

UPDATE PAPER

Southern Area Planning Committee

Date: Tuesday, 11th January 2021

Time: 5.30 p.m

Venue: Main Hall, Crosfield Hall, Broadwater Road, Romsey,
Hampshire, SO51 8GL

**Southern Area Planning Committee – 11th January 2022
Update Paper**

The purpose of the report is to provide information on planning applications which has been received since the agenda was printed.

Report of Head of Planning

1. Background

- 1.1 Reports on planning applications are prepared for printing on the agenda some 10 days before the date of the Committee meeting but information and representations received after that time are relevant to the decision. This paper contains such information which was received before 10.00am on the date of the meeting. Any information received after that time is reported verbally.

2. Issues

- 2.1 Information and representations are summarized but the full text is available on the relevant file should Members require more details. The paper may contain an officer comment on the additional information, amended recommendations and amended and/or additional conditions.

7. **20/00599/FULLS (PERMISSION) 06.03.2020** **11 – 49**
SITE: Abbotswood House, Braishfield Road, Romsey,
SO51 0PB **ROMSEY EXTRA**

CASE OFFICER: Mr Paul Goodman
8. **21/00536/FULLS (PERMISSION) 19.02.2021** **50 - 71**
SITE: Friars Orchard, Rectory Hill, West Dean, SP5 1JL
WEST TYTHERLEY AND FRENCHMOOR

CASE OFFICER: Mrs Kate Levey
9. **21/01050/FULLS (To inform the Secretary of State that the Local Planning Authority would have REFUSED the application) 21.05.2021** **72 - 108**
SITE: Land Adjacent 5 Riverside Green, Kings Somborne, Stockbridge SO20 6NG **KING'S SOMBORNE**

CASE OFFICER: Ms Katie Andrew
10. **21/02575/VARS (PERMISSION) 16.09.2021** **109 - 129**
SITE: The Black Horse, West Tytherley, Salisbury, SP5 1NF **WEST TYTHERLEY AND FRENCHMOOR**

CASE OFFICER: Mrs Sarah Barter
12. **21/02607/FULLS (PERMISSION) 23.09.2021** **139 - 145**
SITE: 14 Fairview Close, Romsey, SO51 7LS
ROMSEY TOWN

CASE OFFICER: Mrs Kate Levey

APPLICATION NO.	20/00599/FULLS
SITE	Abbotswood House , Braishfield Road, Romsey, SO51 0PB, ROMSEY EXTRA
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1.0 INTRODUCTION

1.1 Additional consultation responses have been received resulting in updated planning considerations. Amended planning conditions are proposed alongside an additional condition in relation to skills training. Furthermore some corrections to the Officers report are made.

2.0 CONSULTATIONS

2.1 Planning & Building (Landscape) – No objection;

- A significant improvement to reduce any impact upon the frontage and junction by moving the bulk of the building and losing the Flat over Garage, which means the rear space is less hard landscaped than previous.
- The site is now more akin to areas of Abbotswood itself with a parking court area, though arguably the whole site is a little less dense and responds to the tree character a little better.
- A landscape condition is required for tree pit details as it is noted that an amendment to the drainage is required due to the drainage running through a tree pit, however these details can be addressed through condition.
- Defensive edge planting around gardens i.e. plot 53, plot 57 etc. and the small open space i.e. hedging would be good to discourage parking on edges also. The open space is right onto the road – planting should be simple and effective and can stick to a simple native palette.

2.2 Planning & Building (Ecology) – Comment;

The following issues are still outstanding:

- Reptile receptor site has now changed, with surveys of the new receptor site scheduled for spring 2022. As these surveys are required to establish the current population present at the receptor site, and therefore establish the capacity and habitat quality of the site, further information is required prior to planning consent.
- Great crested newts present within the neighbouring Abbotswood development, and whether an EPS licence is likely to be required for the clearance of terrestrial habitat.

2.3 Planning Policy & Transport (Policy) – Objection;

- An objection in principle is made given the proposal does not comply with Policy COM2 and is contrary to the development plan. Consideration would need to be given as to whether there are material considerations

that justifies the proposal as a departure from the Development Plan, given recent residential development in the vicinity.

- The HLS position for Southern Test Valley, as at 1 April 2021 is 7.18 years of supply. This is reported against a target of 5.00 years.
- The existence of a five year HLS enables the Council to give weight to the policies of the adopted plan (in the context of footnote 8 of the NPPF). The demonstration of a five year HLS does not in itself cap development and any application must be assessed on its merits.

3.0 **PLANNING CONSIDERATIONS**

3.1 **Housing Land Supply**

Following the drafting of the Officers report the Housing Implementation Strategy has been published alongside revised Housing Land Supply figures. The figure in paragraph 8.4 of the Officers report can therefore be updated as follows.

3.2 Paragraph 74 of the NPPF requires the Council to demonstrate a minimum of 5 years housing land supply (HLS) with a 5% buffer. An assessment of the HLS position as at 1 April 2021 has been undertaken. This uses the housing requirement established in policy COM1 and has regard to the conclusions of the Inspector's Report on the Examination of the Local Plan. The HLS position for Southern Test Valley, as at 1 April 2021 is 7.18 years of supply. This is reported against a target of 5.00 years.

3.3 As is stated in the original report the existence of a five year HLS enables the Council to give weight to the policies of the adopted plan. The demonstration of a five year HLS does not in itself cap development and any application must be assessed on its merits.

3.4 The updated HLS figure, whilst an increase over the previously reported figure, is not considered to outweigh the material considerations in favour of the principle of development, most notably the relationship with the surrounding development, and the conclusion on the principle of development remains as set out in paragraphs 8.13 and 8.14 of the Officers report.

3.5 **Skills Training**

Policy ST1 (Skills and Training) requires contributions towards enhancement of skills training and the provision of apprenticeships where a development has a significant impact on the labour market. On 9 November 2016, the Council agreed to seek an Employment Skills Plan (ESP) to be secured detailing construction training and construction placements for developments of 50 dwellings or more. As a result in additional condition (19) is proposed requiring the submission of an ESP prior to commencement that reflects the Construction Industry Training Board (CITB) Client Based Approach.

3.6 **Landscape Character**

As highlighted by the Landscape Officers comments on the revised plans the

amendments to the Blocks A & B and the removal of the unit to the rear have enabled a significant improvement to the landscape character of the area to the south of building A at the prominent corner of the development. The landscape Officer has also drawn favourable comparisons to the adjacent Abbotswood development in terms of the relationship to existing trees.

- 3.7 The Landscape Officer has provided further advice on the detailed landscaping proposals to be secured by condition. Specifically in relation to the provision of planting adjacent some specific plots and the areas of public open space. Condition 6 has been amended to include specific reference to the provision of a legacy tree in the space provided by the amended plans. The comments should inform a suitable submission to discharge the condition. In addition the Landscape Officer has commented that tree pit details will be required. Condition 6 has been further amended to reflect this specific requirement.

3.8 **Ecology**

As is advised at paragraph 8.44 of the Officers Report a revised ecological report (December 21) was received and the Ecology Officers comments were awaited at the time of reporting. As indicated in the Ecology Officers response above there are two remaining issues relating to the reptile receptor site and the need for a protected species licence in relation to Great Crested Newts. As a result it is considered necessary to retain the recommendation that the decision is delegated back to the Head of Planning and Building for conclusion of those specific matters and any necessary amended/additional conditions.

3.9 **Corrections**

- 3.10 The Officers Report contained a duplication of the condition limiting the hours of construction and did not include the necessary condition to secure levels details of the development. In order to correct this condition 9 is retained and condition 10 is amended to one requiring submission of levels details.

- 3.11 Paragraph 8.6 is corrected as follows;

The land to the **east** formerly known as Ganger Farm was granted permission in 2016 (original application 14/01090/FULLS) for the erection of 275 dwellings and provision of sports facilities. The sports facilities are located on the northern boundary of the Ganger Farm site with the dwellings mainly to the southern and western boundaries and adjacent to the current application site. As a result the application site is now bordered to the east by the development comprising Doswell Avenue and Doris Bunting Road.

- 3.12 Paragraph 8.18 is corrected as follows;

Currently the site has a treed boundary with limited views through the site towards the recent residential development to the east. Braishfield Road has been subject to developments to the east and as such the cumulative impact of all these developments on the Landscape Character and visual amenity effects needs to be taken into account. The site is somewhat unusual on the **eastern** side of Braishfield Road in that its western boundary is comprised of a belt of

mature trees which form a prominent landscape feature. This belt remains predominantly in tact with the new access from the roundabout chosen in part as it results in the minimal loss of trees.

3.13 Paragraph 8.26 is corrected as follows;

In order to gain access it is proposed to revise the adjacent roundabout, creating a new spur through the road **side** tree belt and into the site.

3.14 Paragraph 8.53 is corrected as follows;

The 2016 Local Plan includes a requirement in policy E7 to achieve a water consumption standard of no more than 100 litres per person **per day**. This reflects the requirements of part G2 of the 2015 Building Regulations. In the event that planning permission was to be recommended a condition would be applied in order to address this. Subject to such a condition the proposal would comply with policy E7.

4.0 **AMENDED RECOMMENDATION**

Delegate to Head of Planning & Building for completion legal agreement to secure;

- **Removal of nitrate mitigation land from agricultural production**
- **Future management of the nitrate mitigation land, and**
- **New Forest SPA contribution.**
- **Reptile mitigation land**
- **Affordable housing provision**
- **Affordable housing contribution.**

Then PERMISSION subject to conditions and notes as per main agenda report, with and amended and additional conditions as follows:

- 4.1 6. **No development shall take place above DPC level until full details of hard and soft landscape works have been submitted and approved. Details shall include-where appropriate: proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures. Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. The soft landscape proposals shall include details of soft boundary treatments to the outside edges of the site. The details shall also include the provision of a legacy tree to the south of Block B of a species to be agreed with the LPA and suitable tree pits for new tree planting. The landscape works shall be carried out in accordance with the implementation programme and in accordance with the management plan.
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 Test Valley Borough Revised Local Plan (2016) Policy E1 and E2.

- 4.2 **10. 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 residential dwellings, and amenity areas in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and LHW4.

5.0 **ADDITIONAL CONDITION**

- 5.1 **19. No construction of any dwelling hereby approved shall commence in a Development Parcel until an Employment and Skills Plan has first been submitted to and approved by the Local Planning Authority for that Parcel. The Plan shall be based on the CITB Client Based Approach (or such other standard as may supersede it) and shall include the requirements of the CITB schedule for residential development that applies to the value of the development at the time the Plan is submitted. Development shall proceed in accordance with the approved details.**

Reason: To ensure that the development contributes to construction skills training having regard to policy ST1 of the Test Valley Borough Revised Local Plan 2016.

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SITE	Friars Orchard, Rectory Hill, West Dean, SP5 1JL
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1.0 PUBLICITY PERIOD

The application has recently been re-advertised as a departure from the Local Plan by way of a new site notice and notification within the Hampshire Independent. A new site notice was displayed at the site on 17th December 2021 and the press notice was published on 10th December 2021. The new 21 day consultation period expired on 8th January 2022.

2.0 ADDITIONAL THIRD PARTY COMMENTS

Dean House, West Dean – objection (summarised)

Curtilage

- The plans supporting the original class Q application encompassed an area in excess of the curtilage allowed by Class Q
- The recommendation strongly relies on the fall back position but if this application were to be turned down there would not be a realistic possibility of the conversion taking place as the site would not have room for parking or storage, or any space for a garden.

Policy LE16

- The applicant is seeking approval for the extended curtilage and this would contravene Policy LE16.

Ridge height: overlooking and overbearing

- The planning officer has dismissed previous objections
- The increased ridge height will result in a clear view from the east elevation into the walled garden at Dean House and also would be overbearing from the footpath
- The glazing on the east elevation is not materially less but the increase in ridge height makes the overlooking worse

Heritage issues

- Impact on the setting of the walled garden of Dean House which is Grade II* listed
- The statement that the development ‘makes a positive contribution to the character, appearance and setting of the site’ is subjective
- Neither Historic England or the Council’s Conservation Officer have been consulted

Screening

- There are inaccuracies in the planning statement and application form about

- the extent of screening of the site
- Request was made that conditions about hedging and trees should be included in any approval but these have not been included
- The case officer report suggests that views of the barn are screened by mature trees on the east boundary of the site but this is incorrect.

Working hours

- Why has the Environmental Protection Officer's advice to restrict construction hours not been adhered to

2.1 **CONSIDERATIONS:**

Curtilage of the Class Q approval

The approved proposed site location plan, reference 0202-02-02-004B, demonstrates that the development approved under the class Q application did accord with the definition set out in paragraph X of the GDPO, being immediately beside or around the agricultural building and no larger in size than the land area occupied by the agricultural building. A copy of 0202-02-02-004B is provided below. It is the area outlined in red on the plans submitted with the application that demarcate the curtilage.

Paragraph X of the GDPO (relating to Interpretation of Part 3) states that:-

“curtilage” means, for the purposes of Class Q, R or S only—

(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or

(b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,

whichever is the lesser;



Policy LE16

This proposal is for the change of use and construction of a new dwelling. The proposal is not to convert the existing building. Therefore policy LE16 is not relevant.

**Increased ridge height
 Overlooking to the walled garden**

Paragraph 8.17 of the Officer report acknowledges that the ridge of the proposal will be visible from the walled garden however this is a private view and is not public. Paragraph 8.22 of the officer report states that one roof light is proposed on the front (south) elevation, this would serve a service zone and void in the roof space. Four windows are proposed at ground floor level which would serve the stairs, utility and kitchen. Given that the roof light serves areas of the house which would not be principal habitable rooms, and the fact that the only other windows on the south elevation are at ground floor, it is not considered there would be any material overlooking of the walled garden at Dean House. Furthermore, Dean House and its principal outdoor amenity areas are located in excess of 50m from the application site. Taking into consideration the above the proposal would not result in any significant harm to the residential amenities of the occupants of this property.

Overbearing impact to the footpath

The dwelling will be clearly visible from the right of way to the front (south) of the site. However the general design and form of the building would have an agricultural appearance and the barn is set back approximately 3.5 metres from the footpath. Taking into consideration the existing building in situ and the consented Class Q conversion it is considered that the modest increase in roof height (approximately 1.2 metres) would not give rise to a form of development which would be overbearing or

harmful to users of the footpath.

Heritage issues

It is agreed that the walled garden of Dean House is within the curtilage of this listed building and this matter did form part of the consideration in recommending the current application for permission. Taking into consideration the design of the existing building and the extant Class Q approval it is considered that the proposal is of a higher quality design in comparison to the existing building and Class Q approval and will thus result in no adverse harm to the setting of the listed walled garden or other heritage asset in the locality. the proposed development would, it is considered, result in a neutral impact on the setting of local heritage assets, in accordance with the TVBRLP and the duty imposed by law.

Screening

Paragraph 8.18 of the officer report states that there are mature trees along the eastern boundary of the site, this is incorrect, as the trees are located on the south boundary. Conditions 4 and 5 of the recommendation relate to landscaping, and require further detail for written approval.

Working hours

Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply.

Paragraph 8.23 of the Officer report states that the condition to restrict the construction hours is not considered to be necessary or reasonable in this instance. This application is for a single dwelling only, whereby the extent of construction works would not be excessive. Additionally, it is not considered that the development works would be for a protracted period.

3.0 **CORRECTIONS**

Ownership - paragraph 8.36 of the officer report states that 'the applicant has signed certificate A on the application form' this should state that 'the applicant has signed certificate B on the application form'. In that regard the application has been correctly made as all landowners with an interest in the application site have been notified by the applicant.

3.1 **Typographical corrections**

Paragraph 8.9, first sentence – this should read 'the principle of a fall **back**

position...'

3.2 Paragraph 8.29, first sentence – 'the applicant has **indicated that** the projected nutrient budget...'

4.0 **RECOMMENDATION**
No change

APPLICATION NO.	21/01050/FULLS
SITE	Land adjacent 5 Riverside Green, Kings Somborne
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1.0 VIEWING PANEL

A viewing panel was held on 7th January 2022 and was attended by Councillors Bundy, Burnage, Cooper, A Dowden, C Dowden, Jeffery and Ward. Apologies were received from Councillors Bailey, Gidley, Maltby, Parker and Warnes.

2.0 ADDITIONAL THIRD PARTY COMMENTS

X2 letters of objection (summarised)

- The recommendation for refusal relates solely to the New Forest SPA mitigation Framework and lack of evidence relating to the Solent and Southampton Water European Designated Site. The completion of an agreement covering these two issues could be secured along with required financial contributions to secure planning approval at appeal
- There is no material difference between this application and the previous failed appeal

Access / highways

- HCC Highways are objecting to the proposal
- No acceptable vehicle tracking plans have been provided
- Dispute the width of the public highway at the point where the access to the plot is taken
- The tracking plan is based on an inaccurate plan

Overdevelopment and plot size

- Calculations demonstrate that on a plot size of 168 square metres, the density would be of the order of 60 dwellings per hectare
- The report compares the site with 10 Riverside Green but this is not a fair likeness as no 10 is a mid terrace with off road parking for at least two cars provided in a separate court

Design

- The proposal is of poor design in terms of its elevations and siting
- The National Design Guide (January 2021) requires LPAs to achieve higher standards of design, this is reflected in the NPPF
- Specialist design advice was not sought

Future modifications outside planning control

- Once permitted, in the absence of any legal agreement or planning

restriction preventing internal re-organisation, a house with more than one bedroom could be built and parking standards circumnavigated and / or limiting garden space

- If the Council were minded to grant permission, then it could impose a condition to prevent conversion to a two bedroom dwelling
- The case cited in appendix 3 is not comparable with this proposal

Accuracy of the plans

- The plans submitted are not accurate

Impact to neighbour amenity

- The blank wall of the proposed dwelling would be oppressive to the occupants of 11 and 15 Riverside Green
- This proposal would have a more dominating effect on the rear garden of 5 Riverside Green

Useable garden space

- The proposed garden space is inadequate due to orientation and overshadowing
- Comparisons of plot sizes with other properties in Riverside Green has questionable relevance

3.0 **ADDITIONAL HIGHWAYS CONSULTATION**

'Following review of the committee report and going back over the application, and following our telephone conversation this morning (Mark), the Highway Authority would provide the following additional brief commentary:

'By way of context, the Highway Authority has previously raised a significant standing objection to the proposal on the grounds of a lack of sufficient supporting information specifically in regard to inadequate vehicle tracking and as a result, it has been considered that the applicant to this point, has failed to demonstrate that vehicles can access and egress the proposed parking space in a safe and efficient manner.

Further vehicle tracking was requested within the Highway Authority's consultation response and it is understood that that this has not been forthcoming from the applicant.

In line with this, the Highway Authority's standing objection is maintained.

The Highway Authority's remit is to maintain and protect the safety and efficiency of the public highway network for all users and to promote efficient site layouts on private land.

With the above in mind, whilst the standing objection is maintained, the Highway Authority's view is that an objection on the grounds of unacceptable detrimental harm to the safety and efficiency of the public highway network would be difficult to defend and the objection to this date is far more concerned with a failure to demonstrate an efficient site layout.

I trust the above sufficiently clarifies the Highway Authority's position in this matter.'

4.0 **Case officer notes:**

Access / highways

Additional highways comments have been received from the HCC Highways Officer. These comments are within paragraph 3.0 above. Whilst the objection from the highways officer remains, this objection relates to a failure to demonstrate an efficient site layout in terms of vehicle tracking and access and egress to and from the parking space. However, the highway officers comments acknowledge that an objection on the grounds of unacceptable detrimental harm to the safety and efficiency of the public highway network would be difficult to defend.

As explained in paragraph 8.40 of the Officer report, the utilisation of the access road for manoeuvring in this instance is considered appropriate and would allow for the parking of one vehicle on the site and space for the vehicle to manoeuvre. This is a situation that is not unusual on unrestricted/unclassified roads. With regards to traffic generation, it is not considered that the amount of additional vehicular movements associated with a 1 bedroom dwelling would have an adverse impact on the surrounding highway network. As such, it is considered that this layout would be appropriate in this instance in principle.

Paragraph 111 of the NPPF states that development would need to give rise to severe harm in order to be deemed unacceptable:

'111. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

It is not anticipated that the current scheme for a single dwelling proposes a severe harm to highway safety such that it renders the proposal unacceptable from a highways point of view, and a further reason for refusal would be difficult to defend at appeal.

Overdevelopment and plot size and design

The current scheme put forward has a smaller footprint compared to the dwelling proposed under 18/02058/FULLS, and is a similar orientation to the dwellings at 18, 20, 22 and 24 Riverside Green. The plot size is approximately 168 square metres and the footprint of the dwelling is approximately 32 square metres. This leaves approximately 136 square metres for the remainder of the plot which is comprised of both garden space and parking. It is acknowledged that the plot size is smaller than others within Riverside Green however, the proposal allows for adequate onsite parking and also provides sufficient useable outdoor amenity space for a dwelling of the size proposed. Given the above, it is not considered that the proposal constitutes overdevelopment such that a reason for refusal could be sustained.

Design

The properties within Riverside Green are two storey and are of a traditional

design. The properties display a range of designs. The Inspector commented that the appearance of the site as existing has no particular merit, and it is concluded in paragraph 14 of the appeal decision that -

'The proposed dwelling would take cues from architectural detailing within the area and broadly conform to the scale of the neighbouring dwellings. As a result I am satisfied that the redevelopment of the site would appropriately consolidate development within Riverside Green.'

The proposed dwelling, being detached and individually designed is considered to be in keeping with the general design approach in the surrounding area.

Future modifications outside planning control

The application is submitted as a one bedroom property and has been assessed by officers as such.

Accuracy of the plans

The location plan and site plan have been based upon digital mapping from the Ordnance Survey and information obtained from the land registry. Whilst Officers have requested a topographical survey the agent has stated that the current plans supporting the application are accurate and it is on this basis that Officers have considered the proposal. In the event that permission is granted, then the permission would be subject to the development being built in accordance with the approved plans. If this was not possible then the applicant would need to re-apply for a further planning permission.

Impact to neighbour amenity

The impact to the neighbouring properties to the west, 11 and 15 Riverside Green, is discussed at paragraph 8.32 of the Officer report. Considering that existing shadowing is already occurring by the presence of the conifer trees along the western boundary and the separation distance (approximately 13.5 metres) the proposal is not considered to give rise to a loss of light or an overbearing impact to 11 and 15 Riverside Green. Furthermore, paragraph 9 of the Inspector's decision notes that the conifer trees would effectively be replaced with a two storey dwelling of comparable scale and relationship. Therefore it was found that the proposal would not unacceptably prejudice the level of outlook experienced by these neighbouring residents.

The proposal is not considered to have a more dominating effect on the rear garden of 5 Riverside Green as discussed in paragraphs 8.26 and 8.27 of the officer report.

Useable garden space

As discussed in paragraphs 8.36 and 8.37 of the officer report, it is considered that the proposed garden space would be of sufficient & useable size to meet the needs of the future residents of a dwelling of the size proposed..

5.0 **CORRECTIONS**

Typographical corrections

Paragraph 6.2, first bullet point should read as follows: 'the land is currently **unkempt...**'

- 5.1 Paragraph 8.39, tenth sentence should read as follows: '...would be provided with sufficient **parking** provision...'
- 5.2 Paragraph 8.45, first sentence should read as follows: 'the local planning authority **is** aware...'
- 6.0 **RECOMMENDATION**
No change

APPLICATION NO.	21/02575/VARS
SITE	The Black Horse , West Tytherley, Salisbury, SP5 1NF, WEST TYTHERLEY AND FRENCHMOOR
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1.0 REPRESENTATIONS

1.1 Walnut Lodge - Objection

Procedural issues affecting validity

- Incorrect Statutory Documentation
- Invalidity of Application Type
- Ignoring National Guidance Updates
- Misleading application history

Other material concerns

- Condition and Importance of Screening Hedge / and wrong reference to it as Shrubbery
- Incorrect foundation height could have been stopped at prior to the commencement of build
- Barn timeline and importance of it as primary living accommodation which is underplayed in the Case officers report
- Proposed new window condition
- Lack of regard to West Tytherley & West Dean Neighbour Hood Development Plan

Further email with following questions received 11th January 2022

1) The house is built to the specification of 72.2 roof height. This is proven by the first floor height of 69.13 when placed in the context of the previous (planning permission) design against the eaves height of 69.16 this clearly proves the height of the proposal is 72.2.

Why are TVBC not considering this as a material change? –
Case Officer note: See paragraph 2.2 below.

2) Additional scale drawings to show the change in height of the first floor roof windows.

This application is misleading as it does not draw attention to this in its application, in fact it states the opposite 'no variation' which is simply untrue.

Extract drawings 1,2 - what should have been built as per

planning application.

Extract drawings 3,4 - currently built to first floor / new s73a application.

The house is unable to be lowered as the shadow diagram suggests as the foundation are constructed and the house has been constructed to the first floor. The windows are unable to be lowered as these would sit in the internal wall uprights and would not meet the required permitted development of 1.7m from the floor.

How has the first floor window height increase not been identified in your calculations? This is a material change how has direct amenity impact.

Case Officer note: See paragraph 2.3 below.

3) Why has there been no response to the construction of services outside of the previous permission? Bore hole and different waste system constructed without approval and no environmental agency approval involvement.

4) Prior requests for turning circle and car door opening evidence next to the Grade II listed building still not provided?

5) Where is the expert evidence that the foundations could not have been constructed at the correct height? TVBC have not provided any evidence of this from the applicant and the assumption is therefore that it has not been received. If this is the case, have TVBC accepted this as fact without any due diligence or questioning? Please confirm?

2.0 **Responses to comments**

2.1 Procedural issues affecting validity

Incorrect Statutory Documentation

The comment received includes the statement *'The Case Officer pack has now presented a different red line site boundary line drawing than included in the application pack.'*

The application site set out in the agenda is a plan produced by Test Valley Borough Council Planning Administrative Officers to identify the site. Confirmation that this is a TVBC plan can be seen with the OS licence number and the Test Valley logo at the bottom of the plan. This plan does not form part of the planning application submission and is not a plan which forms part of the approved plans list. The submitted site location plan from the applicant is attached to this update and this remains unchanged to that originally submitted.

2.2 *Invalidity of Application Type*

The comment received states *"This application is attempting to deal with all of the changes under a VARS rather than full application. TVBC had reassured*

us previously that any new application would have to be deemed upon its own individual merits rather than that of previous.... The fact that incorrect foundation heights results in the entirety of the building above being different means that this cannot be determined as a minor variation”.

The Case Officer has clarified this at paragraph 8.36 of the agenda report. Consideration of a s73 application (a minor material amendment) results in the issuing of a new planning permission. The material considerations in so far as they relate to the current proposal have been set out and discussed within the agenda report.

- 2.3 Comments received go on to state *“We draw your particular attention to Paragraph 8.18 & 8.23 where the Case Officer confirms that the windows in the roof line have not changed position – this is wholly untrue and misleading to say the least”.*

The shadow diagram provided by the applicant shows the roof lights in the same position when viewed on the side elevations. At paragraph 8.23 of the agenda report the Case Officer confirms there is no change to the heights of these openings it is only the roof pitch which has altered from 35 degrees to 30 degrees.

- 2.4 *Ignoring National Guidance updates*

Comments received state - *NPPF updated in July 2021 – within this update was the establishment of the National Design Model. However, the Case Officer has not taken this into account.*

Paragraph 8.11 of the agenda report refers to the National Model Design Code. The National Model Design Code provides a toolkit for LPAs when producing design codes.

- 2.5 Paragraph 129 of NPPF states “These national documents should be used to guide decisions on all applications in the absence of locally produced design guides or design codes.” To confirm the National Model Design Code and the National Design Guide are relevant to the proposal and are new material considerations since the scheme was previously approved. The National Design Guide describes well-designed places as having individual characteristics which work together to create its physical Character. They all contribute towards the cross-cutting themes for good design set out in the National Planning Policy Framework. Notwithstanding this planning permission has been granted for the design and that is a significant material consideration that weighs in favour of the proposal despite the new material consideration.

- 2.6 The comment received also states: *This application does not meet the National Model Design Code in relation to amenity and separation distances of new to existing buildings (Section 56 – Figure 32. Privacy Distances) as previously highlighted in Objections to the Case Officer which have been ignored.*

As set out above the document titled National Model Design Code is a toolkit for Local Authorities looking to produce design codes. Section 56, figure 32 of this document sets out *‘Figure 32. Privacy Distances: These are the distances between dwellings to ensure private amenity, in particular the distance between windows in habitable rooms. The illustration shows how minimum*

distances might be specified. This description and the illustration are for guidance purposes only to indicate how this information might be provided and illustrated in any design code produced. This does not set out what an “acceptable” (and by default, what an “unacceptable”) separation distance between dwellings should be. In this respect no weight is given to this in the determination of the current application. Members are nonetheless reminded that the location of the proposed dwelling is identical to that previously gaining planning permission and in this respect significant weight is afforded to this point when determining the effect of overlooking to neighbouring property.

2.7 *Misleading Application History*

Comments received state - *The listed History of applications provided by the Case Officer has omitted the application 21/00338/FULLS – where significant concerns and a Standing Objection were raised by the Hampshire Highways officer. This objection related to the “accessibility of the proposed parking spaces and how they can be readily assessed in a safe and efficient manner”, however has for some reason this has been removed by TVBC from the history of this process. How can an application be valid and worthy of consideration by the SAPC if serious previous concerns.*

Application 21/00338/FULLS was withdrawn from the planning register on the 28th June 2021 by the applicant and therefore has not been reported in the agenda report. For information the withdrawn application was 21/00338/FULLS - *Erection of a 3 bedroom chalet bungalow, amended scheme of 16/02056/FULLS - replacement of two ground floor windows with French doors.* Members are reminded that the Highways Officer has no objection to this application which does not propose any amendment to the previously agreed parking provision.

2.8 Other material concerns

Condition and Importance of Screening Hedge / and wrong reference to it as Shrubbery (Walnut Lodge)

The comment received states - *On site, she (case officer) acknowledged that it was in a poor condition and had an application submitted for it to be removed.* To clarify the Case Officer did not have an application submitted for the removal of the hedge. Such a submission was undertaken by the Owner of Walnut Lodge. Whilst the hedge was certainly present at the time of the visit the Case Officer does not recollect stating that the hedge was in a poor condition but it is clear that the hedge does lean at an angle away from the boundary with the application site.

2.9 The comments go on to state - *Unfortunately, what the Case Officer has failed to confirm is that the 10m stretch of hedgerow that is to be removed is the direct line of sight that is shown in the applicant’s photo pack (Photo View Point PTAD/130821/06) and that any trees that do remain provide no screening whatsoever to the directly facing windows into the Walnut Lodge kitchen and living area with in the converted barn.*

Paragraph 8.20 of the agenda report acknowledges the hedge removal. From the information submitted with the Tree application it is unclear what length of hedge would be removed as the plan drawn in not to scale (copy attached to this Update paper). The recommendation does not rely on the existing

boundary treatment in respect of the acceptability of the proposed roof lights as set out in paragraph 8.37 of the agenda report.

2.10 *Incorrect foundation height could have been stopped at prior to the commencement of build*

The comment received states - *This application is looking to attempt to correct it through a minor variation when in fact the whole issue would never have arisen if TVBC and the developer had acted appropriately at the time of it being raised. Through information received via a Freedom of Information Act request, full details have now been shared with us in regard to the mismanagement and lack of action taken on the foundations being built at the wrong height. TVBC representative's admissions of them being at the wrong height but inability to act and even close case files due to inactivity on site have led to the current situation whereby the current developer in having to design and propose a poorer development due to poor workmanship of the previous owner and TVBC's inability to correct it at the early stage.*

The height changes were investigated by the Planning Enforcement Officer and found to be minor in nature. A monitoring note was added to the site for ongoing monitoring. This application seeks to regularise the 'as-built' development and Members are advised to focus on the acceptability of this in their consideration of the application.

2.11 *The comments go on to state - It is also very concerning that during her site visit, the Case Officer confirmed that her calculations of the incorrect foundation height were similar to ours of 75-85cm. However subsequently she has reduced this increase to just 35cm. We are unable to determine how her calculations and confirmation on site in viewing the height differentials have changed?*

The Case Officer undertook basic calculations as a desk based exercise prior to visiting Walnut Lodge. Since this visit which was in respect of the withdrawn application 21/00338/FULLS for the replacement of two ground floor windows with French doors only the applicant has been further challenged on changes in levels by the Case Officer. The outcomes provided by the applicant are seen within this current application with an acknowledgement that the level has changed although not to the extent first understood.

2.12 *Barn timeline and importance of it as primary living accommodation which is underplayed in the Case officers report*

The comments received set out that *the Case Officer has decided to downplay the importance of this and even provide misleading information in the report to suggest incorrect dates. Walnut Lodge's barn is over 200 years old and received full planning permission for a short link to the existing dwelling in 2012 and 2017.*

Paragraph 8.20 of the agenda report clearly sets out that there is a barn in the rear garden which has recently been converted to living accommodation. It is clear that the owner of Walnut Lodge wishes to ensure that Members are aware of the importance of this barn to their current and continued enjoyment of the property and that, in their opinion, the proposal would result in an adverse effect on their living conditions. There was no intention to appear to either downplay or disregard this. Officers have nevertheless undertaken an

assessment of the effect of the proposal and set out how they have reached their recommendation on this matter in the agenda report.

2.13 *Proposed New Windows Condition*

The comments received state – *The Case Officer has proposed a condition in the report of restricting any further windows in the roof line to de-risk overlooking. This raises further serious concerns that, if it is deemed that the current windows are not Overlooking then why is the Case Officer stipulating that further conditions are required?*

Certain types of window openings fall under permitted development regulations. To ensure no further windows are provided facing neighbouring properties under permitted development it is considered reasonable to apply a further condition restricting this. Condition 12 has been added to the recommendation. There should be no implied suggestion that the windows already in the roof slope, or indeed future provision, would be unacceptable. It is simply a measure to ensure the LPA can consider the implications of future changes on the neighbouring property.

2.14 *Lack of regard to West Tytherley & West Dean Neighbour Hood Development Plan – The WT&WD*

Comments received state - *NDP is now at Examiner stage and the comments back have not included anything to question its position regarding amenity or overlooking. The NDP is therefore at a stage whereby it should be taken into account and its guidance in regard to new development siting, mitigations of development where overly crammed into a small plot and guidance on overlooking should all hold weight. However the Case Officer has determined these should be disregarded, even though the minister responsible (Robert Jenrick at the time) was clear in his statement that neighbourhood development plans were abut[sic], “putting communities – not developers – in the driving seat to ensure god[sic]-quality design is the norm.” Why has this guidance been overlooked?*

As paragraph 8.3 of the agenda report sets out given this document is not adopted, and therefore, in line with Government guidance and law it carries only limited weight in the determination of the application at this time.

2.15 The final comment received with no subject heading states - *we have still not received any confirmation from TVBC why the Head of Southern Planning’s attendance was missing from the listed attendees on site (Jason Owen) with the meeting with the applicant and their advisors (dated 10 August 2021). Jason Owen himself had separately referred to this as a private discussion which seems wholly inappropriate as a public and independent representative of TVBC.*

It is unclear which document is being referred to in respect of a site visit. Mr Owen did attend an on-site meeting with the applicant and his advisors, and entered into email correspondence to confirm that. The LPA cannot be held responsible for the accuracy or otherwise of documents submitted by third parties. For completeness Mr Owen also attended a separate meeting and undertook a site visit with the occupiers of Walnut Lodge and Strong’s Barn (with the case officer) on a separate date.

2.16 Why has there been no response to the construction of services outside of the previous permission? Bore hole and different waste system constructed without approval and no environmental agency approval involvement.

The proposals which are the subject of this application do not involve the provision of waste water changes. Having reviewed Planning Enforcement records at the site a response on this matter was provided on the 16th April 2021. The applicant has installed a Package Treatment Plant (PTP) that is located in accordance with the planning permission. The construction meets the Building Regulations in so far as the system relates to existing and proposed buildings. The system is designed such that waste water will be discharged to ground via a purpose built borehole. The operation of the PTP will be controlled via a Consent administered by the Environment Agency and so operationally the PTP falls outside of the scope of the Local Authority.

2.17 Prior requests for turning circle and car door opening evidence next to the Grade II listed building still not provided?

The proposals under consideration do not include any alterations to the parking layout.

2.18 Where is the expert evidence that the foundations could not have been constructed at the correct height? TVBC have not provided any evidence of this from the applicant and the assumption is therefore that it has not been received. If this is the case, have TVBC accepted this as fact without any due diligence or questioning? Please confirm?

To enable the consideration of this application evidence is not required on how the scheme may have previously been constructed or not.

3.0 **Correction**

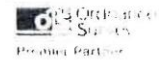
3.1 Paragraph 8.10 should read as 'height of the building' and not 'height on the building'.

4.0 **AMENDED RECOMMENDATION**

PERMISSION subject to conditions 1 – 11 and notes 1 – 2 of the agenda report and additional condition 12 below

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows in the northern and southern elevations of the proposal hereby permitted [other than those expressly authorised by this permission] shall be constructed.

Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of the local amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy LHW4



Metres 0 10 20 30 40 50
1:1250
N THE VILLAGE, SALISBURY SP5 1NF

BJC

Development Planning, and Property Consultants

Bryan Jzeph Consultancy
The Gallery 3 South Street
Titchfield Hampshire PO14 4DL
Tel: 01329 842668
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Email: mail@jzeph.co.uk

Location Plan
Land Adjoining The Black Horse PH
West Tytherley, SP5 1NF
Scale: 1:1250
Plan no.: TV/157-LP rev A.
OS Lic No 100022432

Plans are for planning purposes only and subject to copyright.



F. Identification of Tree(s) and Description of Works (CONTINUED ...)



G. Trees - Additional Information

Additional information may be attached to electronic communications or provided separately in paper format.

For all trees

A sketch plan clearly showing the position of trees listed in Question F must be provided when applying for works to trees covered by a TPO. A sketch plan is also advised when notifying the LPA of works to trees in a conservation area (see guidance notes). It would also be helpful if you provided details of any advice given on site by an LPA officer.

For works to trees covered by a TPO

Please indicate whether the reasons for carrying out the proposed works include any of the following. If so, your application must be accompanied by the necessary evidence to support your proposals. (See guidance notes for further details)

1. **Condition of the tree(s)** - e.g. it is diseased or you have fears that it might break or fall. Yes No
If YES, you are required to provide written professional advice or other appropriate information from an appropriate expert.

2. **Alleged damage to property** - e.g. subsidence or damage to drains or drains. Yes No
If YES, you are required to provide for:

Subsidence

A report by an engineer or surveyor, to include a description of damage, vegetation, monitoring data, soil tests and repair proposals. Also a report from an arboriculturist to support the tree work proposals.

Other structural damage (e.g. drains, walls and hard surfaces)

Written technical evidence from an appropriate expert, including description of damage and possible solutions.

Documents and plans (for any trees)

Are you providing separate information (e.g. an additional schedule of work for Question F)? Yes No

If YES, please provide the reference numbers of plans, documents, professional reports, photographs etc. in support of your application. If they are being provided separately from this form, please detail how they are being submitted.

H. Authority Employee / Member

(With respect to the Authority, I am:

- (a) a member of staff
- (b) related to a member of staff
- (c) an elected member
- (d) related to an elected member

Do any of these statements apply to you?

Yes No

If Yes, please provide details of the name, relationship and role

APPLICATION NO.	21/02607/FULLS
SITE	14 Fairview Close, Romsey
COMMITTEE DATE	11 th January 2022
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1.0 **ADDITIONAL HIGHWAYS COMMENTS**

Additional comments from HCC highways have been received and these are below:

“Whilst the Highway Authority have raised no objections on Highway Safety grounds, members should please be aware that the proposal does encroach over the public highway. As such the applicant is required to apply to the Highway Authority to extinguish the highways rights before proceeding with the development should Members resolve to grant planning permission.

The Highway Authority may or may not approve that application.

Given that the application is retrospective, members should be aware that the Highway Authority currently has an active Enforcement Case against the applicant in regard to the encroachment”.

1.1 **Case Officer note:**

This application is concerned with the planning merits of the case and matters relating to extinguishment of highways rights is a separate matter which is outside of planning control and should in no way influence the determination of the application and must be determined on its merits.

2.0 **RECOMMENDATION NO CHANGE**