

Jasmine Rogers
The Planning Inspectorate
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Appeal	APP/W1715/W/25/3361240
Application	F/24/97943
Please ask for	Gary Osmond
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Friday 11th April 2025

Dear Ms Rogers,

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

Appeal by:	Mr Chris Pitter
Appeal No:	APP/W1715/W/25/3361240
Application No:	F/24/97943
Description:	Construction of 2No. three bedroom detached dwellings to rear with ancillary parking, amenity space, and shared access from Botley Road
Site:	Ropley, Botley Road, West End, Southampton, SO30 3HA

With reference to the above planning appeal and the Appellant's submitted appeal statement, the Local Planning Authority (LPA) are of the opinion that this statement raises no new issues or evidence and as such would ask that the appointed Inspector treats the delegated officer report and consultee responses, which were submitted with the appeal questionnaire, as the LPA's statement of case together with the following comments.

Refusal Reason 1: Amenity of future occupiers

Having reviewed the Appellant's statement of case, whilst the intentions for the proposed development set out are admirable, no evidence is provided as to how the design and layout of the scheme addresses and overcomes the LPA's concerns in relation to the quality of environment created for future occupiers of the development and in turn their residential amenity. Simply saying it is acceptable does not make it so. As such the appeal scheme 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.

Refusal Reason 2: Noise impact upon future occupiers

The Appellant's own noise survey and impact assessment demonstrated that the amenity of future occupiers would be adversely impacted by activities taking place on neighbouring industrial/commercial sites. It was initially suggested that this could be addressed through the erection of a 4.0 metre high acoustic fence along the western boundary of the appeal site. Following concerns expressed as to the visual impact of such a fence in such close proximity to the proposed residential properties and the resulting impact upon their outlook, the height of this fence was reduced to 2.4 metres. Whilst this may still have provided an equivalent degree of noise protection for gardens and ground floor accommodation, it would remove protection to the first floor accommodation. The revised noise report did not adequately demonstrate that the amenity of upper floor rooms, which being bedrooms are the most sensitive spaces, would be adequately protected. Neither did it take into account the fact that the neighbouring commercial uses are unrestricted in terms of operating hours, meaning that activities could legitimately take place at more unsociable hours.

That being the case, it remains the LPA's view that it has not been demonstrated that the amenity of future occupiers of the development would not be unacceptably impacted by noise and other forms of disturbance from neighbouring commercial uses, contrary to Policies DM1 and DM8 of the Eastleigh Borough Local Plan 2016-2036 and the Council's 'Quality Places' Supplementary Planning Document.

Refusal Reason 3: Contaminated land

As set out in the LPA's Pollution Control Specialist's response of 11th September 2024, which was provided with the LPA's appeal questionnaire, the submitted contamination report was deficient in site-specific information, a conceptual site model, and a comprehensive preliminary risk assessment. Given the future sensitive use proposed and the potential for migration of contaminants from neighbouring sites to the east and west of the appeal site, this was not considered acceptable. Whilst the appellant states that further investigations could be conditioned, this approach is not considered to be best practice for the nature of the resulting development. As such, it remains the LPA's view that insufficient information has been provided to demonstrate whether the application site is contaminated and if so the nature of that contamination, thereby preventing a full assessment of the potential risks to future

occupiers of the development being undertaken, contrary to Policy DM8 of the Eastleigh Borough Local Plan 2016-2036.

Refusal Reason 4: Tree loss & replacement

Again, nothing within the Appellant's appeal statement is considered to have addressed the LPA's concerns. Whilst it is accepted that none of the trees on site are subject to preservation orders and could be removed by the Appellant without requiring any form of consent from the authority, this does not exempt the development from the requirements set out in 'Trees and Development' Supplementary Planning Document. Had the trees been removed before submission of the planning application, then a differing view may have been taken by the LPA. However, this was not the situation presented to the LPA at the time of submission.

The Appellant's statement also does not address the concerns as to the impact of the development upon neighbouring third party trees adjacent to the site which could be impacted by that proposed.

As such, it remains the LPA's view that it has not been demonstrated that sufficient new trees can be accommodated within the resulting development to replace those to be removed in accordance with the Council's 'Trees and Development' Supplementary Planning Document, or that neighbouring trees would not be adversely harmed as a result of the development. As such, the application is considered to be contrary to Policy DM1 of the Eastleigh Borough Local Plan 2016-2036 and the above-mentioned Supplementary Planning Document.

Refusal Reason 5: Protected species and biodiversity net gain

The LPA do not agree with the Appellant's view that further site surveys to confirm the presence of protected species, or otherwise, can be conditioned as part of an approval. As set out in LPA Ecologist's response, it is very difficult to include necessary mitigation measures or make changes to a development to accommodate the needs of protected species after the development has received planning consent. It is for this reason that confirmation as to the presence of protected species is required prior to approval being granted, so as to ensure suitable mitigation is secured. In the case of the appeal scheme, it has not been demonstrated that harm to protected species or their habitat would not result as a consequence of the development. As such, that proposed is considered to be contrary to Policy DM11 of the Eastleigh Borough Local Plan 2016-2036.

Equally, it was not demonstrated that a biodiversity net gain of at least 10% could be achieved on site. It appears that this has been accepted by the Appellant, who has stated that they intend to purchase off-site credits to make up the shortfall. However,

no details as to what scheme would be used have been provided, or how it would be secured. Whilst it may be possible for this to be conditioned, it is still not clear exactly what the on-site shortfall would be, given there are a number of inaccuracies within the submitted net gain matrix, as set out in the Ecologist's response. Without knowing this for certain, it is not possible to establish the level of gain required to mitigate the impact of the development. As such, it is not possible to ensure that the development meets the requirements of Schedule 14 of the Environment Act 2021.

Refusal Reason 6: Mitigation for impact upon protected sites

As new residential development, mitigation for the impact of the development on Special Protection Areas will be required prior to the commencement of any development. It is a requirement that the appellant will need to satisfy as part of their obligations under the Conservation of Habitats and Species Regulations 2017 (as amended), in strict accordance with Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Failure to comply with this would mean that the development would have been unlawfully implemented.

In this instance, appropriate mitigation is required to offset the development's impacts on European Protected sites in terms of recreational disturbance on the Solent and New Forest SPAs and increased nutrient output. The Appellant intends to use the Council's nitrates mitigation scheme to offset the impact of the proposed development in relation to the development's impact upon water quality and the Council's New Forest mitigation scheme, as well as the Solent Recreational Disturbance Mitigation scheme. These schemes would be available to the Appellant should the appeal be allowed.

In the case of the Solent and New Forest schemes, these would usually be secured via a Unilateral Undertaking. However, no such undertaking has been seen by the LPA. Although ultimately it will be for the appointed Inspector to determine whether any undertaking is acceptable.

Without the necessary mitigations being secured, the development would be considered contrary to the requirements of Policies DM1, DM10 and DM11 of the Eastleigh Borough Local Plan 2016-2036, the provisions of the NPPF (2023) and the Conservation of Habitats and Species Regulations 2017.

Other Matters

The Appellant's statement makes reference to other residential sites in the locality which have been granted planning approval and suggests that there has been an inconsistency in decision making by the LPA. The LPA would strongly dispute this statement, particularly without any evidence being provided to demonstrate the

background to such a claim. In response, it should be noted that no two sites are ever identical in terms of their constraints, and that each planning application must be considered on its own merits. In the case of the appeal scheme, whilst it is acknowledged the Appellant's agent has done the best they can given the difficult site constraints, it is these constraints, which are outside of the Appellant's control, which cause the greatest concern for the LPA, as set out above and within the delegated officer report previously provided.

Conclusion

Whilst acceptable in basic principle terms, the appeal proposal raises a number of significant concerns in relation to the quality of environment created for future occupiers due to the impact of neighbouring development and constraints. In addition, there are further concerns relating to trees, biodiversity, and securing appropriate mitigation to offset the impact of the development.

Accordingly, the Local Planning Authority respectfully request that the Inspector upholds the reasons for refusal and dismisses the appeal. However, should the Inspector be minded to grant permission, the Local Planning Authority would ask that the conditions attached in Appendix B are included as part of any approval.

Yours faithfully,

A handwritten signature in black ink that reads "N Parker". The signature is written in a cursive style with a horizontal line underneath the name.

Nicholas Parker
Planning Manager