

Planning Inspectorate
3D Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

BPS Design Consultants Ltd
Seafields
Dodwell Lane
Bursledon
Southampton
SO31 1DJ

Your Ref: APP/W1715/W/25/3361240

Date: 15th April 2025

Dear Ms Jasmine Rogers

Town and Country Planning Act 1990 Appeal by Mr Chris Pitter

Site Address: Ropley, Botley Road, West End, Hampshire, SO30 3HA

With reference to the above planning appeal and the Local Planning Authority (LPA) statement on the appeal, we do not share the LPA's views, and we comment to the LPA's points as follows: -

Refusal Reason 1: Amenity of future occupiers

We acknowledge the LPA's concerns about the quality of the environment for future occupiers. However, we assert that the proposed development has been carefully designed with the future residents' well-being in mind. The detailed plans clearly show the large rear gardens and how these accord with Policy DM1. This will be provided to ensure all aspects of residential amenity are addressed, meeting the standards set out in Policy DM1.

Policy DM1 of the Eastleigh Borough Local Plan (2016 - 2036) (April 2022) (Local Plan) seeks, amongst other requirements, to ensure that new development:

- does not have an unacceptable impact on the character and appearance of urban areas;
- that it makes efficient use of the site;
- that it takes into account local context;
- that it is compatible with and integrates well with adjacent development in terms of its scale, layout, design and siting;
- and does not result in the loss of or damage to mature landscape and trees.

A similar approach is set out in paragraph 130 of the National Planning Policy Framework (July 2021) (Framework), but this paragraph also states that being sympathetic to local character should not prevent or discourage appropriate innovation or change. Similarly, paragraph 134 b) of the Framework states that significant weight should be given to innovative designs that help raise the standard of

design more generally in an area provided the proposal fits in with the overall form and layout of their surroundings.

In light of the considerations outlined above, we believe that the scheme achieves this goal. The development has been designed with meticulous attention to detail to ensure that it aligns with the various policies and frameworks that seek to enhance the quality of the built environment. By incorporating innovative design and addressing the specific concerns raised by the LPA, we are confident that the proposed development will not only meet but exceed the standards set forth in the relevant planning policies.

We are not just simply saying it is acceptable, we have clearly demonstrated this by the presented design. It is interesting that the LPA consider our design admirable; we also think it is too. It is not clear what specific concerns the LPA has, as we have already responded to the officers' report regarding trees, shadowing, garden depths, window positioning and parking. To say it is contrary to Policy DM1 without substantiation makes you think the LPA is grasping at straws.

We have taken great care in designing the proposal to meet the high standards set by Policy DM1. Our approach included thorough assessments of the local context, ensuring that the development is compatible with the existing urban fabric and integrates seamlessly with adjacent properties. The design incorporates large rear gardens and optimizes the use of the site, balancing density with the quality of life for future residents.

Furthermore, our scheme respects the mature landscapes and trees, preserving as much of the natural environment as possible while introducing new green spaces to enhance the overall aesthetics. We have also considered innovative elements in our design to bring fresh ideas that elevate the area's architectural standards, such as planted acoustic walls.

Refusal Reason 2: Noise impact upon future occupiers

The conducted noise assessments by Haynes McKenzie are comprehensive and factual. We do not believe the LPA have fully read and digested the reports and recommendations, as the reports clearly state that background traffic noise is the major issue. The LPA's consultee did not act in a timely manner and did not offer up any explanation as to why they were holding an objection.

The refusal reason provided by the LPA regarding noise impact demonstrates a lack of understanding of our comprehensive mitigation measures. Our detailed noise assessments, including recommendations for double glazing, acoustic vents and acoustic barriers, which clearly show that the proposed development will provide a high standard of living for future residents.

The acoustic fencing, whether 4.0 metres or 2.5 metres in height does reduce the noise levels which is a conceptual fact that cannot be disputed.

The specific sound level with the barrier attenuation is reduced to 46 dBA. The proposed barriers therefore reduce the specific sound levels for HGV maintenance to a level 4 dB lower than the background sound level.

With these lower levels, it is difficult to understand what the LPA's specific concerns are, especially when our revised noise assessments have demonstrated the effectiveness of the proposed measures.

Without an independent report, the LPA's objections lack substantiation and carry little weight. This undermines their position, as the evidence we have provided is both comprehensive and conclusive.

Refusal Reason 3: Contaminated land

The soil contamination testing carried out on the site and subsequently sent to the LPA revealed that there was no evidence of contamination on the premises. Furthermore, the tests confirmed that no contamination had migrated from neighbouring properties.

The test samples were issued to the LPA and formed part of the application.

Given these findings, we see no justification for further soil testing. The absence of contamination, as confirmed by the initial tests, indicates that additional surveys are redundant and would not provide any new insights.

It is difficult to see how an objection could be upheld on this matter when the test reports clearly state there is no contamination. The initial soil contamination tests were thorough and covered all relevant areas, confirming the absence of hazardous substances.

Furthermore, the data was meticulously compiled and presented to the LPA, leaving little room for doubt. The insistence on further testing seems excessive given the conclusive nature of the initial findings.

Policy DM8 states the following: -

“5.51 Land contamination:

Where a proposed development site is known or suspected to be contaminated, or where sensitive development is proposed, the responsibility lies with the developer to demonstrate that it can and will be made suitable for the proposed use with a satisfactory standard of residential amenity provided. This means that the developer must be able to assure the Council that there is no unacceptable short or long term risk of harm to human health, the environment, property and/or pollution of controlled and designated waters.

5.52 Assessments of land contamination are expected to follow the advice contained in CLR11 Model procedures for the management of contaminated land, and British Standard BS 10175:2011 +A1:2013 ‘Investigation of potentially contaminated sites – Code of Practice’, and BS 8576:2013 Guidance on investigations for ground gas, permanent gases and Volatile Organic Compounds (VOCs) or as subsequently updated. A typical site assessment would be Eastleigh Borough Local Plan 2016-2036 75 Eastleigh Borough Local Plan 2016-2036 carried out by a competent person”

Based on the comprehensive soil contamination testing, it's evident that section 5.51 of Policy DM8 has been sufficiently addressed. The absence of contamination at the site, as confirmed by the initial tests, ensures that the site poses no unacceptable risk to human health, the environment, or property. Therefore, the requirements outlined in section 5.52, which pertain to the assessment of contaminated land, are not applicable in this case.

It would have been useful for the LPA to state what additional information was required in this regard, allowing us to address their concerns more comprehensively.

The fact remains there is no contamination. This conclusion, drawn from the meticulous soil contamination tests, underscores the redundancy of further testing in this matter.

Refusal Reason 4: Tree loss & replacement

So, clearing the site prior to submitting a planning application, has been recognized as potentially influencing the perspective of the LPA by the LPA.

The LPA's response suggests that the removal of trees before the submission might have resulted in a different view from the LPA, thus implying that pre-emptive site clearance can be deemed an acceptable approach under certain circumstances.

It seems that the approach suggested by the LPA is not aligned with best ecological practices, and there is no endorsement from us for such a method. Encouraging developers to strip sites prior to submitting planning applications undermines ecological integrity and sustainability. This practice can lead to irreversible damage to the environment, including the loss of valuable habitats and biodiversity.

It is crucial to uphold ecological standards and follow best practices to protect our environment for future generations. Developers should be encouraged to work within these guidelines to ensure responsible and sustainable development, not be encouraged to clear sites.

The arboriculture report clearly identifies trees recommended for felling, pruning, and other necessary interventions. It highlights the importance of these actions not only for the health of the remaining canopy but also for ensuring public safety and the longevity of the site's biodiversity.

Replacement trees 23 No have been shown on the site plan, within the biodiversity credits to be purchased of site 15 No trees have been allowed for, and we have engaged with offsite donations of 23 No trees to be planted within the borough. What more would the council want us to do when they suggest a tactical approach of pre-emptive site clearance?

Refusal Reason 5: Protected species and biodiversity net gain

The LPA's refusal to condition further site surveys for protected species as part of the approval process is concerning. They argue that mitigation measures cannot be effectively implemented post-approval, yet fail to recognize that comprehensive site surveys can be incorporated as conditions to ensure suitable mitigation. Furthermore, the appellant's acceptance to purchase off-site credits for biodiversity net gain is dismissed without consideration, even though this approach aligns with accepted practices to offset ecological impacts.

Some surveys are indeed date-specific, which makes it challenging to provide them within the required timeframe for application submissions. This limitation leads to a dilemma regarding the refusal of applications based on the absence of timely surveys. It is essential to consider alternative approaches that allow for flexibility while ensuring that comprehensive and accurate data is collected to inform the approval process. Pre-conditioning site surveys would be a viable solution, enabling us to conduct necessary investigations post-approval while complying with ecological regulations.

In terms of biodiversity credits, we acknowledge their necessity in compensating for ecological impacts of the development. The location where these credits are secured should not influence the decision-making process, as long as the credits meet the required standards and contribute effectively to biodiversity net gain. The appellant has committed to purchasing these credits, a practice widely accepted to offset environmental impacts.

The LPA has not accepted the appellant's novel approach of wall planting in conjunction with acoustic fencing. This innovative method seeks to integrate vegetation directly onto the acoustic barriers,

enhancing both aesthetic appeal and ecological value. The idea behind this proposal is to create a harmonious blend of functionality and environmental stewardship, where the acoustic fencing does not merely serve as a sound barrier but also contributes to biodiversity and visual enhancement.

Despite the clear advantages, the LPA has raised concerns regarding the feasibility and maintenance of such a scheme.

This reluctance to embrace innovative solutions points to a broader challenge in urban development and planning, where novel approaches often face scepticism despite their potential to solve traditional problems creatively.

The innovative approach of wall planting alongside acoustic fencing would enhance biodiversity further.

Biodiversity matrix calculations are indeed subjective, and it is rare for ecologists to agree completely on the results. Divergent opinions are natural and should be expected. What is essential, however, is to have a robust backup plan in place to compensate for any potential discrepancies. The proposed wall planting, combined with off-site tree donations, provides such a reserve. This approach ensures that even if on-site measures fall short, there is still a substantial contribution to biodiversity net gain, maintaining ecological balance and supporting long-term environmental sustainability.

Reason 6: Mitigation for impact upon protected sites

We agree that 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.

The LPA confirmed the costs associated with the Solent and New Forest unilateral undertaking but did not request payment, which is standard practice when not supporting the application. This decision leaves the appellant in a difficult position, as they need clear guidance on financial commitments to ensure the necessary mitigations are in place. Addressing these concerns and providing explicit instructions would greatly assist in progressing the application within the regulatory framework.

Other Matters

We strongly dispute the LPA's statement regarding inconsistency in decision making and request that this be formally rescinded. Furthermore, the aerial photographs on the plans provide irrefutable evidence of similar back land developments in the vicinity. These images demonstrate the feasibility and precedent for such projects, making the appellant's case stronger and more compelling. The visual proof underscores the argument that the proposed development aligns with existing patterns and does not represent an anomaly within the local planning context.

The appellant's concern about the approval process is further exacerbated by the LPA's acknowledgment that the greatest worry stems from the neighbouring site. This revelation is particularly alarming, given that detailed noise assessments and contamination tests have confirmed the effects are limited and have been accounted for in the design. It is also alarming that a similar housing development exists on the west side of the site, a clear demonstration that housing is approved next to commercial premises.

The LPA has suggested a continent of planning conditions, which if implemented, would ensure that this project accords with current policy and the highest environmental standards. These conditions are

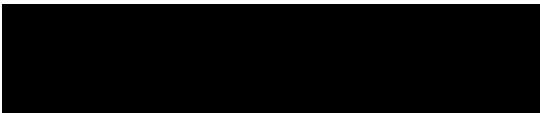
designed to address noise, contamination, and biodiversity concerns comprehensively, while also ensuring that the impact on protected sites is effectively mitigated.

To provide further reassurance, the planning conditions include strict monitoring and reporting requirements, ensuring that any deviations from the agreed-upon standards are promptly identified and rectified. This proactive approach not only aligns with best practices in urban development but also demonstrates the commitment of both the appellant and the LPA to fostering a sustainable and environmentally responsible project.

Consequently, we would consider this appeal a reasonable request and be allowed, as it reflects a well-considered balance between development needs and environmental stewardship. The proposed safeguards and mitigation measures underscore the project's potential to contribute positively to the local community and its natural surroundings, setting a precedent for future developments.

We look forward to meeting with you onsite for a walk around.

Kind Regards



Robert Narramore

Managing Director

For BPS Design Consultants Ltd