

1. Introduction

- 1.1. The following written statement is submitted on behalf of Mrs S Milton-Tayler who objects to the development in respect of the Planning Appeal made by Mr Patrick Reilly, Appeal reference APP/W1715/W/24/3353355. A copy of her submissions to the Local Planning Authority by her solicitors Richard Buxton Solicitors can be found in Appendix One. Mrs Milton-Tayler attended the Meeting of the Bursledon, Hamble-le-Rice and Hound Local Area Committee on 5th September 2024 and with the permission of the Chair made a representation to the Members through, Carl Patrick, Consultant Planning Services. A transcript of the prepared statement read out to the Committee is supplied as Appendix Two.
- 1.2. The Appeal is made in respect of the decision of Eastleigh Borough Council's refusal to allow the construction of 7-bedroom detached dwelling over three levels and associated landscaping following demolition of existing dwelling. The reasons for refusal are as follows:
 - i. 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.
 - ii. 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.
 - iii. 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.

2. Preliminary matters

- 2.1. There are two preliminary matters which must be dealt with at the outset:

- 2.2. Firstly, the Inspector is asked to note that despite the description of development, as altered by the Council¹, the submitted application scheme does not include any details of a landscaping proposal in conjunction with the development proposals.
- 2.3. This is a serious omission since the application site is located within the Old Bursledon Conservation Area, a designated heritage asset and one in which the existing landscape forms a recognised and protected characteristic of the designation, as set out in the Old Bursledon Conservation Area Appraisal and Management Proposals Supplementary Planning Document, adopted February 2012 (the **Conservation Area SPD**). Locally adopted policy, which requires the submission of full landscape proposals in such sensitive locations, will be referred to below.
- 2.4. The second preliminary matter is the lack of any Biodiversity net gain (“**BNG**”) calculation. The Inspector is asked to be cognisant of the fact that the Appeal site is 0.54 hectare in area and the application was received by the Council on 09/05/24, being validated on 24/05/24. The Application before the Inspector is not supported by BNG assessment as the Applicant had mistakenly sought to rely on an available exemption for a form of “Self-build” development. However, the scheme does not qualify for such an exemption as the site area is larger than the qualifying criterion that the development must be on a site that has an area no larger than 0.5 hectares. It is understood from the discussion that took place at the Committee meeting that the Applicant has since confirmed that he believed that planning permission, if granted, the development would be subject to a BNG condition and the meeting proceeded on this basis. The application before the Inspector is not supported by the minimum information set out in Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (“**the Order**”) as amended. As all matters are before the Inspector when dealing with this Appeal, the validity of the application is at question as it does not fulfil the minimum requirements set down by Parliament as enacted in the Order.
- 2.5. The Appellant has stated in the Appeal form, response H: Full Statement of Case, part a that he does not intend to submit a planning obligation (a section 106 agreement or unilateral undertaking) and accordingly no draft version has been made available. This has potentially significant ramifications when considered in the light of the absence of both a detailed landscape scheme and an assessment in conjunction with BNG. The validity of the application, the subject of this appeal, is questioned as it does not meet the minimum statutory requirement as set out and, accordingly, has not been subject to a period of publicity or consultation as required by the Order. It is recognised that the statutory regime for BNG involves the discharge of the BNG condition following the grant of planning permission, and guidance recognises that it would generally be inappropriate for decision makers, when determining a planning application for a development subject to BNG, to refuse an application on the grounds that the BNG objective (of at least 10%

¹ The original description of development on the submitted application form read simply ‘Demolition of Existing Dwelling and Replacement with New Self-Build Dwelling’ upon registration this was changed by the Council and the Applicant was afforded an opportunity to raise an objection to the change made, no objection was forthcoming from the Applicant.

net gain) will not be met. However, it is incumbent upon decision makers to consider whether the BNG condition is capable of being successfully discharged – and it is submitted that this cannot be done here as there is no information to make that determination before this appeal.

- 2.6. Confirmation by the Appellant that there is not to be a section 106 agreement in conjunction with the Appeal would tend to rule out the possibility of any reliance upon off-site biodiversity gains or credits being used and thereby places reliance instead upon significant increase of onsite biodiversity enhancements which, in the present case, would only be capable of being secured through planning condition, or a separate conservation covenant, which has not been submitted and no responsible body has been identified. The Planning Practice guidance for BNG, published 14 Feb 2024, updated 1 May 2024, provides at Paragraph 21: *“These significant onsite habitat enhancements are likely to form an integral part of the development, and where these are being proposed an application for planning permission would likely be expected to include detailed proposals of these habitat enhancements as part of the plans, drawings and supporting information accompanying the application.”*
- 2.7. The planning application before the Inspector does not contain the necessary detail of the landscape treatment for the site and does not include proposals for any level of habitat enhancement as part of the development proposal, either within the submitted drawings or supporting information accompanying the application, the subject of this appeal. Whilst no assessment has been made of the habitat available in conjunction with the site or any reference or assessment made to the tree clearance which has already taken place on parts of the site² and the assessment of impacts arising from the loss of at least 11 trees upon existing and available habitats.
- 2.8. The Inspector is also asked to be aware that the site contains a natural spring, which for the purposes of a BNG assessment could potentially be regarded as a watercourse and

² **NC/22/92747** - Notification of intent. T2 Ash *Fraxinus excelsior* - Clear building by 2m retaining overhanging branches outside this distance. T4 Western Red cedar *Thuja plicata* - Reduce to 6m and maintain at this height. T5 Lawson Cypress *Chamaecyparis lawsoniana* - Reduce to 4m and maintain at this height. T6 Gum Eucalyptus - Crown reduction to a final height of 12m with a horizontal radial canopy spread of 5m. T9 Ash *Fraxinus excelsior* - Remove due to ash dieback. T10 Cherry *Prunus avium* - Remove due to basal decay. G11 Sycamore *Acer pseudoplatanus* - Remove to allow landscaping. G12 Laurel *Prunus laurocerasus* - Reduce to 1m. G14 Lawson Cypress *Chamaecyparis lawsoniana* - Reduce to 4m and maintain at this height. T15 Oak *Quercus robur* - Remove. T16 - T17 2 no. Ash *Fraxinus excelsior* - Remove. T19 Ash *Fraxinus excelsior* - Remove. G20 Elm *Ulmus* and Sycamore *Acer pseudoplatanus* - Remove. T21 Sycamore *Acer pseudoplatanus* - Remove. T22 - T23 2 no. Ash *Fraxinus excelsior* - Pollard at 2m. Type of Application: Notification of proposed works to trees in conservation areas Status: Decided Decision: Raise No Objection To Decision Date: **03/05/2022**

NC/23/94712 - 1 no. Gum Eucalyptus (T6) - Remove. Treat stump to prevent regrowth. Removal of the tree is to allow more appropriate long term landscape tree and shrub planting. Type of Application: Notification of proposed works to trees in conservation areas Status: Decided Decision: Raise No Objection To Decision Date: **05/04/2023**

would need to be separately accounted for in any Habitat Metric assessment. This in turn would bring about the need for an additional 10% biodiversity gain in respect of this water habitat. However, no identification or assessment of this feature or any potential hydrological impact from the development has been undertaken and the Inspector does not have any credible evidence on which to base an assessment.

3. Grounds to dismiss the Appeal

3.1. Introduction

3.1.1. The Council dismissed the application, the subject of this appeal, for the three reasons stated at 1.2. above. Objections raised in this statement are made in respect of the Appealed scheme and set out to support the Council in its decision. This statement will further set out material planning considerations which are before the Inspector in making a decision for the Appeal which should be taken into consideration when determining the appeal scheme.

3.1.2. In order to assist the Inspector, this statement will follow the structure of the written submissions of the Appellant and where required reference paragraph numbering and pagination in accordance with the appellant's written statement and appendices.

3.2. Observations on Grounds of Appeal: Reason 1

3.2.1. The Appellant places significant reliance upon the appreciation of place and the interpretation of local context on the capacity of others to make their assessment from a position of authority, considerable stall is placed upon the views of Officers and members of the Architects Panel. The Appellant then sets out to negate the understanding and appreciation of place from those who both live and work locally; residents and elected local councillors. These people have an appreciation of local context from a lived reality of the space and place as it changes over the seasons and through the years. This does not set out to reduce the input of professionals contribution to good design and to achieving outcomes which may exceed local expectations, the point is simply that local Members and residents may have a view that differs from that of the Appellant and should not be dismissed out of hand.

3.2.2. That the earlier scheme was unsuitable is undeniable, the Appellants own Appendix 1 sets this out clearly. That the design evolution for the present scheme stemmed from that wholly unsuitable scheme is itself a significant issue and imposes a constraint upon the Appellant reaching a design solution which meets with the Winchester Design Panel requirements, which were put simply: *"...that the site needs to be looked at afresh, so that a much more considered and sympathetic design response can be formulated, which includes consideration of the landscape setting of the scheme."* The Design Panel had raised its concerns that: *"Various very famous architectural precedents were put forward as inspiration for the design. However, it was not clear how any of these related to the application site and the characteristics of this part of the conservation area."* They posed the question: *"Why propose something inspired by early twentieth century European modernist urban architecture in the Hampshire countryside, when there are many more recent UK examples which would be better*

suited to the site?" This is a sentiment that the objector can wholeheartedly sympathise with.

3.2.3. The subsequent 'development of the gul-wing form' has little to do with the prevailing character and layout of development in the Conservation Area. This 'form' which is visible in plan form, is lost when it comes to the three-dimensional form imposed within the site. The blocky mass of the proposed structure represents an overly large single façade when seen from Salterns Lane as the 'neck' of the "gull" is at its narrowest and the divergence in the angle of the two wings would hardly be appreciable. The flank elevations are similarly large panels of built form punctuated by external balconies at second storey level and timber panelling without articulation. It is across the rear elevation that the gull-wing effect should be capable of being appreciated, albeit largely from within the immediate confines of the site. The central atrium provides the 'tail' of the "gull" and unfortunately projects out so as to divest the two wings of any appreciable relationship. The western wing is seen in isolation when viewed from Dirty Lane and the neighbouring view from the property Orchard Hill, would be of the block mass of the eastern wing and the projection of the central atrium would prevent any appreciation of the "gull wing" form. This device provides an architectural solution to the manner in which the built form can effectively occupy the site but does not stem from an appreciation of the context of the site itself, its surrounding development forms, the prevailing pattern of development or the historic character of the Conservation Area. It is submitted that the applicant did not take the opportunity to look at the site afresh, so that a much more considered and sympathetic design response could be formulated, which should have included consideration of the landscape setting of the scheme and addressed the setting of the building within the Conservation Area. The absence of such landscape proposals is contrary to adopted Policy DM1(e).

3.2.4. The advice of Officers is given without prejudice to the subsequent determination of any application, the Appellant is familiar with this, as is his Agent who is understood to have formerly been a Lead Development Management Officer with Eastleigh Borough Council. That the previous scheme was improved upon is not at question, however, to propose a cow, and then come back with a camel, still does present a thoroughbred horse to stand among the herd.

3.2.5. The Appellant sets out that the accompanying documentation which supported the proposal were thorough and gave testament to the Appellant's detailed appreciation of the character of the area. The Appellant's statement, at para. 3.10, sets out what the main characteristics of this particular area from their perspective. However, the Conservation Area SPD, provides a publicly agreed assessment of the character of the conservation area, at page 14, paragraph 4.20: *"Although in parts of Old Bursledon the mix and style of properties has changed considerably, in general terms, most houses are two storey, pitched roof with chimneys and red/brown clay tiles or natural stales, brick built (often the local red Bursledon brick) with tile hanging, weatherboarding and white painted timber windows"*.

- 3.2.6. The Inspector will be able to appreciate these prevailing characteristics during any site inspection of the area. Within the context of the Conservation Area, the Appeal site lies within an area identified as Zone 8, Salterns Lane, Kew Lane and Mallards Moor. The adopted Conservation Area SPD does not offer the same assessment as provided by the Appellant at para 3.10 of their statement, but rather acknowledges that the character is more difficult to define as it has been undermined by some unsympathetic modern development, particularly in Salterns Lane, which has created large, visually intrusive properties that are assessed as having a negative urbanising effect. It is also said that this effect is further influenced by the lack of suitable landscaping. The Conservation Area SPD identifies the large plot size combined with generous space around buildings and the undeveloped land outside of plots make a significant positive contribution to the primarily rural character of the Conservation Area. It may be noted that whilst there is one listed building within this zone, the pair of cottages adjacent the Appeal site, 1 & 2 Lynch Grove, are recognised within the Conservation Area SPD as unlisted buildings that make a positive contribution to the character of the area. The proposed development will inevitably have an impact upon these heritage assets and will affect their setting within the Conservation Area.
- 3.2.7. When setting out how applications for replacement dwellings should be assessed the guidance provides that replacements should not be disproportionately larger than the existing building to reflect the importance of development being in harmony with the plot, surrounding properties and the area. Significantly it adds that it is not just the size of the dwelling itself that has a visual impact, but the hard and soft landscape and outbuildings too. The Management proposal stemming from this provides: *“4.163 Proposal – In implementing policies, the LPA will not permit development that would create a dwelling disproportionately larger than the one that is being extended or replaced. This will include the cumulative impact of successive extensions on the character and appearance of the original dwelling”*.
- 3.2.8. The impacts of the proposed development will not be confined to the area within Zone 8 but will also have an appreciable impact upon viewpoints and the setting of Zone 2; Hackets Marsh, Lincegrove Marsh & Badnam Creek. This is a largely undeveloped part of the Conservation area, comprising former salt marshes and one small structure at the end of Dirty Lane, the boathouse at Salterns Boatyard. The public viewpoint of Badnam Creek, locally known as Mercury Point, is accessed from Satchel Lane in nearby Hamble, leading down to Mercury Marina and the Hamble School of Yachting. Furthermore, it should be recognised that the development will be visible from not only the River Hamble, but also from the neighbouring Local Authority area of Fareham Borough Council, which has not been notified of the application or consulted in relation to the proposals.
- 3.2.9. The Local Plan, adopted in 2022, introduced a specific policy aimed at protecting the special character of both the Conservation Area and the wider Bursledon Special Policy Area. Policy BU7 is relied upon by the Council in its stated reason for refusal and the objector supports this. This policy sets out to ensure, when considering the characteristic of space between buildings and the allied objective of not creating a

disproportionately larger dwelling, to ensure new development does not further contribute to the urbanisation of the area. The policy requires that all development should not be detrimental to the character in views from the River Hamble.

- 3.2.10. The Appellant states that the proposal, whilst contemporary in style, is considered to be of an appropriate size and scale, such that its size accords with Policy BU7 by reason of complying with the volumetric calculation of no more than a 25% increase in size, but also claims to retain the existing space around the building. The Inspector will note the use of pecked outlines in association with the proposal scheme, these serve to reflect the current outline of the existing house, Cherry Court, and also superimpose into this the previously withdrawn scheme which was made in advance of the current application, the subject of this appeal. The Inspector is asked to appreciate that the existing property Cherry Court, is a two-storey building under a relatively low- angled pitched roof, and has a well-articulated front elevation with a prominent single storey double garage which serves to diminish the overall width of the main building (Figure 1).



Fig. 1. Picture of Cherry Court, front elevation

- 3.2.11. The horizontal banding across the front elevation, comprised of the ridgeline of the double garage, the broad rendered band above the pedestrian entrance, the first-floor band of high-level windows, the sweep of the eaves line and the overall ridge line, these all serve to contain the massing of what is undeniably a large building within a low horizontal built form. This stands in stark contrast to the contemporary styling of the proposed replacement, which utilizes a dark brick across the width of the ground floor, itself reminiscent of the darker pedestrian entrance area of the existing property,

this plinth is then punctuated by a series of regular small square windows. However, this façade is dominated by a vertical second storey band, which relies on timber weather boarding and dark casement vertical glazed elements which punctuate the upper floor at irregular intervals and are only loosely tied to the ground floor motifs so as to further place emphasis upon what is an uncharacteristic form within the Conservation area.

3.2.12. Whilst the Appellant has gone to considerable lengths to demonstrate that the overall height of the proposal does not exceed the ridge height of the existing house, this fails to appreciate that the ridgeline of the current structure is one part of a narrow band seen falling away from the eaves of the built form of Cherry Court, it is the two-storey scale that draws the eye, and the eaves line provides a significant pause, with the slope of the roof then falling away and receding. By contrast the proposal drags this ridgeline to the front of the built form and creates a bulk and massing which is undeniably a box-form. This results in the proposed structure being far more dominant and larger in all aspects when contrasted with the same height, but entirely more sympathetic form of the existing house. This dragging of the mass to the front and rear of the built form is perhaps best illustrated by the submitted volumetric study within the application Design and Access Statement, Figure 2 below. Whilst this was merely an exercise in demonstrating the volume calculations it does nevertheless usefully serve to demonstrate the blocky form brought about by stretching the ridgeline of the proposed house to the outer edges of its proposed eaves.

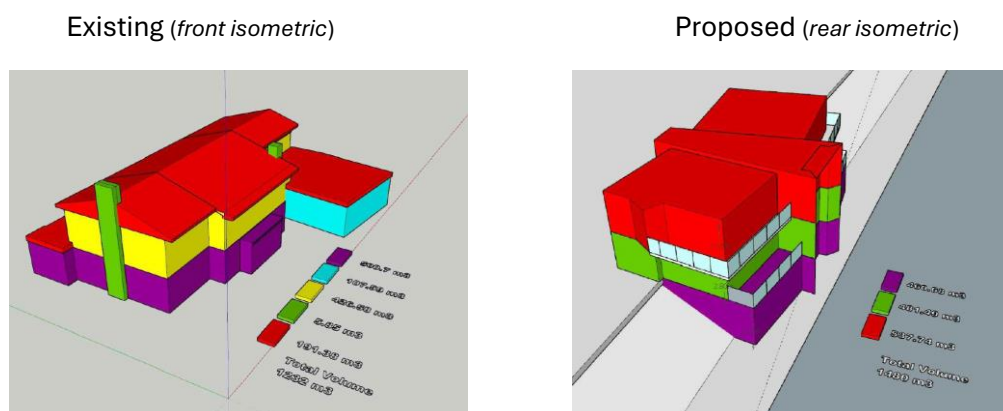


Fig.2: Massing images taken from application Design and Access Statement.

3.2.13. Fundamentally, the contextual analysis offered by the Appellant is lacking in demonstrating an understanding of place or historic context, however what it does serve to demonstrate is how site-specific opportunities such as site slope, width to boundaries and existing development are exploited when looking to occupy the available site area. It is submitted that this exploitation of opportunities is undertaken without regard to corresponding constraints and little regard has been afforded to the constraint offered by the historic context of the development. It is submitted that this is a design that takes its opportunities and is another example of an anywhere form of development in a contemporary vernacular, it could be located anywhere where site conditions are similar, but does nothing to reflect character of the area. To paraphrase the Architects Panel: it is unclear how the elements of design landed upon relate to the

application site itself and the characteristics of this part of the conservation area in particular. Whilst taking some advantage of the site topography, but the eventual design relies in no small part upon extensive remodelling, the box-like design maximises the volume through utilising a flat-roof design and takes advantage of the outlook offered by the site. Within the submitted Design and Access Statement, design and appearance are addressed on pages 28-29, paragraphs 4.9 – 4.25. The Appellant references the “modernistic design for the existing house” but the Inspector should note that this house was present within the area at the original designation of the original Conservation Area in 1982, as such it forms an integral part of the special character of the area that warranted designation in the first place. Throughout paragraphs 4.10 to 4.18 reference is made to the opportunities offered by the site and the advantages taken of the views across the River Hamble. These reference the site almost in isolation and do not seek to explore the site-specific context of the site in relation to the historic built environment or the landscape setting within which the development will be viewed. It is the case that the site has been assessed devoid of its conservation context and the evolution of the contemporary design imposed has not looked at the possible constraints imposed by the Conservation setting for this replacement dwelling. As such, the development proposal does not comply with the requirements of adopted Policy DM1(a)(i), to not have an unacceptable impact on the character and appearance of the countryside and the coast and it is submitted fails to take full and proper account of the character and appearance of the neighbourhood, be well integrated with this in terms of mass, scale, materials, design and siting in relation to adjoining buildings, spaces and views, thereby contrary to DM1(c).

3.2.14. It is submitted that the proposed replacement dwelling does not achieve a considered and sympathetic design response to the site, it would result in a built form which is entirely out of character with the location in which it is proposed and would, contrary to the Appellant’s assertion, result in a disproportionately larger dwelling which would undermine the rural character of the Conservation Area and serve to further undermine the area through the further urbanisation of the character of the area contrary to the aims and objectives of Policy BU7 and the Conservation Area SPD. It is submitted that the proposal fails to have regard to the character of the area and would be seen as being disproportionately larger than that which it seeks to replace and would serve to contribute to the urbanisation of the area, contrary to BU7 (c) and (e).

3.2.15. The Appellant will recognise that the application scheme was presented to Members to be determined by the elected body of local councillors, all of whom demonstrated a commitment to understanding the scheme before them and the area into which the proposal was to be built. Both the Appellant and his Agent will recognise that the Committee meeting is not the forum to muse about what makes good design or how alternative design, or approaches might be achieved. However, Cllr Steve Holes, Vice-Chair, offered a succinct summary appraisal of what he considered to be the ‘problem’ with the scheme when he stated: *“Firstly, I like the design. I don’t like the entrance to the house, but the design is in the wrong place, it is not for the Bursledon Conservation Area. When I first looked at the entrance, the entrance to me, I’ve been to many High-tech factories and the entrance looks like a High-tech factory, the entrance going-in*

and, as I said, to me it's in the wrong place.... I don't think this is actually suitable for the Bursledon Conservation Area."

- 3.2.16. At which point Cllr Tonia Craig, Chair, offered her assessment and noted her agreement with Cllr Holes when she said: *"I made a note, it does look like a hotel...looks too much like a hotel. It is too big, it's too bulky, it's too out of keeping and the visual impact on the River is too [much]"*.

3.3. Observations on Grounds of Appeal: Reason 2

3.3.1. The application scheme is not supported by a full Landscape and Visual Impact Assessment ("LVIA") and is instead promoted through a Landscape Visual Appraisal ("LVA"). The Inspector will be aware that the LVIA is a very different tool which is designed specifically to look at and consider the impacts of a proposed development, whereas the LVA provides a review of the site and offers an appraisal of the relative sensitivity of the site to accommodate development in landscape and visual terms. Most importantly it does not seek to consider or provide an assessment of the impacts associated with a given development or consider a range of alternatives. It would appear from the submitted LVA that the appraisal offered was not a pre-cursor to the design process, and rather has been used to promote the scheme at hand.

3.3.2. The late introduction of devices such as louvres and sliding shutters seem to have been directed at reducing potential glare from what is a largely glazed rear elevation. The contribution of these louvres toward addressing nighttime light pollution is at best a by-product of its introduction and should be regarded as being ineffective when dealing with light spill from within the large-glazed expanse of the rear elevation. Within this elevation stands out the central atrium which in the artists impression accompanying the application is shown as being illuminated by a tall chandelier of luminaires suspended from the ceiling into the atrium void. Clearly, there is considerable artistic licence in what may be the internal décor of the proposed house, and these features and fixings are not development. A subsequent occupier may seek to change any lighting arrangement and as acknowledged by the Appellant may or may not choose to operate the wooden shutters or indeed maintain them at all.

3.3.3. There was no evidence before the public or the Members that the proposed devices would have any significant effect on what would be a large expanse of glazed development which the Appellant fully recognises has a unique outlook over the River Hamble and surrounding countryside. The introduction of glazed louvres would have the effect of deflecting some of the potential glare on this southern elevation, but there is no reason to believe that light emanating from within the building would not simply transfer through each of the glazed louvres and continue out into the surrounding environment. It is recognised that the Council does not have a 'dark skies' policy and it is furthermore recognised that the River Hamble itself is a working waterway with a mixture of commercial and leisure craft making use of the waterway, day and night. However, the proposed house when viewed from the surrounding environment, the countryside in neighbouring Fareham and the River Hamble, is seen against a backdrop of trees which form a dark outline against the night sky, this is true of Cherry

Court as well as much of the Conservation Area as its embankment slopes down toward the marshes. The proposed development would incur a significant intrusion into the settlement at night and be visible from within a broad sweep of the River Hamble and its eastern embankment.

3.3.4. The Appellant in submissions before the Inspector, and not previously seen by the Council or local residents, has now produced a small series of computer-generated images which purport to seek to demonstrate the night-time impact the existing house and then set out to contrast this with the proposal. The images are taken from similar vantage points to those images used in conjunction with the submitted Design and Access Statement in so far as they set out to show a view from Dirty Lane and separately from the public footpath at Crableck Marina on the opposite shore of the River Hamble. The Inspector is asked to note that the grade of illumination illustrated (giving the appearance of arc lamps situated close to the windows) for Cherry Court is unfamiliar to those living in the area and not recognised as being representative of what might be regarded as the usual artificial lighting associated with the property. In addition to which, as the property is not currently lived in by anyone, it has not been possible to recreate this image/photograph in conjunction with the current appeal. Furthermore, the Inspector is asked to note that the computer-generated image of lighting associated with the proposed house appears to be rely upon soft tone warm lighting throughout having been place at depth within each of the rooms, notably including the large atrium. It is submitted that it is not possible from the images supplied to deduce that the proposed situation would in fact be an improvement upon the existing, or as the Appellant refers to it, a betterment. These computer-generated images appear to provide an undue manipulation of images and do nothing to allay the concerns of residents, who believe that were the proposed structure to be built this would forever be recognised by those navigating the local area as “the Lighthouse”.

3.3.5. The employment of the external louvres will be a matter of choice for the owner of the property, as will the style and luminance of any lighting within the building itself. The Inspector is asked to recognise that Dirty Lane is in use and the footpath is used by a range of locals both for access and leisure. Moreover, it should be recognised that the River Hamble is itself a highway for the purposes of planning and provides an important route for a large number of daily movements of a wide variety of craft on the water, as advised by the Harbour Master (Appendix Three). The River presents a significant thoroughfare from which the development will be viewed and is the equivalent of a main road within the Borough and one which offers a significant rural landscape which warrants careful consideration when introducing new development. The views from the river are of a dark skyline given an outline by a substantial belt of trees which are set on higher ground. The Appellant is correct in observing that this rising escarpment is punctuated by a limited number of streetlights and the lights from existing dwellings. The contention, however, that the proposal’s impact will be negligible is refuted and directly contested by the Council in its reason for refusal and the concerns of locals fully support this, the impact of the glazed rear elevation will not be negligible.

3.3.6. The Inspector is at liberty to review the Member discussion of the proposal, however as someone that attended the meeting, it is not recognised that the Committee apportioned undue weight to a photograph submitted by the objector, which is included at Appendix One, page 29 and is reproduced here, providing a view from the River Hamble:



3.3.7. The first thing to make clear is that this is a photograph taken from a mobile phone, no degree of either physical or digital zoom has been employed and the image has not been altered or adjusted, in addition to which no filters were applied in the capture of the image. The objector, who both took and submitted the image, has not been contacted by the Council or the Appellant to enquire about the genesis of this image. The Committee report unfairly sets out to assert that this is a zoomed image, and this assertion was repeated and embellished by Officers, who asserted this was produced using a power lens, without any opportunity to challenge. The Appellant has repeated this and clearly believes that Members were unduly influenced by this image. It is true that the objector is not familiar with the Landscape Institute's requirements for photographs used in conjunction with LVIA's or LVA's, however this was supplied as a representative image of the prominence of Cherry Court when viewed from the River Hamble, which has to be recognised as a highway in the present context. This precise view, neither zoomed or using a powerful lens, is achievable from the River Hamble by all members of the public with the right to pass and repass. This is not a view limited to a specific class of user or subject only to the exercise of private rights. The proposal is contrary to BU7 (f) and DM 12.

3.1. *Observations on the Grounds of Appeal: Reason 3*

- 3.4.1. The Applicant and his Agent are familiar with the fact that demolition within a Conservation Area needs to have regard for the development that will be carried out in the immediate aftermath of demolition. Members were clearly not satisfied that the proposal would achieve the statutory requirement for the scheme to preserve or enhance either the character or appearance of the Conservation Area. The Council is clear in its decision that the proposal would in fact harm the character of the Conservation Area and so could not countenance the demolition of the existing property in the absence of a satisfactory replacement scheme for the site.
- 3.4.2. The Design Review Panel had recommended that the retention of the existing property and its refurbishment was a more sustainable approach to this site and was an option that should be explored. The Applicant has not sought to provide any evidence of the condition of the existing property and relies instead on assertions that it would require extensive demolition of the main structural elements to meet current Building Regulation standards.
- 3.4.3. It is not the case that the existing property has no architectural merit and its presence within the original designation of the Conservation Area in 1982 recognises its contribution to the character and appearance of the area. The low horizontal emphasis across the front elevation provides a positive contribution to the area and the site has existing landscape treatments which positively contribute to the character of the area. Repeated reference by the Design Review Panel to landscape treatments as serving to help to disguise the rear elevation and improve the setting for the frontage are not supported by any formal submissions but appear to be an allusion to the numerous artists impressions that accompany the application. The Inspector is asked to note that there are a number of artistic licence manipulations contained within the submissions and some of the photographic representations have also been manipulated in order to present the proposal in the best light possible, and not placing it within the 'true' setting afforded by the 'existing' images.
- 3.4.4. The Inspector is asked to recognise that the Heritage Officer had initially raised objections to the earlier scheme based largely on a policy objection, that the scheme was 3 cubic metres above the 25% volume increase limit. It is noted, however, that the concern was raised that *"The volume both real and apparent will be more by virtue of the flat roof being at the existing ridge height so will have a greater presence than the existing."* It is submitted that the revised scheme has not set out to address this concern, it has instead reduced the width of the proposal, away from the boundaries and in line with the footprint of the existing house, this is the sole contribution toward the reduction in volume in order to sit inside the policy prescription of no more than 25%. Furthermore, it should be recognised that the support offered by the built heritage consultant places significant emphasis upon the "wooded environment" into which the proposal is to be situated and the use of timber as assisting the building fit into the "wooded surroundings". The Inspector will come to appreciate the siting of the proposal during any site inspection and gain a clearer understanding of the environment within which the development proposal will be appreciated. However, it

should be recognised that much of the wooded environment shown in the supporting documentation for the proposal are a figment of imagination and bear no relation to the existing situation or the situation to be brought about by the development proposals. It is submitted that the much lauded views over the River Hamble and the outlook offered by the site are almost certainly not to be screened out by the planting of a copious tree belt to the immediate rear of the proposals, as may be seen in the artists impressions that accompany the scheme, see below.



NORTH ELEVATION

4. Other Matters

4.1 *Loss of Amenity*

4.1.1. The Inspector is asked to provide specific consideration to the elevated position of the proposed balconies in association with the current scheme. The Inspector will observe from any site inspection that external balconies feature on a number of existing buildings locally, this takes advantage of the views offered by the elevation on the slope leading down to the river. The land associated with Cherry Court was formerly part of and within the curtilage of the neighbouring property Orchard Hill. Cherry Court was subsequently developed slightly angled away from Orchard Hill and has a constrained balcony at first floor level. There is a neighbourliness in the arrangement of the existing balcony and this does not give rise to any undue overlooking. It is noted that a substantial Bay Tree is situated on the common boundary between the two buildings. The existing balcony at Orchard Hill is confined within the central section of the rear elevation and is not overlooked. The proposal shifts the built form on Cherry Court back into the site by what is stated as being 4m. The proposal includes a side facing balcony which wraps around onto the rear elevation, this proposed balcony would have its floor level at approximately the same height of the existing eaves line of the existing house of Cherry Court. The wrap-around balcony at this elevated height and in this rearward projection into the site would command a dominant view across the rear of the neighbouring property at Orchard Hill. The presence of a human form at this height at the exterior of the building on a

balcony would strip the neighbour of any sense of privacy and give rise to substantial and unwarranted overlooking. It is submitted that the late introduction of a vegetative screen on this balcony is considered to be an ineffective and at best temporary sop toward the issue and would not be a measure that would stand the test of time or have any meaningful impact going forward, whereas the proposed development would have a lasting impact.

4.2. Biodiversity

4.2.1. Having set out initially the concerns relating to the absence of any BNG information or consultation on such matters, or identification of the habitats on site that may be affected by the decision to approve and impose a Condition, one which is unclear can be discharged. The Inspector is further asked to recognise that the submission is contrary to adopted policy DM11, Nature conservation (Appendix Four). This takes into account both local, regional, national and international designations and requires consideration of likely impacts, either individually or in combination with other developments) which may have an effect on these habitats, protected or priority species and this policy states that development will not be permitted unless it can be demonstrated that there have been thorough habitat and species surveys, and strategic bat trapping survey has been considered in all developments within the locality of a woodland or connected habitats networks. Local residents can attest to the presence of bats locally and the property at Cherry Court is not resided in, the developer states that the roof is in poor condition and yet the Applicant and the Council consider the site to be unsuitable for bats, and that no bat survey needs be undertaken. The Inspector is without invaluable information in respect of designated protected species, which local residents know are active within the surrounding woodland and habitat networks covering the property and wider area.

4.3. Appeal decision

4.3.1. The Appellant has supported their Appeal with a number of local decisions and the objector recognises that the site-specific considerations applicable to each of these are just that, site specific. Whilst a number of contrary decisions could be presented in a counter to the Appellant's submission, the Inspector is asked to review a most recent decision of 5th December 2024, Appendix Five. There are clear distinctions between these developments and the site-specific circumstances surrounding their proposed location, however, the Inspector is asked to recognise the need to protect the special character of the conservation area and to ensure that new development does not lead to the further urbanisation of the area to the detriment of the rural character of this special area.

5.0 Conclusion

5.1.1 The Inspector is respectfully asked to find in agreement with the Council that the proposal is contrary to the adopted Development Plan and would be contrary to the heritage interests of the local area contrary to the adopted Conservation Area SPD.

5.1.2 The Inspector is respectfully requested to dismiss the Appeal.