

EASTLEIGH BOROUGH COUNCIL

**Town and Country Planning Act 1990 (As Amended by the
Planning and Compensation Act 1991) – Section 78**

LOCAL PLANNING AUTHORITY'S STATEMENT OF CASE

Planning appeal against the refusal of planning permission for the proposed construction of a seven bedroom detached dwelling over three levels and associated landscaping following demolition of existing the dwelling.

**Cherry Court, Salterns Lane, Bursledon, Southampton,
Hampshire, SO31 8DH**

Appeal by: Mr Patrick Reilly

Planning Inspectorate Reference: APP/W1715/W/24/3353355

Eastleigh Borough Council Reference: F/24/97376

December 2024

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1.0 Introduction

- 1.1 The following statement sets out the Local Planning Authority's (LPA) reasons for refusal of planning application F/24/97376 and provides more detailed justification for those reasons. Where relevant to the reasons for refusal, responses to any matters raised within the Appellant's statement of case are also provided.
- 1.2 The appeal application was received on 9th May 2024 and made valid on 24th May 2024. It was given a reference number of F/24/97376 and described as "*Construction of 7 bedroom detached dwelling over three levels and associated landscaping following demolition of existing dwelling*".
- 1.3 The application was heard at the Bursledon, Hamble-le-Rice and Hound Local Area Committee on 5th September 2024. Whilst recommended for approval by the case officer, the Committee resolved to refuse the application for the reasons set out below. The formal decision notice was issued on 11th September 2024. The reasons for refusal were as follows:
 - 1) *The proposed development by virtue of its size, scale, bulk, form and appearance is not considered to be appropriate for or sympathetic to the character of the Old Bursledon Conservation and Special Policy Areas, particularly when viewed from the public realm. As such, the application is considered to be contrary to Policies DM1, DM12 and BU7 of the Eastleigh Borough Local Plan 2016-2036, and the Council's 'Quality Places' and 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Documents.*
 - 2) *Insufficient evidence has been provided to demonstrate that the proposed development will not result in harm to the appearance of the Old Bursledon Conservation and Special Policy Areas when viewed from the River Hamble and its eastern bank both during the day and when illuminated at night. As such, the application is not considered to accord with the requirements of Policies DM1, DM12 and BU7 of the Eastleigh Borough Local Plan 2016-2036,*

and the Council's 'Quality Places' and 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Documents.

3) Inadequate justification has been provided for demolition of the existing dwelling, and it has not been demonstrated that its removal or replacement would enhance or improve the character and appearance of the Old Bursledon Conservation Area, contrary to Policy DM12 of the Eastleigh Borough Local Plan 2016-2036, and the Council's 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Document.

- 1.4 A copy of the LPA's decision notice was sent to the Planning Inspectorate with the LPA's Appeal Questionnaire.

2.0 Description of Appeal Application

- 2.1 The appeal application sought consent for the construction of a new seven bedroom dwelling over three levels, together with associated landscaping, following demolition of the existing dwelling on site. The proposal considered by the Local Area Committee was a slightly amended version of what was originally submitted but only to the extent of the addition of timber sliding louvred panels to the southern river facing elevation.

3.0 Site & Surroundings

- 3.1 The application site sits on the outside of the sharp corner halfway along Salterns Lane in a part of the lane which is very mixed in terms of property sizes, ages and architectural styles. It lies outside the urban edge and is within the Old Bursledon Conservation and Special Policy Areas. Neighbouring development is almost entirely residential in nature, with the surrounding area being made up of predominantly detached dwellings on generous plots separated by mature boundary planting and trees.

- 3.2 The application site is triangular in shape, with its northern point being where the site is accessed from Salterns Lane. It follows the natural topography, being fairly level at the northern (top) end of the site before sloping down towards the river in a south-eastern direction. The north-eastern boundary is the longest boundary which runs down the slope to the railway line, which is in a cutting at this point. The boundary is marked by a line of mature trees and shrubs. The south-eastern boundary is formed by the railway line and is open to views towards the River Hamble and the opposite bank of the river. The final western boundary follows a sunken lane which runs down the natural slope, over a railway bridge, to the river where there are a number of houseboats.
- 3.3 The existing house is a sizable two storey dwelling originally dating from around the 1960s. It was extended to the southern end in the early 1970s to form a garage and ancillary annex accommodation. The house is predominantly finished in a cream coloured render with a light coloured stone-clad finish to the lower levels. The roof is of a low pitch and finished in basic concrete tiles. The 'street' side of the dwelling is quite austere in its appearance, having minimal windows and sitting at a slightly lower level than the driveway, following the natural topography of the site. The rear elevation in contrast is much more open, with horizontal windows and a first floor covered balcony, all taking in the views of the river and beyond.

4.0 Relevant Planning History

- 4.1 The site has very little in terms of planning history, with the most relevant application prior to the appeal scheme being a withdrawn application for a similar proposal, albeit of a quite different design.
- F/23/96152 – Construction of five bedroom detached dwelling over three levels, together with topographical changes to the rear garden, following demolition of existing dwelling – Withdrawn January 2024
 - Z/18534/000/00 – Bungalow and garage – Refused April 1978

- WIR2033000100 – Alterations and additions – Approved May 1970

5.0 Development Plan & Legislative Background

5.1 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 (which is not applicable in this case). The NPPF and the Planning Practice Guidance constitute material considerations of significant weight.

5.2 The site also lies within a Conservation Area and Section 72(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990 states:

“In the exercise, with respect to any buildings or other land in the Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

5.3 The policies of the Eastleigh Borough Local Plan 2016-2036 which apply to the appeal development are:

Strategic Policies:

- S1 (Delivering sustainable development);
- S2 (Approach to new development);
- S5 (New development in the countryside); and
- S8 (Historic Environment)

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);
- DM12 (Heritage Assets);
- DM14 (Parking);
- DM26 (Residential extensions and replacement dwellings in the countryside);
- DM30 (Internal space standards for new residential development); and
- BU7 (Residential extensions and replacement dwellings, Old Bursledon Special Policy Area).

5.4 For the purposes of this appeal, the most relevant policies are considered to be: DM1, DM12 and BU7.

5.5 The relevant Supplementary Planning Documents are:

- Trees and Development (April 2022);
- Quality Places (November 2011);
- Old Bursledon Conservation Area Appraisal and Management Proposals (February 2012);
- Biodiversity (December 2009); and
- Residential Parking Standards (January 2009).

6.0 National Policy

6.1 At national level, the National Planning Policy Framework, Dec 2024 (NPPF) is a material consideration of significant weight in the determination of planning applications. It states that 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. 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.

- 6.2 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.

7.0 Reasons for Refusal

- 7.1 Below is a more detailed justification for the reasons for refusal.

- 7.2 Reason 1: - Impact of design upon the Conservation and Special Policy Areas

The proposed development by virtue of its size, scale, bulk, form and appearance is not considered to be appropriate for or sympathetic to the character of the Old Bursledon Conservation and Special Policy Areas, particularly when viewed from the public realm. As such, the application is considered to be contrary to Policies DM1, DM12 and BU7 of the Eastleigh Borough Local Plan 2016-2036, and the Council's 'Quality Places' and 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Documents.

- 7.3 Policy DM1 of the adopted Local Plan requires new development to “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.” These requirements are backed up by the Council's ‘Quality Places’ Supplementary Planning Document.
- 7.4 Policies DM12 and BU7 relate to the Old Bursledon Conservation and Special Policy Areas and share similar requirements in relation to the impact of new development upon these designated areas. Policy DM12 states “Development

of a heritage asset or within its setting will be permitted provided it does not harm or detract from the significance or special interest of the asset, and sustains and enhances its special character and qualities.” These general requirements are also reflected in Policy BU7 together with the requirement for dwellings to not be “disproportionally larger than the one that is being extended or replaced”, “not contribute to the cumulative urbanisation of the area” and not be “detrimental to the character of the area as viewed from the River Hamble.”

- 7.5 Various drawings and site sections were provided as part of the Appellant’s planning application submission to show the size difference between the existing dwelling and that proposed, as well as its relative position within the appeal site. These demonstrated that whilst comparable, that proposed would be physically larger than the existing dwelling, albeit within the 25% volume limitation of Policy BU7. Notwithstanding the dimensional comparisons, the LPA’s concern is not just its physical size but how the scale, bulk and form of that proposed would be visually perceived. The three storey scale, which would stretch across most of the available plot width at this point, together with its strong unbroken horizontal and flat roofed form, would appear substantially larger than the existing dwelling and out of keeping with the much more traditional pitched roof forms of neighbouring properties.
- 7.6 A further concern is the large central glazed element which again would introduce a visually very strong feature incongruous and contrary to the much softer prevailing forms and materials of neighbouring properties and the wider area.
- 7.7 Whilst not directly comparable, the LPA has recently received an appeal decision for a similar scheme elsewhere within the conservation area – ‘Hacketts’, High Street, Old Bursledon – appeal reference APP/W1715/D/24/3353314, which is attached as Appendix A. Although these proposals were for remodelling of the existing property, rather than its replacement, that proposed was of a ‘modern’ three storey flat roof design on a relatively prominent site. The submitted drawings for this appeal are included as Appendix B.

7.8 This appeal was dismissed on 20th November 2024 following refusal by the LPA of application H/24/97673 on very similar grounds to that of Cherry Court. Whilst the appeal decision should be read as a whole, the LPA would point the Inspector to their colleague's comments in paragraphs 7 to 11 where that Inspector agrees with the LPA's conclusion that the resulting large flat roof, three storey scale and large amounts of glazing would "create a more imposing building" and "have an urbanising effect", which "would be harmful to the character and appearance of the Conservation Area" (para.11).

7.9 As with the Hacketts appeal Inspector, whilst there is no objection in principle to the use of a more contemporary form of architectural style, it must be of a form and appearance which is appropriate for the site and its' surrounding context. The design of that proposed, its form, scale and use of materials would result in a building which has the appearance of a large commercial building, rather than a domestic residence. Given the prominence of the appeal site, particularly when viewed from the river, such a design approach is considered to be inappropriate and unsympathetic to the prevailing character of the Old Bursledon Conservation and Special Policy Areas. As such, that proposed is considered to be contrary to Policies DM1, DM12 and BU7 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' and 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Documents.

7.10 Reason 2: - Impact upon views from the River Hamble

Insufficient evidence has been provided to demonstrate that the proposed development will not result in harm to the appearance of the Old Bursledon Conservation and Special Policy Areas when viewed from the River Hamble and its eastern bank both during the day and when illuminated at night. As such, the application is not considered to accord with the requirements of Policies DM1, DM12 and BU7 of the Eastleigh Borough Local Plan 2016-2036, and the Council's 'Quality Places' and 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Documents.

- 7.11 Concern was expressed throughout the pre-application and application process regarding the visual impact of that proposed when viewed from the River Hamble and its eastern bank where there is a well-used public footpath. Whilst the planning application was supported by a landscape visual appraisal – which accepts that “there may be some limited impact to users” of the footpath and river (para. 6.14 of the Landscape Visual Appraisal) – and 3D rendered images of that proposed, none gave any indication of how the proposed dwelling would appear when viewed from these vantage points.
- 7.12 It is noted that these missing images have been provided in support of the current planning appeal. Given that these images were not available at the time the planning application was determined, it is for the Inspector to consider whether they should be accepted.
- 7.13 Notwithstanding the late submission of these nighttime images, they do not alleviate the LPA’s concerns in respect of the appeal development’s impact upon views from the river, particularly during the hours of darkness. Whilst it is correct that the Local Plan has no specific policies in relation to ‘dark skies’ and that there are no areas nearby which require a reduction in light pollution, it is the LPA’s view that such matters are incorporated within the requirements of Policies DM1, DM12 and BU7 to ensure that any new development takes appropriate account of the prevailing contexts within which a site sits. As such, it is right to consider a development’s impact during the hours of darkness in sensitive areas such as that of the Old Bursledon Conservation and Special Policy Areas.
- 7.14 Having reviewed the new images provided, the LPA would question whether these are a realistic representation, particularly in the case of the existing dwelling. Whilst the computer rendered images appear to have a reasonable degree of realism, that of the existing dwelling appears to show the dwelling with every light illuminated and no curtains drawn. Although there is some potential that this scenario could occur, how realistic would this be in ‘normal’ everyday circumstances. The LPA would suggest that such an occurrence is unlikely to happen, meaning that to use this image to demonstrate the existing

situation is not a fair comparison with that proposed. Had an existing image similar to that of the 50% proposed image been provided, then a fairer and more realistic comparison could be assessed. As such, the LPA remains of the view that insufficient evidence has been provided to demonstrate that the appeal scheme will not result in harm to the appearance of the Old Bursledon Conservation and Special Policy Areas when viewed from the River Hamble and its eastern bank both during the day and when illuminated at night. As such, the requirements of Policies DM1, DM12 and BU7 of the adopted Local Plan, and the Council's 'Quality Places' and 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Documents have not been met.

- 7.15 In response to the comment at paragraph 4.9 of the Appellant's Appeal Statement, whilst it is accepted that very few people are likely to be using the public footpath at night, this does not mean that the footpath will not be in use during hours of darkness or twilight, such as late afternoons in December or January when it can begin to get dark from 4pm.

7.16 Reason 3 – Demolition of existing dwelling

Inadequate justification has been provided for demolition of the existing dwelling, and it has not been demonstrated that its removal or replacement would enhance or improve the character and appearance of the Old Bursledon Conservation Area, contrary to Policy DM12 of the Eastleigh Borough Local Plan 2016-2036, and the Council's 'Old Bursledon Conservation Area Appraisal and Management Proposals' Supplementary Planning Document.

- 7.17 Policy DM12 of the adopted Local Plan states that "Development which involves the demolition or destruction of any part of other heritage assets will not be permitted unless its removal or replacement would enhance or better reveal the significance of the asset." Whilst the current Cherry Court is not listed, it nonetheless forms part of the conservation area, and its demolition will have an impact.

- 7.18 The LPA accepts the existing dwelling is not the best architectural example of its era and is in need of modernisation. It is also accepted that whilst in a prominent position, it is not located within the historic core of the conservation area. Notwithstanding, this does not give automatic justification for its demolition and replacement. Whilst the appellant has stated that the current building is in a poor state of repair and that upgrading it to current standards of energy efficiency, etc is cost prohibitive, no actual evidence to this effect has been provided. Neither has any evidence been provided to show that remodelling of the existing building has been seriously considered.
- 7.19 Although the requirement for detailed justification for the demolition of heritage assets, including non-designated buildings within conservation areas is not specifically set out within Policy DM12, the policy does state that any “replacement would enhance” the heritage asset, which in this instance is considered to be the wider Old Bursledon Conservation Area. Whilst it is accepted that the existing Cherry Court does not provide the most positive contribution to the conservation area, as has been set out above, the LPA is of the opinion that the proposed replacement dwelling is not an appropriate design and will not therefore enhance or improve the conservation area as is required by Policy DM12.

8.0 Conclusion

- 8.1 The LPA considers that the size, scale, bulk, form and appearance of that proposed appropriate for or sympathetic to the character of the Old Bursledon Conservation and Special Policy Areas, particularly when viewed from the public realm. The LPA is also of the opinion that insufficient evidence had been provided to demonstrate that the proposed development will not result in harm to the appearance of the Old Bursledon Conservation and Special Policy Areas when viewed from the River Hamble and its eastern bank both during the day and when illuminated at night, which remains the case. As such, the appeal scheme is considered to be contrary to Policies DM1, DM12 and BU7 of the Eastleigh Borough Local Plan 2016-2036, and the Council’s ‘Quality Places’ and

‘Old Bursledon Conservation Area Appraisal and Management Proposals’
Supplementary Planning Documents.

- 8.2 It is also the view of the LPA that inadequate justification has been provided for demolition of the existing dwelling and that it has not been demonstrated its removal or replacement with that proposed would enhance or improve the character and appearance of the Old Bursledon Conservation Area. As such, the appeal scheme is contrary to Policy DM12 of the Eastleigh Borough Local Plan 2016-2036, and the Council’s ‘Old Bursledon Conservation Area Appraisal and Management Proposals’ Supplementary Planning Document.
- 8.3 For the reasons set out above, the LPA would respectfully request that the Inspector upholds the reasons for refusal and dismisses the appeal. However, should the Inspector be minded to allow the appeal, the LPA would request that the conditions set out in Appendix C, which replicate those of the case officer’s committee report, be considered and included within their decision.