

ITEM 7

APPLICATION NO.	17/00076/FULLN
APPLICATION TYPE	FULL APPLICATION - NORTH
REGISTERED	23.01.2017
APPLICANT	Dereck Warwick Developments
SITE	Land To Rear Of 2-8 Whynot Lane, Andover, Hampshire, SP10 3ES, ANDOVER TOWN (MILLWAY)
PROPOSAL	Construction of 1.5 storey detached dwelling with detached double garage
AMENDMENTS	None
CASE OFFICER	Mrs Samantha Owen

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is presented to the Planning Control Committee (PCC) following a resolution made by the Northern Area Planning Committee (NAPC) on the 11 May 2017 to refuse planning permission for the proposed development. This resolution is contrary to the officer recommendation and would, in the opinion of the Head of Planning and Building, leave the Council at risk of an award of costs in the event of an appeal being lodged against such a refusal of permission.
- 1.2 The officer's report and corresponding update paper for the 11 May 2017 NAPC meeting are appended to this report as Appendices A and B.

2.0 PLANNING CONSIDERATIONS

- 2.1 NAPC resolved to refuse the application for the following reason;
- Proposed development represents a backland form of development with a contrasting modern design. This would be out of keeping with and harmful to the surrounding Residential Area of Special Character (RASC) and would thereby conflict with policies E1, E2 and E4 of the Test Valley Revised Local Plan 2016.
- 2.2 NAPC were of the view that the backland nature of the development was out of keeping with the RASC which in Whynot Lane has properties fronting the road with no development to the rear of houses. NAPC were also concerned that the modern design of the proposed dwellings was not compatible with the RASC.
- 2.3 The previous application (15/02236/FULLN) was for two houses in this backland area with a similar modern design. The Appeal Inspector whilst dismissing the Appeal dealt with both the issue of backland development and the modern design. The Appeal Inspector concluded;

“I find no harm in principle to a ‘backland’ development in this location given that there is an existing access. Nor do I find the contemporary design of the proposed dwellings harmful as they would be visually separate to other properties in Whynot Lane.”

- 2.4 The Appeal Inspector’s Decision is a material planning consideration. Whilst there is no definitive list of what is considered a material planning consideration previous decisions are taken into consideration. The weight afforded to previous decisions can differ as it would be reliant on the age of the previous decision and whether any other factors have changed, for example a change in Local Plan. The Appeal Inspector’s Decision was received in October 2016 and as such considerable weight can be afforded to this Decision.
- 2.5 The NPPG advises that “Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.” The NPPG also provides examples of unreasonable behaviour where costs could be awarded against the LPA including “persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.”
- 2.6 Policy E4 of the RLP requires development within RASC’s to be permitted provided that;
- a) The resulting sizes of both the proposed and remainder of the original plot, when sub-divided, are not significantly smaller than those in the immediate vicinity;

The applicant has provided a site comparison of the neighbouring plots (See Appendix C). The plot sizes of those dwellings that adjoin the site vary in size from 390sqm to 772sqm with an average plot size of 538sqm. The proposed plot excluding the access is 688sqm. It is considered that at this size the plot is comparable with those in the immediate vicinity.

- 2.7 b) The development’s size, scale, layout, type, siting and detailed design are compatible with the character of that Residential Area of Special Character.

The dwellings in Whynot Lane are detached properties that face onto the road and are a mix of brick and brick and render. They are located to the front of the plot facing Whynot Lane. The proposed dwelling would be located to the rear of the dwellings in Whynot Lane and would be constructed of timber cladding, render and natural slate. As discussed in paragraph 8.8 of the main agenda report the design of the dwelling is not strictly in keeping and does not complement the character of the area in terms of scale, material and building styles. Notwithstanding this the site is located to the rear of the other dwellings in Whynot Lane and as such the dwelling would not be clearly seen from the public domain as the Appeal Inspector concluded in their decision, development in this location would “..be visually separate to the other properties in Whynot Lane.”

It is considered that the location of the proposed dwelling to the rear of the properties in Whynot Lane and the fact that it would not be read as part of the wider Residential Area of Special Character, the proposed dwelling is considered acceptable and would not harm the RASC as defined by Policy E4.

3.0 CONCLUSION

3.1 In light of the above considerations, officers are of the opinion that the proposal would be appropriate in terms of its impact on the Residential Area of Special Character. Officers remain of the opinion that the proposals would be in accordance with the Test Valley Borough Revised Local Plan 2016 and appropriate conditions as suggested below. An additional condition requiring levels information to be submitted has been added.

4.0 RECOMMENDATION OF THE NORTHERN AREA PLANNING COMMITTEE

4.1 REFUSE for the reason:

1. **The proposed development represents a backland form of development with a contrasting modern design. This would be out of keeping with and harmful to the surrounding Residential Area of Special Character and would thereby conflict with policies E1, E2 and E4 of the Test Valley Borough Revised Local Plan 2016.**

4.2 RECOMMENDATION OF THE HEAD OF PLANNING AND BUILDING PERMISSION subject to:

1. **The development hereby permitted shall be begun within three years from the date of this permission.
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**
2. **Development shall be constructed in accordance with the Materials Schedule received on the 29 March 2017.
Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Policy E1 and E4 of the Test Valley Borough Revised Local Plan 2016.**
3. **The development hereby permitted shall not be occupied until space has been laid out for the parking and manoeuvring of vehicles to enable them to enter and leave the site in forward gear in accordance with the approved plan. These areas shall be reserved for such purposes at all times.
Reason: In the interests of highway safety in accordance with Policy T1 and T2 of the Test Valley Borough Revised Local Plan 2016.**
4. **The development shall not be occupied until the landscaping as shown on Drawing Number 1984/5C received on the 13 March 2017 has been completed.
Reason: To ensure that the works undertaken maintain the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Policy E1 of the Revised Local Plan 2016.**

- 5. The dwelling hereby approved shall not be occupied until a landscape management plan has been submitted to and agreed in writing by the Local Planning Authority. The planting shall be maintained to encourage its development for a minimum period of five years following the completion of the development. Any trees or significant areas of planting that are removed, die or become seriously damaged or defected within this period shall be replaced before the end of the current or first planting season following the failure, removal or damage of the planting.**

Reason: To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Policy E1 and E2 of the Test Valley Borough Revised Local Plan 2016.
- 6. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.**

Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.
- 7. The bedroom window at first floor on the north east elevation shall be fitted with a glazing system that provides acoustic performance of >38dBD new and be fitted with trickle vents for background ventilation. This window shall be maintained as such at all times.**

Reason: To ensure that future occupiers of the dwelling are not subjected to unacceptable levels of night time noise from the neighbouring railway line in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.
- 8. The development hereby approved shall be undertaken in full accordance with the provisions set out within the Arboricultural Method Statement and Tree Survey undertaken by Partridge Associates reference Rev 6 dated 23 March 2017.**

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.
- 9. Tree protective measures installed in accordance with the tree protection plan attached to the Method Statement shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities, nor material storage, nor placement of site huts or other equipment what-so-ever shall take place within the barrier.**

Reason: To ensure the avoidance of damage to existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.
- 10. The development hereby permitted shall not be occupied until the acoustic fences as shown on Drawing Number P16-098-02-02-003 have been erected. The fences shall be maintained as such at all times.**

Reason: To protect neighbouring properties from noise from the proposed access road in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.

11. **Development shall proceed in accordance with recommendations set out in Section 5.1 Species and habitats and Section 5.2 'Enhancements' of the Protected Species Report, Land at Whynot Lane, Hampshire, SP10 3ES (David Leach Ecology Ltd, June 2015). Reason: to ensure that protected species are not harmed by development and to conserve and enhance biodiversity in accordance with Policy E5 of the Revised Local Plan.**
12. **The development hereby permitted shall not be occupied until the two windows at first floor in the south east elevation are obscure glazed and shall be maintained as such at all times. Reason: To protect neighbouring properties and future occupiers of the new dwelling from potential overlooking in accordance with Policy LHW4 of the Test Valley Borough Revised Local Plan 2016.**
13. **The development hereby permitted shall not be occupied until provision for cycle storage for two bicycles has been made within the site. The provision for cycle storage shall be maintained for this purpose at all times. Reason: In the interest of providing sufficient safe parking for cyclists and in accordance Policy T2 of the Test Valley Borough Revised Local Plan 2016.**
14. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers P16-098 02-05-004, P16-098-02-05-003, P16-098-02-05-002, P16-098-02-05-001, P16-098-02-04-002, P16-098 -02-03-003, P16-098-02-03-002, P16-098-02-03-001, P16-098-02-02-003. Reason: For the avoidance of doubt and in the interests of proper planning.**
15. **Before the development hereby permitted is commenced details, including plans and cross sections, shall be submitted to and approved by the Local Planning Authority of the existing and proposed ground levels of the development and the boundaries of the site and the height of the ground floor slab and damp proof course in relation thereto. Development shall be undertaken in accordance with the approved details. Reason: To ensure satisfactory relationship between the new development and the adjacent buildings, amenity areas and trees in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.**

Note to applicant:

1. **In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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APPENDIX A

Officer Report to Northern Area Planning Committee on 11 May 2017

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PROPOSAL	Construction of 1.5 storey detached dwelling with detached double garage
AMENDMENTS	Amended plans received 13 March 2017 showing amended landscape proposals and tree protection. Amended Arboricultural Method Statement dated 13 March 2017. Acoustic Report received 27.03.2017 Amended Materials Schedule received 29.03.2017 CGI Portfolio received 3 April 2017
CASE OFFICER	Mrs Samantha Owen

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

1.1 The application is presented to the Northern Area Planning Committee at the request of a Member for the reason that it is of more than local interest.

2.0 SITE LOCATION AND DESCRIPTION

2.1 Whynot Lane is an unmade up road within the built up area of Andover, the site is located behind existing houses and is adjacent to the railway station car park. The site is a relatively flat piece of land that is rectangular in shape and is currently undeveloped. The site is located within a Residential Area of Special Character.

3.0 PROPOSAL

3.1 Construction of 1.5 storey detached 4 bedroom dwelling with detached double garage utilising existing access to Whynot Lane.

3.2 The dwelling would be located to the rear of numbers 2 and 4 Whynot Lane. The proposed dwelling would have a maximum height of 7.9 metres.

4.0 HISTORY

4.1 15/02236/FULLN – Erection of two three bedroom detached dwellings:
Refused 01.02.2016 for the following reasons;

- **The proposed development by reason of its cramped arrangement and detailed design is not compatible with and detracts from the character of the Residential Area of Special Control in which it is located and as such it is not in accordance with Policy E4 of the Test Valley Borough Revised Local Plan 2016.**
- **In the absence of a legal agreement to secure financial contributions towards affordable housing the development would fail to support the delivery of affordable homes within the Borough. The development would therefore be contrary to Policy COM7 of the Test valley Borough Revised Local Plan 2016.**
- **No on-site provision of Public Open Space in the form of allotments is proposed. There is a deficiency within Andover of allotment provision to mitigate the additional burden that will be placed on existing allotment sites. As such the proposal is contrary to Policy LHW1 of the Test Valley.**

APP/C1760/W/16/3148746 – Dismissed – Cramped and contrived layout of Plot 1 which would be out of character with more spacious layout of development along Whynot Lane generally, harming the Residential Area of Special Character and the character and appearance of the area. Inspector found no harm to backland development nor was the contemporary design of the proposed dwellings harmful as they would be visually separate from the other properties in Whynot Lane. Copy of Appeal Decision attached to this Report as Appendix A.

4.2 **Land rear of 2,4,6 and 8 Whynot Lane, Andover**

05/01065/FULLN -Erection of dwelling and detached garage with access onto Whynot Lane – Refused 09.03.06 for the following reason:

- **The increased use of the access and the creation of a driveway in close proximity to the dwellings and gardens of numbers 6 and 8 Whynot Lane would have a disturbing and intrusive impact on the occupants of these dwellings and as such would be contrary to policy D1 of the Test Valley Borough Local Plan and policy AME 01 of the Test Valley Borough Local Plan Review Revised Deposit Draft.**

APP/C1760/A/06/2025187 – Dismissed – Harmful effect on the living conditions of the occupiers of No 6 and 8 Whynot Lane in terms of noise and disturbance.

4.3 **8 Whynot Lane, Andover**

05/00078/FULLN - Erection of detached three bedroom dwelling with integral garage and access onto Whynot Lane – Refused 27.10.05

4.4 **Land at Rear of 2/6 Whynot Lane**

TVN.04772 – Outline – Erection of dwelling Refused 06.11.86

TVN.4772/1 - Outline – Erection of dwelling. Refused 15.02.88

TVN.4772/2- Erection of dwelling and garage. Refused 24.03.93

5.0 **CONSULTATIONS**

5.1 **Policy:** Comment

Principle of Proposal

Test Valley Borough Revised Local Plan (2016)

COM2 – the site lies within the settlement boundary of Andover, therefore the principle of the proposal is acceptable subject to being appropriate in line with other policies in the Local Plan.

E4 – the site lies within a Residential Area of Special Character, therefore all criteria of this policy need to be satisfied. In relation to criterion a) the submission includes details of plot sizes for the proposed plot and those in the locality. Subject to the proposal satisfying these criteria, there is no objection to the principle of the proposal.

National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) is a material consideration. The NPPF identifies the three dimensions of sustainable development which should be taken into account, i.e. social, economic and environmental roles (paragraph 7). Paragraph 6 sets out what sustainable development means in the context of the NPPF guidance.

Planning History

There is planning history in relation to this site, including a dismissed appeal for two dwellings (15/02236/FULLN) and a dismissed appeal for one dwelling (05/01065/FULLN). The planning history would be a relevant material consideration.

Other Pertinent Policies

Other pertinent policies within the adopted Local Plan (including those within the COM/E/T/LHW sections and policy SD1) should be taken into account, along with relevant guidance within the NPPF and PPG.

E7 (water efficiency) – in line with criterion d) of this policy, a condition should be applied to the application to secure the optional requirement for water efficiency through Building Regulations (which seeks to achieve a water efficiency standard of 110l/p/d).

LHW1 (and the Infrastructure and Developer Contribution SPD) - seeks the provision of public open space in conjunction with new residential development. The starting point would be the provision of public open space, however there may be circumstances where the provision is best met off-site, as set out in paragraph 8.4 of the Local Plan. Given the scale of the proposal, it is likely to be most appropriate for the public open space to be secured off site, this would be through CIL liability.

T1 – in line with this policy, the contribution towards sustainable transport infrastructure may be required – this may be secured through CIL liability. A Highway consultation may be appropriate.

Please note the application site lies within the designated Andover Neighbourhood Area.

For information, the submission refers to policies of the Borough Local Plan 2006 – these no longer form part of the Development Plan (were withdrawn in January 2016).

5.2 **Highways:** No objection subject to condition regarding parking.

5.3 **Trees:** No objection subject to conditions.

5.4 **Ecology:** No objection subject to condition.

I have viewed ecological report by David Leach Ecology Ltd undertaken in May 2015, and the plans to construct a house and garage within a garden to the rear of 2-8 Whynot Lane, and considered species records and aerial images in regards to protected species and have the following ecological comment.

The survey work identified habitats that may support reptiles, birds and foraging bats. I am confident that the proposed mitigation and enhancement in chapters 5.1 and 5.2 is acceptable and in proportion to the proposed work and I would raise no additional concerns. Recommend condition to secure mitigation.

5.5 **Landscape:** No objection subject to conditions.

5.6 **Environmental Protection:**

Further to the submission of the Clarke Saunders railway noise impact assessment report dated 27 March 2017, I withdraw my previous holding objection, subject to a condition to control noise protection measures in accordance with the higher specification recommendations of the report. Whilst I consider that the layout and design of the dwelling has not altered and is not optimal for purposes of avoiding noise exposure, and relies upon closed windows to meet indoor WHO noise guideline levels, I acknowledge that this is a single dwelling only in a location characterised by existing residential use. Therefore, I believe it reasonable in this case to consider a more compromising stance, albeit it must be accepted that windows have to be kept closed to minimise the risk of night time sleep disturbance caused by the noisiest passing trains and that this represents a compromise to the amenity of future occupants. If this is to be accepted, then a condition should in my view still be applied to the effect requiring the higher glazing specification and means of ventilation referred to in the fourth paragraph of section 6.1 of the Clarke Saunders report.

6.0 **REPRESENTATIONS** Expired 20.02.2017

6.1 6 Letters of Objection – 2, 4, 6, 10 and 22 Whynot Lane, 12 The Avenue.

- Design and style of house is not in keeping with area.

- Access driveway is not wide enough and any vehicles using it would pass in close proximity to front and rear doors, dining room and bedroom window. Acoustic fence would have to be set back from neighbour's boundary to allow maintenance of their fence making driveway narrower.
- Trees have already been removed from the site and this will let in more light and noise from Railway Station Car Park.
- Far more noise and air pollution from vehicles and I do not believe the Acoustic Fence can deal with either issue.
- Seen 8 applications which have all been refused so not feel anything has happened to change the issues.
- The driveway is not currently used in any way as a drive, only occasional use which amounts to a car parking at the top of the driveway in the morning and its removal in the evening.
- New dwelling would have completely new traffic flows with 2-4 movements daily.
- Nothing has changed with the passing of time and would be peculiar if a different decision was made.
- Cannot accept that the simple addition of acoustic fencing to the driveway removes the problem of disturbance. Would not diminish noise never mind other aspects of disturbance – fear of car crashing through the fence.
- Site is within RASC and application would fundamentally change the ambience and quiet enjoyment to the rear of 2, 4, 6 and 8 Whynot Lane.
- Land is separate parcel of land and was once a memorial garden this application represents a major change of use.
- Reduced security to the rear of my house (No 4) as it will be open to the public under this development.
- Proposal represents overdevelopment, no other back garden development in the road and development severely concentrates buildings for No 2, 4 and 6 which already have restricted gardens when compared to those enjoyed by No 8 and others to the west.
- House of different style and placement and would detract from uniformity.
- Concerned about safety to pedestrians as Whynot Lane has no pavement and turning is obscured by fences.
- People drive inappropriately fast along Whynot Lane and it is expected that this would be the same for the long drive.
- Drive is not wide enough to let two vehicles to pass safely along its length.
- Whynot Lane is unlit it is difficult to see pedestrians in the dark.
- Access to articulated and such like vehicles would be very dubious, would affect Emergency Service access along with refuse collection.
- Access track fencing adjacent to number 6 is owned by number 6 who have stated they do not intend removing their fencing. Acoustic fence would have to go on land owned by Number 8 further reducing the width of the access track.
- Trees adjacent to the railway boundary will cause problems with falling leaves and breaking branches.

- Andover railway station car park will affect the occupiers of the new dwelling as it does existing properties.

6.2 1 x Letter of Support – Redpost Court, Red Post Lane, Weyhill

- No objection was raised to new build at number 9 Whynot lane last year.
- Previous planning approvals in the area have been successful and the development at the rear of number 8 Whynot Lane is not only sensible but appropriate.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM 2- Settlement Hierarchy

COM 7 – Affordable Housing

COM15- Infrastructure

E1 – High Quality Development in the Borough

E2- Protect, Conserve and Enhance the Landscape Character of the Borough

E4 – Residential Areas of Special Character

E7 – Water Management

E8 - Pollution

LHW4 – Amenity

T1– Managing Movement

T2 –Parking Standards

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle of Development
- Effect on the character of the area including the Residential Character of Special Character
- Impact on the neighbouring properties
- Impact on trees
- The impact on the Highway
- Water Management
- Planning Obligations

8.2 **Principle of Development**

The site is located within the Settlement Boundary for Andover as defined by Policy COM 2 of the Revised Local Plan. The principle of developing the site for dwellings under this policy is acceptable in principle provided it is appropriate to other policies within the Revised Local Plan.

8.3 **Effect on the character of the area and the street scene**

The site is a 'L' shape located to the rear of numbers 6 and 8 Whynot Lane. It shares a boundary to the rear with the car park for the railway station.

Whynot Lane itself comprises detached properties with front gardens many with off street parking. Whynot Lane is within a Residential Area of Special Character as defined by Policy E4 of the RLP.

- 8.4 This policy requires the following:
- a) The resulting sizes of both the proposed and remainder of the original plot, when sub-divided, are not significantly smaller than those in the immediate vicinity; and
 - b) The developments size, scale, layout, type, siting and detailed design are compatible with the character of the Residential Area of Special Character.
- 8.5 Residential Areas of Special Character (RASC) are defined by a recognisable pattern of development which is characterised by low density with typically larger plots and similar architectural styling. Plots within Whynot Lane are largely long and narrow with the dwelling sitting towards the front of the plot. Front gardens are characterised by low front walls and planting. The properties directly in front of the application site fronting Whynot Lane are more uniform in style and character. Notwithstanding this there are different architectural styles present within the Lane.
- 8.6 The previous application (15/02236/FULLN) was dismissed at Appeal as the Inspector had concerns about plot sizes for the two dwellings and in particular Plot 1 which would have been considerably smaller and visually apparent from private views of properties within Whynot Lane. The Appeal Inspector did not raise any concern with regard to the backland siting of the dwellings stating, “I find no harm in principle to a ‘backland’ development in this location given that there is an existing access. Nor do I find the contemporary design of the proposed dwellings harmful as they would be visually separate to the other properties in Whynot Lane.”
- 8.7 This application seeks approval for one dwelling, the plot would be of a comparable size to other plots within Whynot Lane and would not be out of keeping with the more spacious character of the area. There would be no clear views of the dwelling from Whynot Lane, with only private views of the dwelling from those properties that share a boundary with the site and front Whynot Lane. The proposed landscaping for the site includes the retention of some of the mature trees that remain along the boundary with the railway station car park and the remainder of the site would be a mix of lawn and hedging and it is considered that this would ensure the plot would integrate into the landscape character of the area, which is predominantly domestic gardens.
- 8.8 The proposed dwelling is of a contemporary style utilising timber cladding and render. The design of the dwelling is not strictly in keeping with the design of the dwellings in the surrounding area and does not complement the character of the area in terms of scale, material and building styles and is therefore not in accordance with Policy E1 and E4 of The RLP. Notwithstanding this it is considered that taking into account the Appeal Inspectors assessment of the contemporary design and views on backland development whilst not in accordance with the RLP is acceptable in this location.

8.9 Impact on the neighbouring properties

Overlooking

The proposed dwelling will be located between numbers 2-8 Whynot Lane and 14A The Avenue. To the rear is the railway station car park. The proposed dwelling is orientated so that it presents a side elevation to numbers 14A The Avenue and, 2, 4 and 6 Whynot Lane at first floor two bathroom windows are proposed and at ground floor there are two windows serving the kitchen and a door serving the utility room.

- 8.10 The windows at ground floor will look out onto the proposed boundary treatment which is close boarded fence. Notwithstanding this the separation distance between the proposed new dwelling and the closest dwellings 2, 4, 6 Whynot Lane and 14A The Avenue all exceed 26 metres, there would be no overlooking from the new dwelling into the gardens of the neighbouring properties from the ground floor windows. The first floor side windows proposed on the new dwelling would be visible from the gardens of the closest neighbouring properties in Whynot Lane and there is a possibility if these windows are not obscure glazed that there could be the potential for occupiers of these dwellings to have views from their garden into these windows. It is considered that as they serve bathrooms they can be conditioned to be obscure glazed, which would mitigate any overlooking. Windows are proposed at the rear of the dwelling, at first floor this would be a bedroom window. The separation distance between the proposed dwelling and the boundary with 16 The Avenue is 11 metres, any views from the proposed dwelling would be largely over the garden, oblique views of number 14 and 16 would be possible but these would be at distance and it is not considered that they would be detrimental to the amenity of the occupiers. The proposal therefore would provide for the privacy of existing and future occupiers in accordance Policy LHW4 of the RLP.

8.11 Overshadowing

The proposed dwelling would be located to the north of the dwellings in Whynot Lane and north west of the properties in The Avenue. Due to the proposed dwelling lying to the north and north west of the existing dwellings it is considered that there will be no loss of sunlight or daylight to existing properties. This is in accordance with Policy LHW4 of the RLP.

- 8.12 Policy E8 of the RLP relates to pollution, including noise, and requires;

“Development which is sensitive to pollution will only be permitted if the intended users are not subject to unacceptable impact from nearby uses having taken account of proposed mitigation measures”.

8.13 Access Track

Concern has been expressed by neighbours regarding the proposed access track that is located between 6 and 8 Whynot Lane. The concern is largely centred on vehicles using the access track in close proximity to the two dwellings adjoining the track and that this would have an unacceptable impact on the living conditions of the amenity of these properties due to the noise from

vehicles. The application proposes an acoustic fence along the boundary of the access track with numbers 6 and 8 Whynot Lane. The Environmental Protection Officer has raised no objection with regard to noise from the access track and it is considered that the acoustic fence would ensure noise levels within 6 and 8 Whynot Lane adjacent to the access track are acceptable. The previously refused application showed the same access track and the provision of an acoustic fence, neither of these issues were a reason for refusal and the Appeal Inspector did not raise the issue. The application is in accordance with Policy E8 of the RLP in this regard.

8.14 Noise from the Railway Line

The site is located within 50 metres of the London-Exeter railway line so it is expected that the site would be affected by the train noise to some extent. Night time train noise has the potential to disturb sleep. A Noise Impact Assessment was submitted by the Applicant on the 27 March 2017. The Environmental Protection Officer notes that the Report indicates that to achieve indoor World Health Organisation guideline levels there is a reliance on keeping windows closed.

8.15 The provision of dwellings adjacent to railway lines are not unusual and the existing houses in Whynot Lane are also close the railway line. Previous applications have all shown dwelling/dwellings in this backland location and none of the previous applications has been refused on this issue and neither has any Appeal Inspector raised the issue. The Environmental Protection Officer has acknowledged that it is a single dwelling in an established residential area and a more compromising stance is reasonable. Keeping the windows closed on the side of the dwelling facing the railway line is a compromise and would mitigate against the issue. A Condition requiring the higher glazing specification and ventilation referred to in the Noise Assessment covering this mitigation is suggested. It is considered that this would be in accordance with Policy E8 of the RLP.

8.16 The future occupiers of the dwelling would also be aware of some noise from the railway station car park which is a two decked structure adjacent to the site. A solid metal fence has been erected along the boundary with the railway car park and this will reduce any potential noise disturbance when in the garden area. Internally the noise from the railway station car park would be mitigated in the same way as the dwelling is protected from noise from the railway line. It is considered that this would be in accordance with Policy E8 of the RLP.

8.17 **Impact on Trees**

The application was submitted with an Arboricultural Report and an amended Arboricultural Method Statement and Tree Survey. Some trees have recently been removed from the site but a number remain.

- 8.18 Policy E2 of the RLP requires development to have regard to the health and future retention of important landscape features and does not result in the loss of important local features such as trees. The Arboricultural Report and Amended Method Statement addresses the impact on the trees close to the proposed dwelling and garage and it is concluded that with the use of suitable conditions the remaining mature trees on the site can be retained into the future. The Tree Officer has raised no objections. It is concluded that this is on accordance with Policy E2 of the RLP.
- 8.19 **Impact on Highways**
Concern regarding highway matters has been raised by objectors to the proposal. Neighbours have raised the issue of safety of pedestrians walking along Whynot Lane which has no pavement and visibility is obscured by fences.
- 8.20 The new dwelling demonstrates adequate space on site for car turning and as such any car leaving the site would be able to do so in a forward gear. Concern has also been expressed that the access track to the new property is not wide enough for two vehicles to pass. The Highways Officer has advised that an access track that was wide enough for two vehicles to pass would only be required if the car waiting on the highway was interfering with the free flow of traffic. As Whynot Lane does not experience heavy traffic levels the Highways Officer has advised that there is no requirement for the access track to allow two vehicles to pass; if a car was waiting on Whynot Lane for another car to come down the access track they would not be interfering with the free flow of traffic.
- 8.21 The proposed dwelling would be four bed roomed and as such three car parking spaces will be required in accordance with Annex G of the RLP. There is sufficient space for the parking and turning of cars to ensure that they leave the site in a forward gear. Annex G also requires 2 cycle spaces to be provided and whilst none has been shown, there is space within the site to accommodate cycle parking. The Highways Officer has raised no objection subject to a Condition.
- 8.22 Objectors have also raised concern that the access to the new dwelling would be too narrow to accommodate Emergency Vehicles. Building Control has advised that a Fire Engine would need to get to within 45 metres of any point of the dwelling, this application exceeds that tolerance. The access track would also need to be 3.7metres wide for Fire Engine access. The issue of fire safety and how this can be dealt with would be picked up by other legislation in this case Building Regulations where other alternatives like a sprinkler system could be installed. The Applicants' Agent has been made aware of the issue.
- 8.23 **Water Management**
Policy E7 of the TVBRLP is concerned with Water Management and requires new development to assist in the improvement of water quality, complies with national policy guidance in relation to flood risk and does not result in a risk to the quality of groundwater and new dwellings comply with appropriate water consumption and achieve BREEAM excellent credit for water consumption.

A Condition can be attached to the recommendation to cover the requirements of part c of the Policy.

8.24 Obligations

RLP policy COM15 sets out that development will be permitted provided that the appropriate investment has been secured either in the form of works and/or financial contributions to mitigate the impact on existing infrastructure. RLP policy LHW1 sets out that new housing development where there is a net increase in population will be permitted subject to either suitable on-site public open space being provided or off-site provision in the form of an alternative site or financial contribution. Policy COM7, as worded in RLP document dated January 2016, sets out that the Council will negotiate provision on housing sites of a net gain of 1-4 dwellings (or sites of up to 0.19ha) a financial contribution equivalent to up to 10% of dwellings to be affordable.

8.25 The Council has reviewed its position in respect of infrastructure financial contributions for small schemes in light of the material changes to national planning guidance limiting when such contributions should be applicable. At its Full Council meeting on 29 June 2016 it was decided that Policy COM7 should be amended to revise the thresholds for affordable housing contributions and this proposal would fall below the revised thresholds. It was also decided that for the purposes of determining relevant planning applications financial contributions towards public open space (Policy LHW1) and highway infrastructure (Policy T1) would only be sought under s106 of the Town and Country Planning Act 1990 where they were consistent with national planning guidance. In view of these agreed changes financial contributions for affordable housing, public open space and highway infrastructure are not being sought in connection with this application. The proposal complies with policies COM15, COM7, T1 and LHW1 of the RLP and national guidance.

9.0 CONCLUSION

9.1 The proposed dwelling is considered acceptable in principle and is in accordance with policies COM2 and E4 of the Test Valley Borough Revised Plan 2016. It is also considered acceptable in terms of the effect on the character of the area and the streetscene in relation to policies E1 and E2. It is considered that the proposed dwelling would not have a detrimental impact on the amenities of neighbouring properties in terms of overlooking, overbearing or in terms of noise from the access track in relation to policies E8 and LHW4.

9.2 The proposal is also considered acceptable in terms of its impact on Trees and Highway Matters and future occupiers of the proposed dwelling in terms of noise from the adjacent railway line in terms of policies T1, T2 and E8 of the RLP.

10.0 RECOMMENDATION

PERMISSION subject to:

- 1. The development hereby permitted shall be begun within three years from the date of this permission.**

Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2. Development shall be constructed in accordance with the Materials Schedule received on the 29 March 2017.**

Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Policy E1 and E4 of the Test Valley Borough Revised Local Plan 2016.

- 3. The development hereby permitted shall not be occupied until space has been laid out for the parking and manoeuvring of vehicles to enable them to enter and leave the site in forward gear in accordance with the approved plan. These areas shall be reserved for such purposes at all times.**

Reason: In the interests of highway safety in accordance with Policy T1 and T2 of the Test Valley Borough Revised Local Plan 2016.

- 4. The development shall not be occupied until the landscaping as shown on Drawing Number 1984/5C received on the 13 March 2017 has been completed.**

Reason: To ensure that the works undertaken maintain the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Policy E1 of the Revised Local Plan 2016.

- 5. The dwelling hereby approved shall not be occupied until a landscape management plan has been submitted to and agreed in writing by the Local Planning Authority. The planting shall be maintained to encourage its development for a minimum period of five years following the completion of the development. Any trees or significant areas of planting that are removed, die or become seriously damaged or defected within this period shall be replaced before the end of the current or first planting season following the failure, removal or damage of the planting.**

Reason: To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Policy E1 and E2 of the Test Valley Borough Revised Local Plan 2016.

- 6. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.**

Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.

- 7. The bedroom window at first floor on the north east elevation shall be fitted with a glazing system that provides acoustic performance of >38dBd new and be fitted with trickle vents for background ventilation. This window shall be maintained as such at all times.**

Reason: To ensure that future occupiers of the dwelling are not subjected to unacceptable levels of night time noise from the neighbouring railway line in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.

8. **The development hereby approved shall be undertaken in full accordance with the provisions set out within the Arboricultural Method Statement and Tree Survey undertaken by Partridge Associates reference Rev 6 dated 23 March 2017.**
Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.
9. **Tree protective measures installed in accordance with the tree protection plan attached to the Method Statement shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities, nor material storage, nor placement of site huts or other equipment what-so-ever shall take place within the barrier.**
Reason: To ensure the avoidance of damage to existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.
10. **The development hereby permitted shall not be occupied until the acoustic fences as shown on Drawing Number P16-098-02-02-003 have been erected. The fences shall be maintained as such at all times.**
Reason: To protect neighbouring properties from noise from the proposed access road in accordance with Policy E8 of the Test Valley Borough Revised Local Plan 2016.
11. **Development shall proceed in accordance with recommendations set out in Section 5.1 Species and habitats and Section 5.2 ‘Enhancements’ of the *Protected Species Report*, Land at Whynot Lane, Hampshire, SP10 3ES (David Leach Ecology Ltd, June 2015)**
Reason: to ensure that protected species are not harmed by development and to conserve and enhance biodiversity in accordance with Policy E5 of the Revised Local Plan.
12. **The development hereby permitted shall not be occupied until the two windows at first floor in the south east elevation are obscure glazed and shall be maintained as such at all times.**
Reason: To protect neighbouring properties and future occupiers of the new dwelling from potential overlooking in accordance with Policy LHW4 of the Test Valley Borough Revised Local Plan 2016.
13. **The development hereby permitted shall not be occupied until provision for cycle storage for two bicycles has been made within the site. The provision for cycle storage shall be maintained for this purpose at all times.**
Reason: In the interest of providing sufficient safe parking for cyclists and in accordance Policy T2 of the Test Valley Borough Revised Local Plan 2016.

- 14. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers P16-098 02-05-004, P16-098-02-05-003, P16-098-02-05-002, P16-098-02-05-001, P16-098-02-04-002, P16-098 -02-03-003, P16-098-02-03-002, P16-098-02-03-001, P16-098-02-02-003.**

Reason: For the avoidance of doubt and in the interests of proper planning.

Note to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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- of Plot 1 might be visible from Whynot Lane itself, its cramped siting and contrived layout would be apparent from private views from properties in Whynot Lane; No 8 in particular. In addition to this, future occupiers of Plot 2, and anyone using the access to the two proposed properties, would also be able to see the restricted nature of Plot 1.
5. Policy E4 of the Test Valley Borough Revised Local Plan 2011-2029 (LP) sets out that development within RASCs will be permitted provided that the proposed plot is not significantly smaller than those in the immediate vicinity. This is in order to preserve the spacious character of such areas. Plot 1 would appear significantly smaller than adjacent properties, largely due to its siting and layout, and as such would be out of character with the more spacious pattern of development along Whynot Lane generally. It would therefore harm the character and appearance of the area and the RASC in which it is located, contrary to Policy E4 of the LP.
 6. The appellant states that the plot sizes proposed are larger than some of the adjacent properties. However, the long access track and the communal parking and turning area are included in the calculations. Without these the actual size of the houses and gardens proposed are smaller, particularly Plot 1, and this would be visually apparent as outlined above.
 7. The appeal site has a planning history. This includes an appeal in 2007 (APP/C1760/A/06/2025187) which dismissed the erection of one dwelling on the site on grounds of noise and disturbance to Nos 6 and 8. The appellant makes the case that as no harm to the RASC was identified in this previous appeal and noise and disturbance is no longer an issue, it should follow that there is no harm with the current appeal. However, the appeal before me is fundamentally different as it concerns the erection of two dwellings rather than one, which will have an impact on plot sizes and layout, which in turn affects character and appearance. This matter does not, therefore, alter my conclusions above with respect to the main issue in this appeal.
 8. In coming to the above conclusion on character and appearance I find no harm in principle to a 'backland' development in this location given that there is an existing access. Nor do I find the contemporary design of the proposed dwellings harmful as they would be visually separate to the other properties in Whynot Lane. These matters do not, however, override my concerns above. I have also considered the Council's argument that the grant of planning permission would set a precedent. However, no directly similar or comparable sites to which this might apply have been put forward. In any event, each application and appeal must be determined on its individual merits and a generalised concern of this nature would not justify withholding permission.
 9. I acknowledge that the proposal would create two houses in a sustainable location. However, this modest benefit would not outweigh the harm I have found to the character and appearance of the surrounding area. The National Planning Policy Framework sets out that it is proper to promote or reinforce local distinctiveness (para 60). For the reasons set out above the proposal would fail to do this. The appeal is therefore dismissed.

Hayley Butcher

INSPECTOR

APPENDIX B

Officer Update Report to Northern Area Planning Committee on 11 May 2017

APPLICATION NO.	17/00076/FULLN
SITE	Land To Rear Of 2-8 Whynot Lane, Andover, Hampshire, SP10 3ES, ANDOVER TOWN (MILLWAY)
COMMITTEE DATE	11 May 2017
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1.0 PLANNING CONSIDERATIONS

1.1 Impact on trees

Tree felling has occurred on the site within the last two years, the trees that were felled were not subject to a Tree Preservation Order and neither is the site within a Conservation Area. The remaining mature trees on site are not worthy of a Tree Preservation Order but are shown to be retained as part of the proposed development. A Tree Protection Condition has been attached to the recommendation.

2.0 AMENDED RECOMMENDATION

No Change.
