathroom and can be conditioned to be obscure glazed.
59. The most significant impact upon neighbouring properties would be upon the southerly views and outlook currently enjoyed across Brighstone's existing garden to the fields beyond. Any redevelopment of the application site will inevitably have a visual impact upon these near neighbours. The

issue to be considered therefore is whether the impact is acceptable in planning terms. There also needs to be a differentiation between view and outlook, which have different planning meanings. Whilst a development may have a negative impact upon a view, this does not mean that its impact upon outlook would be unacceptable.

60. As discussed above, the proposed dwellings have been positioned within the visual 'gaps' between the neighbouring dwellings to the north. As such, long views to the fields to the south would still be available for these neighbouring properties, albeit partially interrupted by the proposed dwellings. Whilst this works reasonably well in the case of No.14 Cherry Drove and Hideaway, who's outlook would not be adversely impacted due to the orientation and distances between existing and proposed, it is less successful in the case of Southview, which sits immediately north of Plot 5.
61. The relationship between Plot 5 and Southview will result in a significant negative impact upon southerly views. However, in planning terms, impact upon private views is not a material consideration and cannot be used as a reason to refuse an application. Impact upon outlook, however, is a material consideration but only if it can be demonstrated that the visual impact of a development is to such an extent that it would adversely and unacceptably impact the amenity of neighbouring occupiers. In this instance, the impact of Plot 5 upon the outlook from Southview is less clearcut. Whilst there will be a not insignificant impact, it is borderline as to whether it would be to such an extent as to be considered unacceptable and detrimental in planning terms. Although by no means ideal, on balance it is not considered that the impact would be so adverse as to justify refusal of the application on these grounds.
62. A further amenity issue to consider is disturbance during construction. Building works will inevitably cause a degree of noise, dust and disturbance. However, this is only for a relatively temporary period and can be controlled to a reasonable degree via suitably worded conditions as part of any planning approval, through the requirement for submission of a construction management plan and restrictions on working hours, etc.
63. Overall therefore, in relation to the proposed development's impact upon the amenity of existing neighbouring occupiers, whilst it is acknowledged that there would be an impact, it is not considered that it would be to such an extent as to warrant refusal of the application. As such, that proposed is considered to accord with the general requirements of Policy DM1 and the Council's 'Quality Places' SPD.

Future residents:

64. Regarding the residential amenity of future occupiers of the development, the proposed site and internal layout of each plot will ensure that there would be no unacceptable loss of privacy, light or outlook, all of which would meet or exceed the amenity requirements of the 'Quality Places' SPD. Equally, all dwellings meet or exceed the minimum floor area

requirements of Policy DM30 and garden area requirements of 60% of the floor area of the dwelling which they serve. It is acknowledged that there will be a degree of overlooking into the gardens of Plots 3 & 4 from Hideaway to the north. However, this would not be to any unacceptable extent and is to be expected in suburban areas. As such, that proposed is considered to accord with the requirements of Policies DM1, DM30 and the Council's 'Quality Places' SPD.

Drainage & Flood Risk

65. The application is supported by a basic drainage plan, which shows that foul drainage can be linked to the existing sewer network via Botley Road. Surface water drainage for each plot would be dealt with via soakaways which have now been moved out of the Root Protection Areas of surrounding trees. The shared access road is shown as being of a permeable surface, albeit exact details of what is proposed have not been provided. The intended surface treatment will need to also take into account noise, as well as drainage. As such further details in relation to this are required by condition, together with confirmation as to the suitability of the existing ground conditions for infiltration drainage.
66. The application site lies in Flood Zone 1, where there is not considered to be any significant risk in terms of flooding.

Trees

67. As set out in the Borough Tree Consultant's response, whilst the site does currently contain a reasonable number of modest fruit and ornamental trees, these provide little in the way of wider amenity value. As such, there is no arboricultural objection to their removal, provided suitable replacements are planted as per the Tree Replacement Policy set out in the Council's 'Trees and Development' SPD. It is proposed to remove a total of 21 trees, ranging in size from small ornamental trees/shrubs to mature fruit trees. In order to accord with the tree replacement policy, these will need to be replaced on a one for one basis, which the updated site layout demonstrates is possible, mainly within communal landscaped areas.
68. The only trees of note are three Oaks along the western boundary which are subject to a preservation order. The supporting Arboricultural Impact Assessment and Method Statement demonstrates that these can be protected throughout the build process, with no development encroaching within their root protection areas. Whilst the concerns raised by the Borough Tree Consultant with regards to the proximity of the Plot 5 dwelling to these trees and possible future pressure to have these trees cut back is acknowledged, the rear garden of this plot is of a more than sufficient size to still be useable, with a sizable south facing area which would not be unduly shaded.

69. Whilst the removal of so many existing trees is unfortunate, none are subject to any form of protection and can be removed without requiring any form of consent. Notwithstanding, there is scope to provide numerical replacements, including some which could mature to a size which would have wider visual amenity value. A condition requiring final landscaping details to be agreed is recommended, as is a condition requiring protection measures to be implemented throughout the build process.

Ecology

70. Other than a confirmed bat roost within the loft of the existing bungalow, the remainder of the site has relatively limited habitat and biodiversity value. The large area of lawn and boundary hedges to north and south are not the species rich habitat required to provide useful and valuable habitat for local wildlife. Notwithstanding the majority of existing trees on site are to be removed, the hedgerows will remain, and the new landscaping and tree planting required can be used to provide improved habitat. It is also proposed to provide a replacement bat roost within the roof of the carport proposed for Plot 2. Whilst smaller than the present loft, it would be of the same orientation and in approximately the same location. Other enhancement measures proposed include bird and bat bricks within the new dwellings, together with soft landscaping which encourages wildlife. All of this can be secured with a suitably worded condition.

Impact on Special Policy Areas

Nitrates:

71. Natural England have advised that the increase in wastewater from new housing developments within the borough is having a detrimental effect on the quality of water entering the Itchen and Solent catchment areas through nitrification. As such all developments for additional housing are required to reach nutrient neutrality (ensuring that development does not add to existing nutrient burdens), in order to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).
72. The application site would use the Chickenhall Lane wastewater treatment works, which discharges into the Itchen. As such the proposed development is required to achieve nutrient neutrality for nitrogen and phosphorus impact. Eastleigh Borough Council have schemes which take land out of agricultural uses and creates recreational spaces, thus reducing the nutrient output of the land. The applicant has confirmed that they intend to make use of these schemes and a condition is recommended requiring confirmation that the appropriate level of nitrate mitigation has been secured prior to occupation.

Recreational Disturbance:

73. The site falls inside the 5.6km buffer zone for the Solent Special Protection Area (SPA) and also within the 13.8km catchment area for the New Forest

SPA. It is recognised that new housing developments within these catchment areas are likely to result in additional visitors to these protected sites.

74. In order to mitigate for these impacts, the developer has agreed to provide contributions towards the Solent Recreational Disturbance Strategy and the Council's New Forest Mitigation Strategy (which provides Suitable Alternative Natural Green Spaces within the borough), should the Committee resolve to approve the planning application.

Habitats Regulations:

75. Any proposed residential development within the Borough will have a likely impact upon The Solent SPAs and New Forest National Park. As such, an Appropriate Assessment under the Habitats Regulations has been completed and is currently being reviewed by Natural England.

Sustainability Measures and Climate Change

76. In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.
77. The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy.
78. The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use.
79. When considering the impact of climate change, the proposed development would be expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use.

80. No specific details as to what particular measures would be included as part of the proposed development have been provided. However, as a new build development, there would be a requirement to meet the latest Building Regulations standards in this respect, which would include suitable insulation, energy requirements and standards. There is also scope to include additional measures such as photovoltaic panels to the roofs and electric vehicle charging points, as well as new tree planting to provide shade and prevent possible overheating in the summer months.

Planning Obligations / Considerations

81. At five units and 717 square metres total floor area, the proposed development falls under the ten unit and 1,000 square metre floor area thresholds for when planning obligations and affordable housing can be secured.

Other Material Considerations:

The Council's Five-Year Housing Land Supply

82. In accordance with the revised NPPF (December 2023), Local Planning Authorities are not required to maintain a five-year housing land supply if they meet the two criteria in paragraph 76. These are a recently adopted Local Plan, that identified at least a five-year supply when the examination concluded.
83. The Eastleigh Borough Local Plan was adopted in April 2022 and the final Inspector's report accepted that the Council met the requirement for a five-year supply. The five-year housing land supply position report published by the Council at that time provides further information on the sources of housing supply. The Council is not therefore required to maintain a five-year housing land supply and the tilted balance will not apply.
84. However, this latest NPPF position only relates to applications submitted after the revised NPPF was published. For any applications submitted prior to this, which includes the current application for Brighstone, the housing land supply must be based on the previous five year supply. The last published figure in July 2022 was 5.1 years, and with the current local plan having only been adopted in April 2022, it is considered that the authority does meet the necessary housing supply requirements.

Equalities Implications

85. Section 149 of the Equalities Act 2010 created the public sector equality duty and states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
 - *foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*
86. When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any specific equality implications.

Conclusion:

87. Whilst the impact of that proposed upon immediate neighbouring properties is acknowledged, there is a need to make effective use of sites within the urban edge. That proposed is considered to provide a reasonable balance between developing the site and limiting any unacceptable impact upon neighbouring occupiers. It is therefore considered to meet the requirements of all the relevant policies of the adopted Local Plan and Supplementary Planning Documents, as well as the NPPF. As such, it is recommended that the application be delegated back to the Service Director for Planning and Environment for approval subject to: the outstanding comments from Natural England; the conditions set out above; and securing mitigation towards the Solent and New Forest SPAs.

F/23/95549



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Date: 19/01/2024 | Scale: 1:1250