



---

## Appeal Decision

Site visit made on 7 August 2024

**by S Leonard BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> August 2024**

---

**Appeal Ref: APP/L1765/W/23/3331744**

**Chilton, Uplands Road, Denmead, Hampshire PO7 6HE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Eligius Ltd against the decision of Winchester City Council.
  - The application Ref is 23/01145/FUL.
  - The development proposed is demolition of 1No.existing detached residential dwelling and the construction of 2No. 4-bedroom detached dwellings, together with access and parking.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Since the refusal of the application, which is the subject of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 19 December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeal, and I have taken it into account where relevant to my decision.

### Main Issues

3. The main issues are:
  - The impact of the proposal on the character and appearance of the area;
  - Whether the proposal provides an appropriate mix of housing; and
  - Whether there is sufficient information to demonstrate that the proposal would not harm protected species and/or their habitats.

### Reasons

#### *Character and appearance*

4. The appeal site lies on the south side of Uplands Road, a primarily residential thoroughfare within the designated settlement boundary of Denmead. The rectangular-shaped site is occupied by a detached, road-facing chalet-style bungalow. The site is currently unoccupied. The property has fallen into a poor state of repair and the site frontage is open and overgrown.
5. Uplands Road comprises a linear arrangement of domestic-scale single and two-storey, often large, detached dwellings. There is a wide variety of

- architectural styles and no set pattern of building position in relation to its site boundaries.
6. The properties are set within generous plots with large maturely landscaped gardens, and the road has a distinctly verdant and semi-rural character. Grass verges align both sides of the street. Trees are features of the roadside and individual gardens. Dwellings are commonly set back behind large, and often maturely landscaped front gardens. As such, the road has a pleasant, spacious, tranquil, and green character.
  7. The existing, traditionally designed render and brick property under a tiled pitched roof fits comfortably within the aforesaid prevailing residential street scene. Whilst smaller than many other dwellings within the road, its scale and size are appropriate for the site, which is of a notably smaller overall size than that which is typical of the road.
  8. Although the existing property is run down and the site is presently overgrown, the appeal site could be more actively managed and the existing building repaired in the absence of any planning permission, and I do not find that it currently has a harmful impact on the visual amenities of the area.
  9. The existing dwelling is set back from the frontage maintaining scope to provide a generous front garden area in accordance with other front gardens which comprise a positive feature of the street and contribute to its pleasant verdant nature. There is also ample space to both sides of the dwelling, so that it does not appear cramped on the site, thereby reflecting the spacious nature of built development along the road.
  10. Existing mature trees around the site boundaries, include Oaks along the western boundary, an Ash in the front garden of the adjacent property to the east of the site and a Lawson Cypress to the south. Collectively all these trees make a significant positive contribution to the appearance of the appeal site when viewed from the street, by providing a soft green backdrop and verdant side intervention to the existing built development. As such, the trees reinforce the semi-rural character of the appeal site, which is wholly in keeping with the character of the road.
  11. The proposal would replace the bungalow with two detached two-storey houses, which would sit side-by-side in a parallel street-facing layout sharing the same front and rear building line. Both properties would be sited close to their respective side boundaries, and they would sit within newly formed plots which are notably narrower and shorter than those which prevail within the locality. This results in an unduly cramped and regular and formal arrangement of built development which is contrary to the more spacious and organic and loose-knit siting of dwellings which prevails along this part of the road.
  12. Moreover, the proposal would bring the front building line closer to the road than that of the existing bungalow and the closest neighbour to the west. I acknowledge that other nearby dwellings on this side of the road at Fieldway, Ringmer House and Dalewood House extend to within a similar distance of the road. However, in those instances it is a lower/subsidiary/garage element of those properties which project in front of the main part of the dwellings, so that the buildings do not appear over-dominant, cramped or unduly urbanising within the street scene, unlike the appeal scheme where the whole two-storey front walls of both houses would extend across both the new plot frontages.

13. This, combined with the proposed use of the whole of the frontage area as parking and turning, would result in an uncharacteristically urbanised appearance of the appeal site where built development would be visually dominant within close proximity to the street. This would be at odds with the aforesaid semi-rural character of the townscape. Based on the evidence before me, I am not persuaded that the proposed frontage hedging would be sufficient to mitigate against the visual preponderance of built form, given the narrowness of the proposed planting area and reasonably likely visibility requirements for drivers exiting the site.
14. Neither am I persuaded that the appellant's submitted CGI satisfactorily demonstrates that the proposal would fit comfortably within the street scene, since it is limited to the appeal site boundaries and does not show the proposal in relation to the existing neighbouring properties. Nor has a scaled street scene elevation been provided.
15. The appellant has drawn my attention to other nearby developments, and I saw evidence during my site visit of other properties within the road which have been altered, extended or replaced. Whilst these include examples of more contemporary designed buildings, I find that this accords with the existing wide mix of architectural styles which characterises the road. Moreover, on the basis of the information before me, which does not include scaled plans of other approved schemes in order to enable direct comparison with the appeal proposal, there is no cogent evidence before me that such developments have materially altered the aforesaid prevailing spacious and verdant nature of the road as a result of their size and siting.
16. The appellant's submitted *BS5837 Arboricultural Report and Arboricultural Impact Assessment* dated 24 April 2023 (the Tree Report<sup>1</sup>) confirms that the development will require Root Protection Area (RPA) protection in respect of 7 trees. These include 4 Oaks to the west of the site, which range from 10-15m in height. Three of these, including trees identified as TO2 and TO3 in the Tree Report, which are those closest to the site frontage, are categorised as B1.2 category trees of arboricultural and landscape value of moderate quality and capable of making a significant contribution to the area for 20 or more years.
17. The appellant has confirmed the intention to retain all these surrounding trees. However, part of the building of dwelling 2 and its frontage parking would encroach into the RPA of tree TO3, and a large part of its parking area would be within the RPA of tree TO2, so that a large part of these trees would be encroached upon by the proposal. The tree protection measures within the submitted Arboricultural Method Statement can be conditioned to ensure, amongst other things, that "no-dig" construction and appropriately designed foundations are carried out within tree RPAs and suitable protective fencing is erected in appropriate locations.
18. However, according to the submitted Tree Constraints Plan Tree Protection Plan Ref TPP-01A, the crown spread of tree TO3 would overhang a large part of the northwest corner of the house on plot 2 and a significant amount of that property's proposed parking would be under the crown spread of trees TO2 and TO3. Whilst I have noted that tree TO3 has been crown reduced and showed evidence of deadwood in the crown, there is no cogent evidence before me to suggest that these trees are not healthy and that they will not continue to

---

<sup>1</sup> Arbor Cultural Ltd Ref AC.2023.117

grow. Moreover, I saw a degree of overhanging of the appeal site by both tree canopies on my site visit.

19. As such, given their juxtaposition in relation to dwelling 2 and its parking, Oaks TO2 and TO3 have the potential to result in damage to the property, inconvenience or fear of danger to future occupiers of this dwelling, due to debris or branch fall, leaf litter, shading (noting the position of principal lounge and bedroom windows on the western end of the front elevation), and having an overbearing presence.
20. In addition, Oak TO5, being sited close to and directly to the south of the garden area of plot 2, would result in a degree of overshadowing to that garden. As such, it is not unreasonable to expect this to result in future pressure to undertake works to cut back or fell this tree. Whilst these impacts are currently experienced in respect of the existing rear garden, they would have greater significance in relation to the appeal scheme, whereby the rear garden for each plot is around half the size of the existing.
21. The aforesaid trees are sited on neighbouring land, so that future occupiers would not have control over their possible future removal. Notwithstanding this, there is a strong possibility that future occupants would want to undertake pruning or similar works to these trees, which have the potential to prejudice their long-term health and amenity value. Therefore, the potential for future damage to the trees arising directly from the appeal proposal would present a credible threat of causing harm to the visual amenities of the area, noting that these trees are not protected by a Tree Preservation Order, so that permission would not be required from the Council for such works.
22. Whilst there is some overhang of the existing property, the appeal scheme would result in a notably greater proportion of an individual dwelling and its parking area being overhung, and as such the risk of undertaking future tree works would reasonably be significantly higher than is currently the case.
23. Moreover, having regard to the importance of trees in contributing to the visual amenities of the locality, I note that no new tree planting is proposed, and I have had regard to the limited space on site that would be available for such following the development.
24. For the above reasons, I therefore conclude that the proposal would materially harm the character and appearance of the area. As such, the development would be contrary to Policy CP13 of the *Winchester District Local Plan Part 1 – Joint Core Strategy* (2013) (the LPP1) and Policies DM15, DM16 and DM24 of the *Winchester District Local Plan Part 2 – Development Management and Site Allocations* (2017) (the LPP2).
25. These policies, amongst other things, seek to ensure that new development meets the highest standards of design and responds positively to its neighbours and the character, appearance, and variety of the local environment, within and surrounding the site, in terms of, inter alia, its design and layout, and that development should protect special trees.
26. For similar reasons, the proposal would also be contrary to Chapter 12 of the Framework, which seeks to achieve well-designed and beautiful places, including noting the important contribution that trees make to the character and quality of urban environments.

### *Housing mix*

27. LPP1 Policy CP2 seeks to ensure that new residential development meets a range of community housing needs and delivers a wide choice of homes. Based on the Council's assessments of need, including its *Strategic Housing Market Assessment* (SHMA) (February 2020), the Council has estimated that overall, around 65% of new housing demand will be for 2- and 3- bedroom homes, to provide for small families, newly forming households and downsizers.
28. Moreover, the SHMA advocates a mix of housing that addresses the demand for homes as well as the changing demographic profile due to an ageing population (5-10% 1-bed, 25-30% 2-bed, 40-45% 3-bed and 20-25% 4+bed).
29. As such, the policy stipulates that a majority of homes should be in the form of 2- and 3- bedroom houses, unless local circumstances indicate an alternative approach be taken. Whilst the policy states that 'local circumstances' include where there is an imbalance of housing types and sizes in particular parts of the district, it does not specify a comprehensive list of all other applicable 'local circumstances'.
30. The proposal would not comprise the mix of housing stipulated within Policy CP2 as it would result in two x 4-bedroom houses. This, according to the Council would be within an area where most of the existing housing already comprises larger dwellings, thereby failing to safeguard against a shortfall in smaller dwellings across the district.
31. In this instance, the appeal site is located within an area which has a distinctive pleasant semi-rural verdant character, which, to a great extent, is derived from the presence of large detached dwellings set within spacious plots with room to provide ample mature planting around the dwellings. As such, the development of the site with dwellings that are notably smaller than those which prevail, could reasonably be expected to appear incongruous within the prevailing townscape.
32. Moreover, the proposal would only result in the net gain of one dwelling, as the existing property would be replaced. I have no substantive evidence before me regarding the number of bedrooms within the existing property. However, having regard to its footprint, which is not significantly larger than that of the two proposed new dwellings combined, together with its part two-storey design, it is reasonable to assume that it comprises a large dwelling.
33. Also, the small size of the appeal site means that it would be unable to deliver a wide mix of different housing sizes, whereas the SHMA recommendations are more likely to be used as a set of guidelines to consider the mix of housing expected on larger development sites (Paragraph 8.33).
34. Taking all the above into account, I find that the nature of the appeal site, its location and the appeal proposal are such that, together, they comprise 'local circumstances' sufficient to accord with the provisions of Policy CP2 and justify the proposed additional large dwelling. As such, I conclude that there is no conflict with this policy.

### *Protected species*

35. The Council's third reason for refusal relates to the failure to provide sufficient ecological survey information to demonstrate that the proposal would not harm

protected bat species due to an identified potential for the existing building to accommodate roosting bats and a lack of further bat surveys prior to the application refusal.

36. The appellant's appeal submission includes a further ecological assessment<sup>2</sup>, which included presence/absence surveys, as recommended by its initial ecological assessment<sup>3</sup>, which confirm that the building supports an occasional common pipistrelle day roost.
37. The appellant proposes to address this matter through the careful removal of the roost under the guidance of a qualified ecologist, the obtaining of a European protected species licence between the grant of planning permission and the commencement of the development, and ensuring that external lighting is limited in order to reduce impacts on foraging/commuting bats. I have no reason to disagree with these recommendations.
38. However, I have noted the remaining Council objection on the basis that the ecological reports do not explicitly appear to have assessed the potential for the mature trees sited adjacent to the western boundary to accommodate roosting bats.
39. Moreover, following confirmation that the development will require a European Protected Species Licence from Natural England, the Council has considered whether the proposal meets the three derogation tests contained within the *Conservation of Habitats and Species Regulations 2017*.
40. I concur with the Council that the first main test, that requires the activity to be licensed to be for imperative reasons of overriding public interest or for public health and safety has not been met. This is because, despite providing housing in an area where such development is acceptable in principle, my conclusion in respect of the first main issue is that there would be material harm to the character and appearance of the area.
41. Moreover, I also find that the proposal fails to demonstrate that it meets the second test, that of there being no satisfactory alternative. This is because the appellant has not provided substantive evidence to demonstrate that there is no potential viable alternative scheme which would retain the existing building.
42. For the above reasons, I therefore conclude that, for the purposes of the determination of this appeal, there is insufficient information to satisfactorily demonstrate that the proposal would not harm protected species and/or their habitats. As such, the proposal does not accord with the objectives of LPP1 Policy CP16 and Chapter 15 of the Framework, which seek to ensure that new development maintains, protects and enhances biodiversity, including protected species.

## **Other Matters**

### *European Protected Sites (EPS)*

43. The appeal site lies within the Zone of Influence of the Solent EPS, where a net increase in housing development is likely to result in impacts to the integrity of these sites, because of increased levels of nutrients from wastewater entering

---

<sup>2</sup> Extended Phase 1 Ecological Assessment and Bat Roost Assessment – Phillips Ecology October 2023

<sup>3</sup> Extended Phase 1 Ecological Assessment – Phillips Ecology March 2023

- the Solent water environment. Such impacts would require the inclusion of a package of avoidance/mitigation measures to address these effects.
44. The appellant has confirmed willingness to provide the required mitigation measures and both main parties are content that this mitigation could be secured by means of a Grampian condition.
  45. Whilst this matter did not constitute a reason for refusal, within the context of the appeal, the responsibility for assessing the effects of the proposal on the EPS falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine the above matters further, including seeking further information from both main parties and, potentially, consulting with Natural England, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the EPS.
  46. I would need to be satisfied that any mitigation schemes for addressing the foul water impacts of the development on the EPS are certain at the time of AA, so that no reasonable scientific doubt remains as to the effects of the development on the internationally designated European sites.
  47. However, as there are other clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. Therefore, I do not need to consider these matters any further as part of my decision.
  48. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be within an accessible location within the settlement boundary close to the facilities and services and public transport connections in Denmead.
  49. It would contribute towards the Council's housing supply, and it could be built out relatively quickly, having regard to paragraph 70 of the Framework. However, by providing one additional dwelling only, the contribution would be very modest.
  50. There would also be modest short term economic benefits as a result of the construction of the development, and longer term economic and social benefits from the occupation of the new dwellings.
  51. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, this is not unqualified.
  52. The Council has raised no objections to the appeal scheme in respect of matters including the amount of internal and external living space for future occupiers, the architectural style and materials, neighbouring living conditions, parking, highway safety, heritage, flood risk and drainage. Moreover, I have found no harm in respect of the proposed housing mix. The lack of identified harm is a neutral factor in the planning balance.

## **Conclusion**

53. The proposed development would conflict with the adopted development plan when considered as a whole, and there are no material considerations, including the Framework, that indicate that the proposal should be determined other than in accordance with the development plan.
54. For the reasons given above, I conclude that the appeal should be dismissed.

*S Leonard*

INSPECTOR