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Our ref: MIL2/2/LPF
Your ref: F/24/97376

22 August 2024

Attn: Planning Department

BY EMAIL ONLY: planning@eastleigh.gov.uk

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

Dear Sirs

7-bedroom detached dwelling over three levels with associated landscaping (“the Development”) at Cherry Court, Salterns Lane, Bursledon, Southampton, SO3 8DH (“the Site”) (ref: F/24/97376)

We write further to our clients’ representation dated 17 June 2024 and in response to Wessex Planning’s letter dated 27 June 2024. We respond briefly as important matters, including concerns of various statutory consultees, have gone unaddressed.

Policy compliance with BU7

Eastleigh Borough Local Plan (“**EBLP**”) policy BU7(1)(a) is not a guideline but a hard-edged requirement that any 25% volume increase will result in the refusal of planning permission.

The Design and Access Statement (“**DAS**”) submitted in support of the application fails to demonstrate that it has met the policy requirement to use the baseline structure *as it was* in 1982 to measure the volume increase. All that is referred to in the DAS at para 4.7 is the “existing dwelling”. There is nothing to confirm the actual volume that existed in 1982.

It also appears that the garage, understood to date from 1970, and other features like the chimney stack and loft, have been included in the applicant’s baseline calculations when determining the percentage increase over the baseline. This may be a misreading of the policy in how volume should be calculated – see our clients’ previous representation at paragraphs 12-18. Officers will however know how the policy is to be interpreted objectively as a local plan policy to protect the heritage of the Old Bursledon Special policy area and designated conservation area.

In any event, Policy BU7 has five further subpoints that must be considered, as was recently explained by officers in relation to a decision to refuse consent for a similar redevelopment of Hacketts, High Street Bursledon, under ref H/24/97673. The officer’s report records as far as material: -

Notwithstanding, the 25% volume limitation may have been overcome, Policy BU7 also requires a number of other criteria to be met:

2. *have regard to the impact of the development on the space between buildings and the openness of the area, ensuring that the character of the undeveloped landscape between buildings is conserved and enhanced;*
3. *do not create a dwelling disproportionately larger than the one that is being extended or replaced;*
4. *are subservient to and in proportion to the existing building in form, scale and design;*
5. *do not contribute to the cumulative urbanisation of the area; and*
6. *are not otherwise detrimental to the character of the area as viewed from the River Hamble.*

In simple principle terms, extensions and alterations to the existing dwelling may be acceptable. However, the approval of any planning application will be dependant upon how well that proposed is considered to accord with the requirements of the above policies.

The Heritage Officer's comments dated January 2024 on the previous scheme were that there is an "excessive increase of floorspace" due to the addition of the third storey, and this revised scheme retains the third storey. The DAS does not suggest that the additional storey will be invisible, but rather that it will form part of a three-storey building, and objectively this scheme converts the original two storey dwelling to a three-storey dwelling so that, regardless of floor area, the proposed 3 storey replacement contravenes sub (3) of the policy as it creates a dwelling disproportionately larger, and in breach of sub (5) will have an urbanising effect on the area.

Design

In relation to BU7 sub (6) and the need to avoid determinantal harm to the historic area, we are aware that on 16 July the Design Review Panel provided a consultee response. This response reads as an architectural crit from the AA and is of little value in assessing the harm to the historic core of the Old Bursledon Conservation Area, which is the purpose of sub 6 of policy BU7. On any reading of BU7(6), a redevelopment of this scale and architectural language does not preserve and enhance the historic character of the area when viewed from the River Hamble.

As to the LVA being appropriate, the Design Officer sought a proper analysis to determine the impact of the Development. It appears that the applicant's position is that the planning authority should ignore that request, whether or not it relates to a potentially relevant objection to the scheme, on the basis that the development plan policy does not require an analysis of impact. That cannot be right given the requirements of BU7 referred to above, since close analysis of the design and design impacts of a replacement dwelling is required to assess its impact on different views, which must be understood for officers to apply the policy tests.

Regarding the covenant (see our previous representation at para.25), it seems to us highly relevant that what is being proposed will be mitigated by "*screening benefits in views towards the site*" to make the Development acceptable in planning terms, when that would in fact be impossible to deliver given the covenant burdens the land, and that would not be discharged/nullified by the grant of planning permission. So, whilst the normal position is that property constraints are not material to a decision on planning, here the mitigation cannot be lawfully delivered. We consider the officer can properly take these restrictions into account.

Heritage

The Council's heritage/conservation officer does not appear to have commented on the current scheme, which strikes us as odd (or at least as of the date of this letter there is no consultation response uploaded). If one has been provided, could the Council send this to us or at a minimum please upload to the public electronic register. As a matter of certainty in decision making, it would seem officers will need to have this before making any decision.

Ecology

Regarding the Great Crested Newt survey, this issue was highlighted by the ecologist in respect of landscaping works. It is likely insufficient to limit the assessment solely to the mown area, though we trust that the Council's ecologist will review the technical advice note thoroughly.

On drainage, while the construction phase could be conditioned using a Construction Environmental Management Plan, there remains a significant concern about runoff from the increased hardstanding associated with the development and the simple point in our clients' representation at paras 34-36 is that a Habitats Regulations Assessment is needed.

Regarding Biodiversity Net Gain, the 10% requirement introduced by the Environment Act 2021 applies except where there are exemptions. The applicant seems to take an unnecessarily dismissive attitude towards this important issue: if a person qualifying for a self-build exemption later sells the property, it cannot be right that they effectively avoid the legislative benchmark for BNG by qualifying for the self-building exemption when permission was granted. We would appreciate officer clarity as it appears the applicant has relented and will provide a BNG calculation.

Yours faithfully

A handwritten signature in black ink, appearing to be 'RBS' with a stylized flourish underneath.

RICHARD BUXTON SOLICITORS