

Notice of Meeting

Northern Area Planning Committee

Date: Thursday 24 June 2021

Time: 5.30 pm

Venue: Upper Guildhall, High Street, Andover, Hampshire SP10 1NT

The public can listen to a live stream here:

<http://www.audiominutes.com/p/player/player.html?userid=tvbc>

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Legal and Democratic Service

Test Valley Borough Council,
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The recommendations contained in the Agenda are made by the Officer and these recommendations may or may not be accepted by the Committee.

PUBLIC PARTICIPATION SCHEME

If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.

Membership of Northern Area Planning Committee

MEMBER

WARD

Councillor C Borg-Neal (Chairman)	Andover Harroway
Councillor T Burley (Vice-Chairman)	Andover Harroway
Councillor Z Brooks	Andover Millway
Councillor J Budzynski	Andover St Mary's
Councillor D Coole	Anna
Councillor C Ecclestone	Andover Millway
Councillor V Harber	Andover St Mary's
Councillor L Lashbrook	Charlton & the Pentons
Councillor P Lashbrook	Bellinger
Councillor N Lodge	Andover Downlands
Councillor J Neal	Andover Millway
Councillor K North	Andover Romans
Councillor R Rowles	Andover Winton

Northern Area Planning Committee

Thursday 24 June 2021

AGENDA

**The order of these items may change as a result of members
of the public wishing to speak**

- 1 Apologies**
- 2 Public Participation**
- 3 Declarations of Interest**
- 4 Urgent Items**
- 5 Minutes of the meeting held on 3 June 2021**
- 6 Information Notes 4 - 9**
- 7 21/00083/FULLN - 12.01.2021 10 - 36**

(OFFICER RECOMMENDATION: PERMISSION)

SITE: Dingwall, Little Ann Road, Little Ann, SP11 7NW,

ABBOTTS ANN

CASE OFFICER: Mrs Samantha Owen

ITEM 6

TEST VALLEY BOROUGH COUNCIL NORTHERN AREA PLANNING COMMITTEE INFORMATION NOTES

Availability of Background Papers

Background papers may be inspected up to five working days before the date of the Committee meeting and for four years thereafter. Requests to inspect the background papers, most of which will be on the application file, should be made to the case officer named in the report or to the Development Manager. Although there is no legal provision for inspection of the application file before the report is placed on the agenda for the meeting, an earlier inspection may be agreed on application to the Head of Planning and Building.

Reasons for Committee Consideration

The majority of applications are determined by the Head of Planning and Building in accordance with the Council's Scheme of Delegation which is set out in the Council's Constitution. However, some applications are determined at the Area Planning Committees and this will happen if any of the following reasons apply:

- (a) Applications which are contrary to the provisions of an approved or draft development plan or other statement of approved planning policy where adverse representations have been received and which is recommended for approval.
- (b) Applications (excluding notifications) where a Member requests in writing, with reasons and within the Application Publicity Expiry Date, that they be submitted to Committee. A Member can withdraw this request at any time prior to the determination of the application to enable its determination under delegated powers.
- (c) Applications submitted by or on behalf of the Council, or any company in which the Council holds an interest, for its own developments except for the approval of minor developments.
- (d) Applications where the Head of Planning and Building Services recommends refusal of an application solely on the basis of failure to achieve nutrient neutrality where a Ward Member requests in writing, with reasons, within 72 hours of notification of the recommendation for refusal that they be submitted to Committee for determination. A Member can withdraw this request at any time prior to the determination of the application to enable its determination under delegated powers.
- (e) To determine applications (excluding applications for advertisement consent, certificates of lawfulness, listed building consent, and applications resulting from the withdrawal by condition of domestic permitted development rights;

Schedule 2, Part 1, Classes B, C, D, E, F, G, and H of the Town and Country Planning (General Permitted Development) (England) Order 2015 or as amended) on which a material planning objection(s) has been received within the Application Publicity Expiry Date and which cannot be resolved by negotiation or through the imposition of conditions and where the officer's recommendation is for approval, following consultation with the Ward Members, the latter having the right to request that the application be reported to Committee for decision.

Public Speaking at the Meeting

The Council has a public participation scheme, which invites members of the public, Parish Council representatives and applicants to address the Committee on applications. Full details of the scheme are available from Planning and Building Services or from Democratic Services at the Council Offices, Beech Hurst, Weyhill Road, Andover. Copies are usually sent to all those who have made representations. Anyone wishing to speak must book with the Democratic Services within the stipulated time period otherwise they will not be allowed to address the Committee.

Speakers are limited to a total of three minutes per item for Councillors on the Area Committee who have personal interests or where a Member has pre-determined his/her position on the relevant application, three minutes for the Parish Council, three minutes for all objectors, three minutes for all supporters and three minutes for the applicant/agent and relevant Ward Members who are not Committee Members will have a maximum of five minutes. Where there are multiple supporters or multiple objectors wishing to speak the Chairman may limit individual speakers to less than three minutes with a view to accommodating multiple speakers within the three minute time limit. Speakers may be asked questions by the Members of the Committee, but are not permitted to ask questions of others or to join in the debate. Speakers are not permitted to circulate or display plans, photographs, illustrations or textual material during the Committee meeting as any such material should be sent to the Members *and* officers in advance of the meeting to allow them time to consider the content.

Content of Officer's Report

It should be noted that the Officer's report will endeavour to include a summary of the relevant site characteristics, site history, policy issues, consultations carried out with both internal and external consultees and the public and then seek to make a professional judgement as to whether permission should be granted. However, the officer's report will usually summarise many of the issues, particularly consultations received from consultees and the public, and anyone wishing to see the full response must ask to consult the application file.

Status of Officer's Recommendations and Committee's Decisions

The recommendations contained in this report are made by the officers at the time the report was prepared. A different recommendation may be made at the meeting should circumstances change and the officer's recommendations may not be accepted by the Committee.

In order to facilitate debate in relation to an application, the Chairman will move the officer's recommendations in the report, which will be seconded by the Vice Chairman. Motions are debated by the Committee in accordance with the Council's Rules of Procedure. A binding decision is made only when the Committee has formally considered and voted in favour of a motion in relation to the application and, pursuant to that resolution, the decision notice has subsequently been issued by the Council.

Conditions and Reasons for Refusal

Suggested reasons for refusal and any conditions are set out in full in the officer's recommendation.

Officers or the Committee may add further reasons for refusal or conditions during the Committee meeting and Members may choose to refuse an application recommended for permission by the Officers or to permit an application recommended for refusal. In all cases, clear reasons will be given, by whoever is promoting the new condition or reason for refusal, to explain why the change is being made.

Decisions subject to Completion of a Planning Obligation

For some applications, a resolution is passed to grant planning permission subject to the completion of an appropriate planning obligation (often referred to as a Section 106 agreement). The obligation can restrict development or the use of the land, require operations or activities to be carried out, require the land to be used in a specified way or require payments to be made to the authority.

New developments will usually be required to contribute towards the infrastructure required to serve a site and to cater for additional demand created by any new development and its future occupants. Typically, such requirements include contributions to community facilities, village halls, parks and play areas, playing fields and improvements to roads, footpaths, cycleways and public transport.

Upon completion of the obligation, the Head of Planning and Building is delegated to grant permission subject to the listed conditions. However, it should be noted that the obligation usually has to be completed sufficiently in advance of the planning application determination date to allow the application to be issued. If this does not happen, the application may be refused for not resolving the issues required within the timescale set to deal with the application.

Deferred Applications

Applications may not be decided at the meeting for a number of reasons as follows:

- * The applicant may choose to withdraw the application. No further action would be taken on that proposal and the file is closed.
- * Officers may recommend deferral because the information requested or amended plans have not been approved or there is insufficient time for consultation on amendments.
- * The Committee may resolve to seek additional information or amendments.
- * The Committee may resolve to visit the site to assess the effect of the proposal on matters that are not clear from the plans or from the report. These site visits are not public meetings.

Visual Display of Plans and Photographs

Plans are included in the officers' reports in order to identify the site and its surroundings. The location plan will normally be the most up-to-date available from Ordnance Survey and to scale. The other plans are not a complete copy of the application plans and may not be to scale, particularly when they have been reduced from large size paper plans. If further information is needed or these plans are unclear please refer to the submitted application on the Council's website. Plans displayed at the meeting to assist the Members may include material additional to the written reports.

Photographs are used to illustrate particular points on most of the items and the officers usually take these. Photographs submitted in advance by applicants or objectors may be used at the discretion of the officers.

Human Rights

The European Convention on Human Rights" ("ECHR") was brought into English Law, via the Human Rights Act 1998 ("HRA"), as from October 2000.

The HRA introduces an obligation on the Council to act consistently with the ECHR.

There are 2 Convention Rights likely to be most relevant to Planning Decisions:

- * Article 1 of the 1st Protocol - The Right to the Enjoyment of Property.
- * Article 8 - Right for Respect for Home, Privacy and Family Life.

It is important to note that these types of right are not unlimited - although in accordance with the EU concept of "proportionality", any interference with these rights must be sanctioned by Law (e.g. by the Town & Country Planning Acts) and must go no further than necessary.

Essentially, private interests must be weighed against the wider public interest and against competing private interests. Such a balancing exercise is already implicit in the decision making processes of the Committee. However, Members must specifically bear Human Rights issues in mind when reaching decisions on all planning applications and enforcement action.

Natural Environment and Rural Communities Act 2006 (NERC)

The Council has a duty under the Natural Environment and Rural Communities Act 2006 as follows: "*every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*".

It is considered that this duty has been properly addressed within the process leading up to the formulation of the policies in the Revised Local Plan. Further regard is had in relation to specific planning applications through completion of the biodiversity checklists for validation, scoping and/or submission of Environmental Statements and any statutory consultations with relevant conservation bodies on biodiversity aspects of the proposals. Provided any recommendations arising from these processes are conditioned as part of any grant of planning permission (or included in reasons for refusal of any planning application) then the duty to ensure that biodiversity interest has been conserved, as far as practically possible, will be considered to have been met.

Other Legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination of applications be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the Borough comprises the Test Valley Borough Revised Local Plan (2016), and 'made' Neighbourhood Plans. Material considerations are defined by Case Law and includes, amongst other things, draft Development Plan Documents (DPD), Supplementary Planning Documents (SPD) and other relevant guidance including Development Briefs, Government advice, amenity considerations, crime and community safety, traffic generation and safety.

On the 19th February 2019 the Government published a revised National Planning Policy Framework (NPPF). The revised NPPF replaced and superseded the previous NPPF published in 2018. The revised NPPF is a material consideration in planning decisions.

So that sustainable development is pursued in a positive way, at the heart of the revised NPPF is a presumption in favour of sustainable development. Decisions should apply a presumption in favour of sustainable development. This does not change the statutory status of the development plan as a starting point for decision making. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Where a planning application conflicts with an up to date development plan, permission should not usually be granted. Local planning authorities may take decisions which depart from an up to date development plan,

but only if material considerations in a particular case indicate that the plan should not be followed.

For decision-taking, applying the presumption in favour of sustainable development means:

- Approving development proposals that accord with an up to date development plan without delay; or
- Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - The application of policies in the revised NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the revised NPPF when taken as a whole.

Existing Local Plan policies should not be considered out of date because they were adopted prior to the publication of the revised NPPF. Due weight should be given to them, according to their degree of consistency with the revised NPPF (the closer the policies in the Local Plan to the policies in the revised NPPF, the greater the weight that may be given).

ITEM 7

APPLICATION NO.	21/00083/FULLN
APPLICATION TYPE	FULL APPLICATION - NORTH
REGISTERED	12.01.2021
APPLICANT	Mr and Mrs Pearce
SITE	Dingwall, Little Ann Road, Little Ann, SP11 7NW, ABBOTTS ANN
PROPOSAL	New dwelling (partially constructed) with associated garden, landscaping and parking (part retrospective)
AMENDMENTS	Additional Information submitted on the 4 th , 11 th 21 st and 30 th of March re Nutrient Neutrality Offset Land Amended Planting and Maintenance Plan for offset land received 20 th May 2021. Email dated 9 th June detailing biodiversity enhancements and Material Schedule
CASE OFFICER	Mrs Samantha Owen

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 The application is presented to Northern Area Planning Committee at the request of a local ward member “given the widespread community interest in the application.”

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 Dingwall is a detached two storey dwelling within a mature garden, located within the Abbots Ann Conservation Area. The site is surrounded by residential properties of mixed age and character. It lies at a tight bend in the road and is prominent and readily viewed from various points along Little Ann Road from the north, north west, west and south west. There is also a public footpath to the south, beyond the neighbouring property at White Smocks, and the site can also be viewed from this footpath through and over the boundary hedges and trees.
- 2.2 Dingwall is a substantial two storey house, constructed with pale rendered walls, tiled pitched roof, dormer windows, brick chimney and detached double garage. The garden to the west is being developed and a partially constructed detached two storey building is under construction, alongside the original house. This development is the subject of the current application and no further work has occurred on the building since the previous planning application 19/00090/VARN was submitted in January 2019.
- 2.3 The conservation area within the vicinity of the site, which is in the ‘Little Ann;’ area of the village, comprises an attractive mix of older houses and cottages,

including clusters of listed and thatched cottages and some later post-war development, particularly to the south of the road. The conservation area assessment (updated 2005) refers to the site and immediate context as follows:

The large corner plot is occupied by Dingwall, a detached house hidden from view behind high, mature trees.

2.4 There are several listed cottages further to the north east of the site. On the opposite side of the road are two post war detached dwellings. As noted in the conservation area assessment, the mature trees and hedges within the vicinity contribute to the green character of the area and village

3.0 **PROPOSAL**

3.1 The application seeks to complete the construction of the building so that it can be used as two storey three bedroom dwelling. New parking to the front of the dwelling is proposed, new tree planting has also been proposed as well as a new native species hedge along the western boundary.

4.0 **HISTORY Planning**

4.1 15/02912/FULLN - Erection of a new dwelling with associated site works. Permission 04.07.2016

4.2 19/00090/VARN - Vary condition 4 (details of soft landscaping), condition 5 (landscape management plan), and condition 10 (approved plans) of 15/02912/FULLN to replace drawing P01 B with L201 and B201, P02 with P201, P10 C and P11 C with P202, and replace amended landscape plan with C.01 and five year management plan – Refused 07.03.2019 for the following reason:

The proposed variations to the approved plans for the design, siting, landscaping and landscape management of the development are considered to be unacceptable and harmful to the character and appearance of the site and wider conservation area, and therefore contrary to the provisions of Test Valley Borough Local Plan (2016) policies E1, E2 and E9, for the following reasons:

- a) *The proposed siting of a larger dwelling within a reduced plot at a more westerly and visually prominent position adjoining the bend in Little Ann Road, combined with its bulky design, mass and deep roof form, results in a development that would appear cramped, out of scale and unduly dominant in views within this part of the village, where neighbouring dwellings are typically set further back from the road edge. For this reason, the proposal fails to respond positively to the character and appearance of the Abbots Ann Conservation Area (a designated heritage asset);*

- b) *Inadequate space is to be retained between the west elevation of the dwelling and Little Ann Road in order to maintain the green character and landscape setting of this part of Abbots Ann Conservation Area or to ensure that appropriate meaningful tree planting of wider amenity value, can be established and maintained in the longer term to help the development integrate successfully within its setting and to provide replacement tree planting, following the grant of TPO consents in 2015 and 2018 to remove 4 mature trees on the western edge of the site;*
- c) *The application fails to provide an assessment of the significance of the heritage assets within the immediate vicinity and the application does not demonstrate how the proposal has responded to their significance. The revised scheme would result in (less than substantial) harm to the significance of the conservation area (a designated heritage asset) and no public benefits are put forward within the application or are associated with the development, to outweigh this harm.*

4.3 The Enforcement Notice was served on the 28th January 2020 and Appealed on 26th February 2020 –The site has two Appeal references Appeal A by Mr Pearce and Appeal B by Mrs Pearce. The Appeal Decision on these Appeals was received on the 22nd December 2020 which was part dismissed/part allowed.

4.4 The Enforcement Notice required;

- Demolish dwelling house to ground level;
- To remove from the land all materials resulting from the demolition
- Period of compliance would be 6 months

4.5 The Enforcement Notice was amended by the Inspector at the beginning of the Enforcement Hearing with the agreement of the Appellant's Agent and the Council. The Enforcement Notice referred to the building as a dwelling house, however the Inspector suggested that whilst the building was constructed to roof level, with no windows it was effectively a shell as there were no facilities within the building for day to day private domestic existence. It was agreed therefore by all parties that the Notice should read 'the partial erection of a building.'

4.6 The Enforcement Appeal which is attached at annex A was received on the 26th February 2020 it had three grounds of appeal (a), (f) and (g)

Ground a – That planning permission should be granted for what is alleged in the notice

Ground f - The steps to comply with the notice are excessive and lesser steps would overcome the objections

Ground g – The time period to comply with the notice is too short

- 4.7 The appeal on Ground (a) failed but only because there was no mechanism to complete the building works and bring the completed development into use as a dwellinghouse. It was considered to comply with relevant policies of the RLP.
- 4.8 The appeal on Ground (f) failed as the lesser steps suggested by the applicant would not address the breach of planning control.
- 4.9 The appeal on Ground (g) succeeded in that the time for compliance was extended to 12 months.
- 4.10 15/02912/FULLN - Erection of a new dwelling with associated site works. Permission 04.07.2016

Trees

- 4.11 18/01272/TPON - Fell 2 Ash – Consent 14.06.2018
- 4.12 18/01274/TREEN - Fell 1 Ash – No objection 14.06.2018
- 4.13 15/00311/TPON - T4 - Horse Chestnut Tree - Fell, T6 - Purple Leaved Plum Tree – Fell – Consent – 26.03.2015
- 4.14 13/02520/TPON - T1 - Ash – Fell – Consent - 05.12.2013
- 4.15 13/02519/TREEN - T2 - Willow – Fell - No objection 05.12.2013
- 4.16 05/00006/TPON - Prunus (No 3) - re-crown to 2.5 metres, thin and deadwood. Beech (No 26) – Fell – Consent 03.10.2005

5.0 CONSULTATIONS

5.1 Landscape: Comment

An amended application has been submitted for Dingwall following the Inspector's report. The report highlighted that the site needed appropriate boundary treatment, an amended landscape plan has been submitted within this application.

The new proposals seek to establish a native hedgerow around the sites perimeter. In order to achieve this, the existing fence and base wall the fence sits on will need to be removed. Removing the wall/fence will also ensure that there is adequate rooting space for the trees around the site's perimeter.

There is concern regarding the potential size of the trees, both rooting and canopy in close proximity to the property, particularly the Cypress Oak. It is suggested that these perimeter trees are TPO'd to ensure that should they be removed at a later date, appropriate replacements could be implemented.

Details of the hedgerow species to be submitted, this should include species, sizes and numbers, planting density and percentage mix. In conjunction with this a landscape management plan is required which should ensure the successful establishment of all new planting.

5.2 **Conservation: Comment**

The conservation objection to application 19/00090/VARN was predicated on the judgement that the screen of trees on the boundary contributed to the character and appearance of the Abbots Ann conservation area and that therefore any development that would not allow this screen, or replacement planting, to be sustained, would result in harm (less than substantial) to the significance of that heritage asset.

However, in her decision in respect of the appeal against the subsequently served enforcement notice, the Inspector found that the development would not result in harm to the identified heritage asset, i.e. the conservation area.

5.3 **Trees – Comment**

The only variation in proposed planting within this latest submission is the inclusion of a road frontage native hedge. This to replace the current dwarf wall and close-board fence.

I am satisfied that removal of the wall and its footings to gain space for the hedge to be planted would also improve available rooting volume for the proposed tree planting. Beyond this, my original concerns remain.

The Inspector has accepted that the applicants have demonstrated that supplementary tree planting can be carried out. And while acknowledging that the proposed Cypress Oak attracts differences of opinion she accepts its form as not dissimilar to other approved species.

I respect the Inspector's choice of words with regard to the Cypress Oak; agreeing to settle for disagreement over its form. I raise no dispute with the Inspector over the demonstration that supplementary planting can be carried out, something made more realistic should the wall be removed. However I maintain my position with regard to the space available for those trees to not just survive but thrive and grow on to a size where they would be able to perform the function for which they are being planted. The Cypress Oak for all its narrow form, is still an Oak. Potentially a large and powerful tree, not something normally to be welcomed in such close proximity to a modest house. Were the foundations, for the building already built, installed to a depth and specification to accept being this close to that species of tree, sufficient for its retention into maturity (in age and size) without risk of predictable harm? If not, how is this to be corrected, or would there be future pressure to either not plant or to prematurely fell or prune the tree? Either scenario resulting in loss of intended tree cover. Also notable is that fastigate, and other tree habits of similar form, are notoriously hard to prune while retaining aesthetic merit.

The Silver Birch and Oak proposed to be planted further south I have written about before. I have found nothing in the Inspector's report or the submission that adequately addresses my concerns that this proposal places these trees into a position of conflict with the new property. Large trees close to the south and west of a modest house with a small garden lead to future occupier pressure. That this is not a new revelation makes it no less true or relevant.

There is nothing here that overcomes this; it is predictable that there will be future pressure to prematurely prune or fell – which will prevent the trees properly fulfilling the function for which their planting is proposed and required.

The site is too tight.

5.4 **Natural England: No objection subject to securing appropriate mitigation**

Nitrogen Neutrality

The application is supported by a nitrogen budget which sets out the underlying calculations resulting in a positive nitrogen contribution of TN 2.89 Kg/year (inclusive of 20% buffer).

Natural England is aware that Test Valley Borough Council is developing an interim strategy to address nutrient impacts from developments currently in the planning system and we are working with the Council to develop this approach. It is noted that the positive N budget for this development will be mitigated by the use of 0.362ha of offset land at Water Meadows, Abbots Ann (grid ref: 433750, 143725) which will be converted permanently to Woodland through a change of land use. Natural England advise that this arrangement is secured by a suitable legal agreement and that no other scheme may be in place, such as the Rural Payments Scheme.

As you are aware, appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites.

Provided you as competent authority can be satisfied that, based on a sufficient level of evidence, the development will achieve nutrient neutrality by first occupation and that the appropriate level of mitigation can be fully secured in perpetuity, Natural England would advise that the Appropriate Assessment can conclude there will be no adverse effect on the integrity of the Solent European Sites in relation to water quality impacts.

Biodiversity Net Gain

The National Planning Policy Framework (NPPF, 2018) states that planning policies and decisions should contribute to and enhance the natural and local environment, and that they should identify and pursue opportunities for securing measurable gains for biodiversity (sec. 174 b). The framework encourages consideration of biodiversity net gain. Section 8. C details what sustainable development means, including, 'to contribute to protecting and enhancing our natural environment' and 'helping to improve biodiversity'.

Section 175d recommends, 'opportunities to incorporate biodiversity improvements in and around developments should be encouraged'.

6.0 **REPRESENTATIONS** Expired 28.04.2021

6.1 **Abbots Ann Parish Council: Objection**

- Support TVBC and seek that TVBC decline to determine the application as it is a replication of a previously rejected planning application.

However, in the event that TVBC do choose to determine it then AAPC's position from their last submission, on 23rd June 2020, is that AAPC continues with the objection and the reasons set out in that submission.

6.2 The Parish Council did not append their comments from the 23rd June 2020 to their response on this application. I am currently seeking confirmation on these comments from the Parish Clerk. These comments will be covered in the Update Paper.

6.3 **32 x letters of Objection** from 5 Abbots Close, (x2); Unknown address; 1 Manor Cottages, Church Road (x2); Swaledale 4 St Mary's Meadow; 34 Duck Street (x2); Norfolk House, Duck Street (x2); Rose Cottage, Dunkirt Lane; Pollyanna, Little Ann Road; 53 Duck Street; Mayfield, Duck Street; Lane Cottage, Duck Street; 8 Warren Drive; Pitt House, Duck Street; 2 Catherine's Walk, Unknown number St Catherine's Walk; 3, 4 Abbots Close, Abbots Ann; Michelmas Cottage, Duck Street; Ash Barn, Little Ann Road; Abbots Hill Lodge, Abbots Ann; 6 St Mary's Meadow; Nether House, Monxton Road; 2 Abbots Close, Abbots Ann; 16 Little Ann Road; 1 x Unknown address; Pinewood, Little Ann Road; Lower Cottage, Little Ann Road; Kings Cottage, Catherine's Walk, Abbots Ann. All of these addresses are in Abbots Ann. These objections have been submitted for the following reasons:

- TVBC should reject planning application for the same reasons as previously refused
- Disregarding a planning decision is a dangerous precedent
- Heart of the matter is upholding the original decision and not undermining the Planning Department
- TVBC should decline to determine the application
- House is harmful to Conservation Area
- Applicant has already removed trees and shrubs
- No replacement planting following TPO removal
- So close to boundary trees cannot provide adequate screening
- Considered that the applications to remove the trees on the boundary were part of a bigger plan to build a larger house
- Enforcement appeal decision does not appear to recognise that the Localism Act gives LPA general power of competence
- If Planning permission granted this would be the end of effective planning control in TVBC.
- Applicants are relying on the Appeal decision to make this new application – it is considered that the Inspector's decision was flawed.
- The applicant has had numerous bites of the cherry and is asking for another
- Applicants have 'gamed' the system in a deliberate attempt to evade planning control
- Plans misleading, the cat slide roof lower than east/west ridge, they are the same height.

6.4 **30 x letters of Support** from 5 Manor Close, Abbots Ann; 8, 12, 16, Bulbery, Abbots Ann; Hayfields, Little Ann Road (x2); Belmont, Monxton Road, Abbots Ann; Rudgwick, Cattle Lane, Abbots Ann; The Flat, Village Shop, Duck Street, Abbots Ann; 16 Hillside, Abbots Ann; Burlea, Little Ann Road, Abbots Ann; 23a, 26 (x2), 27 Duck Street, Abbots Ann; 1 Warren Drive, Abbots Ann (x2); Hillbury, Old Salisbury Road; Copper Beeches, Salisbury Road (x2); 27,28 Valley Mead, Anna Valley; 12 Kingsmead, Anna Valley; Friar Cottage, Duck Street, Abbots Ann; Osmaston, Salisbury Road; Eagle Inn, Duck Street (x2), Abbots Ann; 10 Manor Close, Abbots Ann; 34 Bere Hill Crescent, Anna Valley; Orchard Bungalow, Abbots Ann. These letters of support have included the following comments:

- There is a need for new properties in the area
- Planning permission has previously been granted of a dwelling of similar design and location
- Committee Report exaggerated size of the dwelling
- Definition of development changed at Hearing allowing the Inspector to consider it differently
- Despite being less vocal there are a number of people who support the proposal
- No closer to boundary than other dwellings in the area
- To date a partially constructed building has been on view for a considerable period of time
- Demolition would be a waste of money
- Proposed planting scheme will blend building into surroundings

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)

COM2 – Settlement Hierarchy

T1 – Managing Movement

T2 – Parking Standards

E1 – High Quality Development in the Borough

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

E5 - Biodiversity

E7 – Water Management

E8 - Pollution

E9 - Heritage

LHW1 – Public Open Space

LHW4 – Amenity

7.3 Supplementary Planning Documents (SPD)

Abbots Ann Village Design Statement

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Should the Council consider this application
- Principle of Development
- Character and Appearance of area including effect on heritage assets
- Impacts on neighbouring properties
- Highway Matters
- Ecology

8.2 **Should the Council consider this application**

Third parties have suggested that the Local Planning Authority (LPA) should refuse to determine the application as it is identical to the previously refused application 19/00090/VARN. Section 70A of the Town and Country Planning Act (TCPA) 1990 allows Local Planning Authorities to refuse to determine an application in certain circumstances. Section 70A states;

(1) A local planning authority may decline to determine an application for planning permission for the development of any land if—

(a) within the period of two years ending with the date on which the application is received, the [F3Welsh Ministers have refused a similar application made to them under section 62D, 62F, 62M or 62O, or referred to them under section 77, or have] dismissed an appeal against the refusal of a similar application; and

(b) in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in paragraph (a) in the development plan, so far as material to the application, or in any other material considerations.

Material considerations have changed since the 19/00090/VARN was determined and refused and therefore it is considered that the LPA does not have the power to refuse to determine in this case.

8.3 Section 70C of the Town and Country Planning Act (TCPA) 1990 also confers a discretion on the LPA to decline to determine a retrospective planning application if the development would involve the whole or part of development comprised in a pre-existing enforcement notice, and constitutes the breach of planning control dealt with by that notice. It is accepted that the current application (21/00083/FULLN) involves development part of which (a substantial part) was comprised in the matters constituting the breach of planning control specified in the enforcement notice recently upheld at appeal.

8.4 Notwithstanding the above the purpose of S70C is to prevent delay of effective enforcement action through the submission of retrospective applications. This is summarised in the judgement of Cranston J. in *Wingrove v Stratford on Avon District Council* (2015):-

"The legislative history of section 70C demonstrates that Parliament's intention was to provide a tool to local planning authorities to prevent retrospective planning applications being used to delay enforcement action being taken against a development. It seems to me that there is a legislative steer in favour of exercising the discretion, especially since an enforcement notice can be appealed and the planning merits thereby canvassed. Since delay is the bugbear against which the section is directed, a claimant's actual motives to use a retrospective planning application to delay matters is clearly a consideration in favour of a decision to invoke section 70C."

This current application is not a case where the developer is attempting to delay effective enforcement action, but one where he seeks permission for a development in light of the Inspector's conclusions on the enforcement appeal.

It must also be remembered that the LPA has very fairly facilitated the developer's appeal against the enforcement notice, by withdrawing the original notice and re-issuing in circumstances where the developer would otherwise have been deprived his right of appeal, seemingly through no fault of his own. For the LPA now to, in effect, close down the opportunity to complete a development, which the Inspector has found largely to be unobjectionable, by refusing to consider the current application would be unreasonable.

8.5 Principle of Development

The site lies within the settlement boundary for Abbots Ann as defined by Policy COM2 of the Revised Local Plan 2016 and as such the principle of development is acceptable.

8.6 Character and Appearance of Area

Policy E1 of the RLP permits development if it is of a high quality in terms of design. To achieve this, development should integrate, respect and complement the character of the area in which it is located in terms of siting, appearance, scale, materials and building style. Policy E2 seeks to protect, conserve and enhance the landscape character of the Borough and Policy E9 requires new development to make a positive contribution to sustaining or enhancing the significance of heritage assets.

8.7 The Planning Inspector who considered the above recent appeals (see paragraphs 4.2- 4.9 above and Annex A to this report) examined the effect of retaining the development and its impact on the character and appearance of the Abbots Ann Conservation area in paragraphs 8 – 17 of her decision.

8.8 The Inspector concluded that *"the development does not harm the significance of the identified heritage asset. Replacing the close boarded screen fence with a native species hedgerow, along with supplementary tree planting, which could be secured by condition, would positively enhance the character and appearance of the CA"*.

- 8.9 The Council's Tree Officer in their consultation response have maintained their concerns about the proposed tree planting within this plot. The Planning Inspector has considered the proposed building and the space available for planting in their Appeal Decision and concluded differently on the subject of the tree planting. The Inspector stated; "The appellants have demonstrated that supplementary tree planting can be carried out and, while there may be dispute in respect of the Cypress Oak, its shape and form would not be dissimilar to the tree species that were approved as part of the landscaping scheme for the 2016 PP."
- 8.10 Local Planning Authorities are required to place significant weight to the Inspector's findings in relevant appeal decisions. Furthermore the Government's Planning Practice Guidance advises that if Councils persist in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable then they are vulnerable to an award of costs in any future appeal.(Paragraph: 049 Reference ID: 16-049-2014030)
- 8.11 As such it is concluded that the proposed development which is essentially the same as considered by the Inspector is acceptable in relation to the character and appearance of the area and thereby complies with policies E1, E2 and E9 of the RLP.

8.12 **Impacts on neighbouring amenities**

The Planning Inspector assessed the impact on neighbouring properties and concluded in paragraph 23 of her decision:

"The separation distances between the development and properties located on the opposite side of Little Ann Road are such that it would have no impact in terms of overshadowing or loss of privacy. Whilst it could be argued that dwellings located on the western side of Little Ann Road have suffered a loss of outlook, the depth of the development has reduced, and the cat slide roof to the rear outrigger has reduced the expanse of brickwork to the side elevation, which adds visual interest. I find that the development as built would have no adverse impact on outlook for neighbouring properties."

It is therefore considered that the proposed dwelling on the site is in accordance with Policy LHW4 of the RLP.

8.13 **Highway Matters**

The proposed dwelling would be a three bedroom dwelling which is to share the existing access within its neighbour, at Dingwall. The parking and access arrangements are the same as that shown on the approved plans (15/02912/FULLN). Two car parking spaces are shown within the site layout for the proposed dwelling and up to five car parking spaces for the existing dwelling. This provision is in accordance with Policy T2 of the RLP. Turning space is indicated on the site layout and the proposal is considered to be acceptable in this regard and in accordance with Policy T1 of the RLP.

8.14 **Ecology**

The proposed dwelling is located within what was previously a lawned area serving the host dwelling. Natural England have raised the issue of biodiversity net gain. The application proposes the planting of a new native mixed hedge and tree planting with the former replacing a current close boarded fence. In an email of the 9th June 2021 the Agent has also advised that bird boxes including an owl box will be erected on site and details of this will be conditioned. It is considered that the development will provide some biodiversity enhancements and is in accordance with Policy E5 of the RLP.

8.15 Nutrient Neutrality

The river Test and its major tributaries flow into the Solent. The Solent region is one of the most important for wildlife in the United Kingdom and is protected as such. There are currently high levels of nitrogen and phosphorus input into this water environment and there is evidence to suggest that this is having a detrimental impact on the biodiversity of this area. Housing and other certain types of development are currently contributing negatively towards this issue and there is evidence that further development would exacerbate this impact unless it can be shown that development can demonstrate nutrient neutrality.

The Natural England methodology is for all types of development that could result in a net increase in population served by a wastewater system, including new homes. This application seeks a new dwelling and will therefore be required to engage with Nutrient Neutrality.

8.16 The applicant has submitted calculations to demonstrate that by taking 0.362 ha of land out of agricultural production in perpetuity they can achieve nutrient neutrality. Land on the edge of the village has been taken out of agricultural production and has been planted with bat willow, which will be harvested every 20 years and then another cycle planted. A legal agreement to secure the 0.362 ha of land to be taken out of production in perpetuity is currently being completed. An appropriate assessment has been carried out and this has been reviewed by Natural England. It is concluded that the development can achieve nutrient neutrality by offsetting the increase in the nitrogen load and would therefore not result in an adverse effect on the integrity of the Solent designated sites through water quality from nitrate impacts. The development would therefore satisfy policies E5 and E8 of the RLP in this regard.

9.0 **CONCLUSION**

9.1 Whilst the recent Enforcement Appeal was dismissed the Planning Inspectorate made it clear in their decision that the impacts of the proposed dwelling on the Abbots Ann Conservation Area was acceptable. This conclusion carries significant weight and needs to be considered as a significant material planning consideration in this decision.

9.2 Under the previously refused application 19/0090/VARN consideration was given to the impact on neighbouring properties, highways and ecology and these were considered to be acceptable, these conclusions have not changed under this application.

9.3 It is considered that the proposed dwelling is acceptable in terms of its impact on the conservation area, trees, residential amenity, ecology and highways and accords with the relevant policies of the RLP.

9.4 Subject to the securing of the nutrient neutrality offset land which is currently being completed it is considered that the proposed dwelling is acceptable.

10.0 **RECOMMENDATION**

Delegate to the Head of Planning and Building that subject to the completion of a satisfactory legal agreement to secure Nutrient Neutrality then PERMISSION subject to:

1. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers B.201, L.201, P.201A, P.202
Reason: For the avoidance of doubt and in the interests of proper planning.**
2. **The development shall be carried out in accordance with the Material Schedule submitted on the 9th June 2021.
Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Test Valley Borough Revised Local Plan policy E1.**
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 Policies T1 and T2 of the Test Valley Borough Revised Local Plan.**
4. **Prior to occupation of the development details of soft landscape including the proposed new boundary hedge shall be submitted to and approved by the Local planning Authority. Details 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 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.**
5. **Prior to occupation of the development details of a schedule of landscape management and maintenance for a minimum period of 5 years shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan, including long term design objectives, management responsibilities and**

maintenance schedules for all landscape areas and an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. The approved management plan shall be carried out in accordance with the implementation programme.

Reason: To ensure the provision of amenity afforded by proper maintenance of existing and new landscape features as an improvement of the appearance of the site and to 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.

- 6. Prior to the occupation of the development details of an implementation and management plan for the proposed tree planting as shown on Drawing Number 19396.2 shall be submitted to and approved in writing by the Local Planning Authority. 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.

- 7. Prior to occupation details of the number and location of the proposed bird boxes including the proposed owl box shall be submitted to and approved in writing by the Local Planning Authority. Details shall also include when the boxes would be erected. Development shall be carried out in accordance with the approved details.**

Reason: To provide opportunities for biodiversity enhancement on the site in accordance with Policy E5 of the Test Valley Borough Revised Local Plan 2016.

- 8. 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 fences, gates, walls or other means of enclosure shall be erected within the curtilage of the dwelling house.**

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 E1.

- 9. 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.**

Note to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to 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.**
-



Appeal Decisions

Hearing Held on 24 November 2020

Site visit made on 25 November 2020

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal A: APP/C1760/C/20/3247781

Appeal B: APP/C1760/C/20/3247782

The land and premises at Dingwall, Little Ann Road, Little Ann, Andover, Hampshire SP11 7NW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Steve Pearce and Appeal B is made by Mrs Catherine Pearce against an enforcement notice issued by Test Valley Borough Council.
- The enforcement notice was issued on 28 January 2020.
- The breach of planning control as alleged in the notice is without planning permission the erection of a dwelling house on the land (within the area shown approximately hatched blue on the attached plan).
- The requirements of the notice are:
 - 1) To demolish the said dwelling house to ground level.
 - 2) To remove from the land all materials resulting from step 1) above.
- The period for compliance with the requirements is six (6) months.
- The appeals are proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeals succeed to a limited degree on ground (g) only. Otherwise the appeals are dismissed and the enforcement notice is upheld as corrected and varied in the terms set out below in the formal decision.

Preliminary matters

1. The Appeal Notification letter, dated 22 May 2020, refers to the date of issue of a previously withdrawn enforcement notice. The Hearing Notification letter, dated 4 November 2020, identifies the correct enforcement notice. Given the number of written representations received and presence of interested parties at the Hearing, the appellant and the Council agreed that interested parties had not been prejudiced by the content of the Appeal Notification letter and I concur.
2. The Statement of Common Ground (SoCG), dated 18 November 2020, is not signed by either the appellant or the Council. The appellant and Council confirmed at the Hearing that its contents have been agreed.
3. The SoCG provides a list of relevant plans, which includes '15061 T/100 The Topographical Survey' and 'L.201 Location Plan'. These had not accompanied the submission documents and it was agreed that, while they added nothing further to what was shown on other submitted plans, they would be provided for completeness.
4. Planning permission (application reference: 15/02912/FULLN) was granted in July 2016 for the erection of a dwelling and associated site works (the 2016

PP). Relevant conditions were discharged, and development commenced in June 2018. There is no dispute that the development undertaken has not been carried out in accordance with the 2016 PP.

5. In January 2019, an application under s73 of the 1990 Act (reference: 19/00090/VARN) was submitted for the erection of a dwelling and associated works without complying with conditions imposed on the 2016 PP. This application sought to regularise the development being carried out. The application was refused on 8 March 2019 for 4 reasons, which were transposed into the reasons for issuing the enforcement notice.

The notice

6. The wording of the allegation forms the basis of the deemed planning application and the wording needs to be correct. The allegation as set out implies that the alleged development is a completed dwellinghouse. The appellant and Council however agree that 'the external shell of the building has been constructed to roof level including dormer windows (but no glazing) and Velux windows and roof tiling'¹. The building cannot be a dwellinghouse as it does not have the facilities required for day-to-day private domestic existence. It was therefore agreed by the appellant and Council that the allegation be corrected to read 'the partial erection of a building'. As this accurately reflects the development that has occurred, I am satisfied that no injustice would be caused by this correction.

Ground (a) and the deemed planning permission

7. The site is within the Abbots Ann Conservation Area, in reaching my decision I have paid special attention to the statutory duty arising from s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Council has also supplied development plan policies and supplementary guidance relating to design, landscape, character, appearance and heritage. Taking these matters together with my observations on site, I consider the main issues to be:
 - Whether the development preserves or enhances the character or appearance of the Abbots Ann Conservation Area, having particular regard to the development's bulk, mass, siting and design; and
 - What is being sought with regard to planning permission.

Character and appearance

8. The Abbots Ann Conservation Area was designated in 1981 in recognition of its special architectural and historic interest. A Conservation Area boundary review was carried out in 2004 and revised boundaries were adopted in 2005. No further review has taken place. The Conservation Area Appraisal (CAA) confirms the site to be located within Little Ann, outside the historic core. The CAA identifies the key characteristics of this part of the CA as 'a mixture of properties of varying ages and styles' and 'properties on the south side are less distinguished architecturally'. Having regard to the CAA Map, the nearest 'important view' to the site looks westwards along Little Ann Road, into the historic core and away from the site.

¹ Statement of Common Ground dated 18 November 2020

9. The CAA Map also identifies that there was a mature group of trees located adjacent to the northern and western (highway) boundaries. Over recent years many of the trees within the group have been felled and replacement planting has taken place. The trees were felled with appropriate consents in place. While the site may once have been well screened by mature trees, when viewed from the west, this is no longer the case. However, remaining mature trees on the site and within the wider locality continue to provide an element of screening. The replacement planting that has already been carried out will also make a positive contribution to screening the site as it matures.
10. When approaching the site from the east, along Little Ann Road other dwellings located on the southern side of the road obscure the development. While a number of the properties along the southern site have frontage boundary hedgerows, only a few properties, including Dingwall, have mature trees within their frontages. Approaching the left hand bend, the development becomes visible above the boundary fence and between the remaining tree cover. As the bend is turned the development is more readily visible, however so are the dwellings located on the opposite side of the road.
11. When approaching from the west, glimpses of the development are seen against a foreground and backdrop of existing residential development interspersed with trees and hedgerows. Having turned the left hand bend, the development is visible above the 2 m high close boarded fencing, but this again is seen against a backdrop of built development and tree cover.
12. While the development has changed the visual appearance of the street scene, the siting respects established patterns of separation between dwellings located along the southern side of Little Ann Road. The proximity of the development to the western highway boundary is somewhat closer than other properties, but they are fronting the highway and not side on to it. I saw that there are examples of built development located immediately behind side boundary treatments adjacent to the highway, albeit these were ancillary buildings rather than dwellings.
13. The proximity of the development to the western boundary has reduced the space available for supplementary tree planting. The removal of the trees on this site was however lawful and therefore the long-term visual impacts had been considered and accepted. The appellants have demonstrated that supplementary tree planting can be carried out and, while there may be dispute in respect of the suggested Cypress Oak, its shape and form would not be dissimilar to the tree species that were approved as part of the landscaping scheme for the 2016 PP.
14. Furthermore, the appellants suggest replacing the close boarded fencing with a native species hedgerow. There is a wide variety of boundary treatments along Little Ann Road and the site's close boarded fencing is prominent in the street scene, due to its elevated position above the carriageway. The replacement of this fencing with a native species hedgerow would complement the supplementary tree planting proposed, enhancing the appearance of this part of the CA.
15. Given the similarity in definitions of 'bulk' and 'mass', and the context in which the Council has used them, it is the size of the development which needs to be considered. There is no dispute that the development is wider and higher than the scheme approved by the 2016 PP. The widening of the rear outrigger and

introduction of the catslide roof also adds to that increase in size. However, I saw that there is a wide variety of dwelling sizes and types within the CA and the wider locality. The development does not appear unduly large for what would become a 3 bedroomed dwelling house, and its size is not out of keeping with nearby properties.

16. The development is reminiscent of the design of the host property and incorporates fenestration details that are common within the locality. I saw that few properties located around the site exhibit symmetry to their front elevations and that the roofscape is varied, with interconnecting roofs and varying roof pitches being common. The design of the development, including the catslide roof to the rear outrigger and use of materials, is in keeping with the key characteristics of properties located within this part of the CA.
17. For the reasons given above, the development does not harm the significance of the identified heritage asset. Replacing the close boarded screen fence with a native species hedgerow, along with the supplementary tree planting, which could be secured by condition, would positively enhance the character and appearance of the CA.

What is planning permission being sought for?

18. It is clear from the appearance of what has been constructed and the planning history relating to the land, that the building, if completed, would be used as a dwellinghouse. The appellant also confirmed that they are seeking to secure planning permission for the completed dwellinghouse.
19. The appeal on this ground is, however, that planning permission ought to be granted for the matters stated in the notice. S177(1)(a) of the 1990 Act states that planning permission may be granted 'in respect of the matters stated in the enforcement notice as constituting the breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates'. In this instance the matters stated in the corrected notice are 'the partial erection of a building'.
20. While all of the external walls and the roof of the building have been completed, it does not yet have the facilities required for it to be considered a dwellinghouse. Completing the building works necessary to provide those facilities would involve, amongst other things, the installation of doors, windows, kitchen, bathrooms, which would not form 'all or part' of the matters alleged in the notice.
21. It could be argued that the works required to complete the development as a dwellinghouse do not of themselves constitute development, having regard to s55 of the 1990 Act. The completion and fitting out of this partially erected building would however represent one building operation, for which there is no extant planning permission.
22. Planning permission under ground (a) could not be granted for works that would allow the partially constructed building to be completed as a dwellinghouse as those works go beyond the matters alleged in the notice. Success on ground (a) and the deemed planning permission could therefore only relate to the partial erection of the building. The granting of planning permission for a partially erected building would not be appropriate where there is no planning permission for it to be completed and brought into use.

Other matters

23. The separation distances between the development and properties located on the opposite side of Little Ann Road are such that it would have no impact in terms of overshadowing or loss of privacy. While it could be argued that dwellings located on the western side of Little Ann Road have suffered a loss of outlook, the depth of the development has reduced, and the catslide roof to the rear outrigger has reduced the expanse of brickwork to the side elevation, which adds visual interest. I find that the development as built would have no significant adverse impact on outlook for neighbouring properties.
24. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 requires an Appropriate Assessment to be carried out where the competent authority is minded to give consent for the development. As I find that the development is unacceptable for the reasons set out above, there is no need for me, as the competent authority, to carry out an Appropriate Assessment.

Conclusion on ground (a)

25. For the reasons given above, the size, siting and design of the development complies with policies E1, E2 and E9, which amongst other things, seek to deliver high quality design that respects local distinctiveness, protects, conserves and enhances landscape quality and makes a positive contribution to sustaining or enhancing the significance of the heritage asset. However, in the absence of any mechanism to complete the building works and bring the completed development into use as a dwellinghouse, allowing the development on ground (a) would be futile.
26. The appeals on ground (a) fail.

Ground (f)

27. Given the substitution of the words 'partially erected building' for the words 'erection of a dwellinghouse' in the allegation, requirement (1) would need to be similarly corrected for consistency.
28. The ground of appeal is that the steps required by the notice to be taken are excessive.
29. In considering a ground (f) appeal, it is important to identify the purpose for which the notice was issued. S173 of the 1990 Act indicates that there are 2 purposes which the requirements of a notice can seek to achieve. These are either to remedy the breach of planning control which has occurred (s173(a)), or to remedy any injury to amenity that has been caused by the breach (s173(b)). The Council says the intention was to remedy the breach, which is consistent with the corrected requirement to demolish the partially erected building to ground level.
30. The appellant claims that demolition is excessive and any harm to visual amenity can be addressed by alternative boundary treatment. While the appellant does not necessarily consider it to be necessary, they have offered to replace the high close boarded fence located on the western boundary with a native species hedgerow. They have also offered to relocate the fence line between the host dwelling and the development further east.

31. While I have found that the development does not cause harm to visual amenity, the ground (a) appeal has not been successful. In these circumstances the requirements need to address the breach of planning control, which is the partial erection of a building. Neither of the lesser steps suggested by the appellant would address the breach of planning control. The requirements are not therefore excessive.
32. The appeals on ground (f) fails.

Ground (g)

33. The issue is whether the time for compliance is reasonable.
34. It is the appellants case that this is a self-build project funded by savings, which have now been depleted. As with many individuals and businesses, the coronavirus pandemic has had significant economic impacts and has worsened the appellants financial situation. The appellant is also seeking to recover, and re-use building materials utilised in the development. A period of 12 months is requested for compliance.
35. The Council and objectors maintain that the matter has been going on long enough and the period of 6 months is more than adequate to demolish the development.
36. The appellants operate their own small business and details of the costs to demolish the development, in such away to allow materials to be re-used, is considerable. Given the impacts that the pandemic has had on small businesses and the constraints that local restrictions could still be having, demolishing the building in such a way to allow the materials to be recovered and re-used, I find that the appellants' request is not unreasonable.
37. The appeal on ground (g) succeeds to this limited extent.

Overall Conclusion

38. The appeals succeed to a limited extent on ground (g). But for the reasons set out above, I have found that the appeals cannot succeed on grounds (a) and (f). Nevertheless, the appellants are not precluded from submitting a further application.

Formal Decisions

39. It is directed that the enforcement notice is corrected by:

The deletion of the words "erection of a dwelling house" and the substitution of the words "partial erection of a building" in paragraph 3 (the matters which appear to constitute the breach of planning control).

40. It is directed that the enforcement notice is varied by:

The deletion of the words "dwelling house" and the substitution of the words "partially erected building" in requirement 1 of paragraph 5 (What you are required to do).

The deletion of 6 months and the substitution of 12 months as the time for compliance.

41. Otherwise the appeals are dismissed, and the enforcement notice is upheld as corrected and varied. Planning permission is refused on the application(s) deemed to have been made under section 177(5) of the 1990 Act.

M Madge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Kerry Futter	KF Planning Consultancy
Andrew Sherlock	Barrell Tree Consultancy
Michael Heaton	Michael Heaton Heritage Consultants
Andrew Traves	Aquacallidus

FOR THE LOCAL PLANNING AUTHORITY:

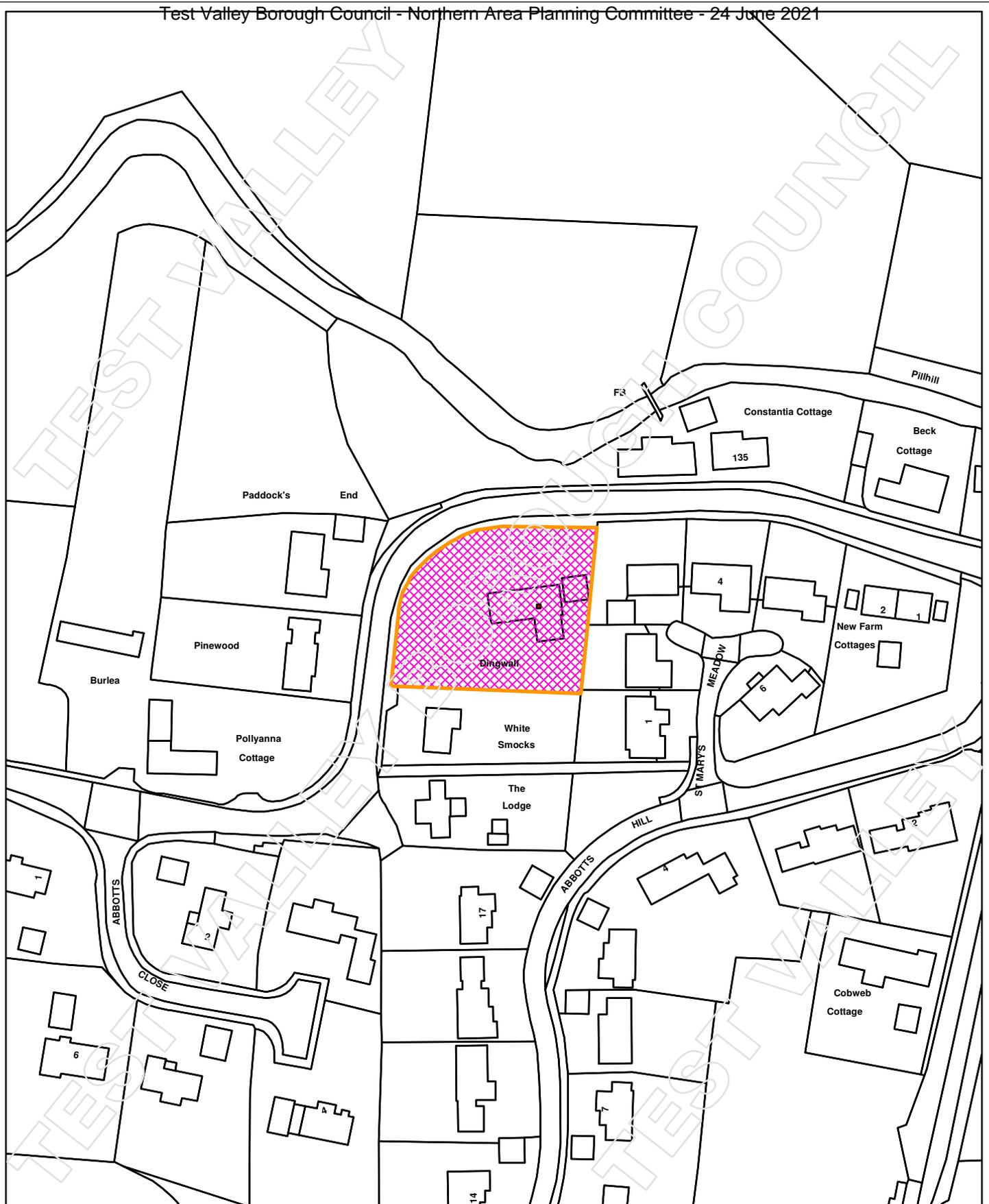
Samantha Owen	Senior Planning Officer,
Andrew James	Planning Enforcement Officer
Michael Bullen	Design and Conservation Officer
Dermot Cox	Arboricultural Officer

INTERESTED PERSONS:

Cllr Maureen Flood	Ward Councillor and representing Mrs Jill Else
Patrick Roberts	Little Ann Parish Council
Gordon Howard	Little Ann Parish Council
Graham Platford	Local resident
Philip Jones	Local resident

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Drawing number 15061 T/100 Topographic Survey
2. Drawing number L.201 Location Plan



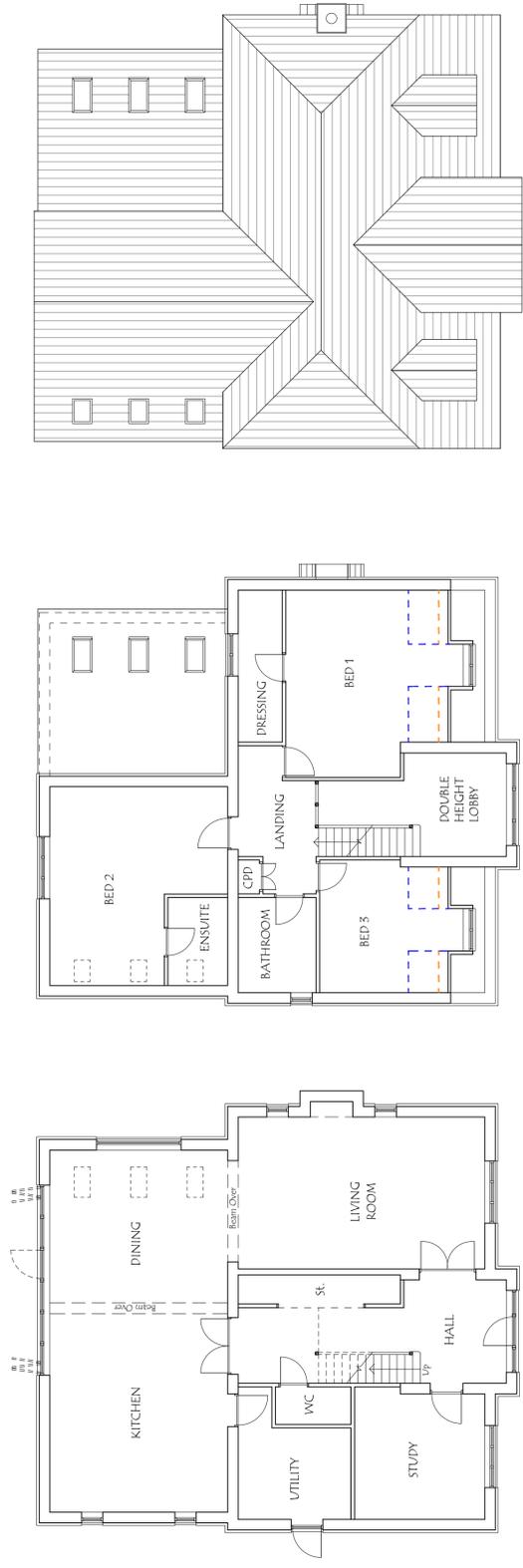
Siteplan



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21/00083/FULLN

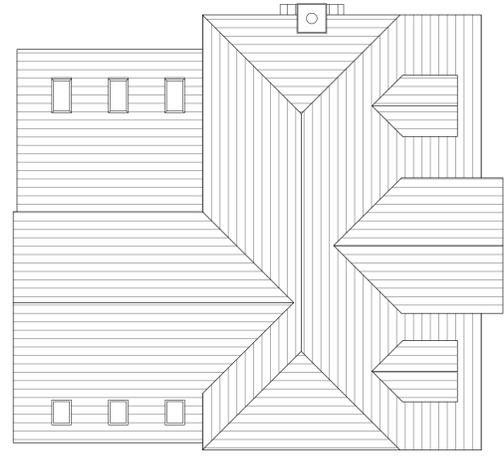
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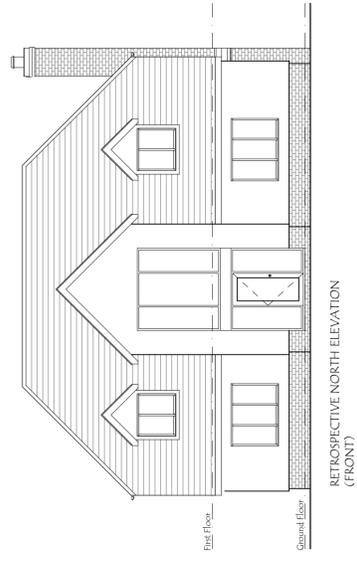
RETROSPECTIVE GROUND FLOOR PLAN

RETROSPECTIVE FIRST FLOOR PLAN

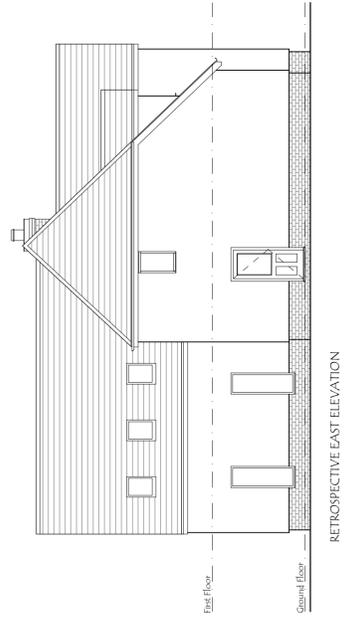
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 --- 2.4M HEAD HEIGHT



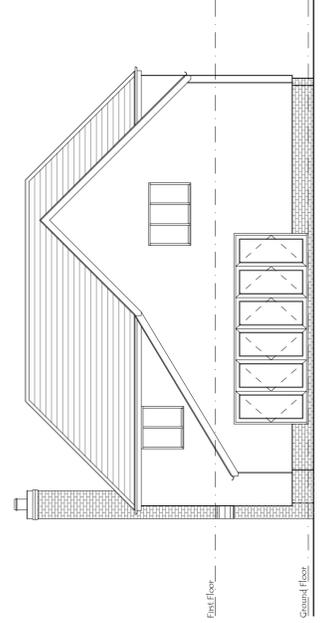
RETROSPECTIVE ROOF PLAN



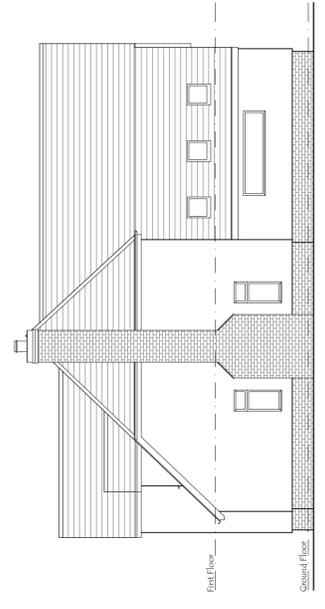
RETROSPECTIVE NORTH ELEVATION (FRONT)



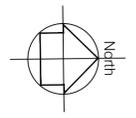
RETROSPECTIVE EAST ELEVATION



RETROSPECTIVE SOUTH ELEVATION (REAR)



RETROSPECTIVE WEST ELEVATION



REV	DATE	DESCRIPTION	INITIAL	CHECKED
PLANNING				



harding rose architects

CLIENT: MR AND MRS PEARCE
 PROJECT: Land adjacent to Dingwall, Little Ann, Nr. Andover
 Hants, SP11 7NW
 TITLE: New dwelling- Plans and Elevations

SCALE: 1:100 @ A1	DATE: 07.01.19
DRAWN: AC	PROJECT NO: 18.722
	P.202

This drawing contains:
Topo/Planting= (Feb-05-2020)Site Plan- Retrospective.dwg



Scale: 1:250 @ A3

LITTLE ANN ROAD



In accordance with the appeal decision a new native hedge will be planted along the roadside boundary.

Two standard sweetgum trees, with stem diameters of 8-10cm were planted as replacements for previously felled trees covered by a TPO. They are directly north directly north of the house.

A heavy standard Cypress oak, with a stem diameter of 12-14cm is proposed at the pinch point between the house and the boundary.

An extra heavy standard silver birch, with a stem diameter of 14-16cm is proposed, on the boundary, mid-way along the western flank of the house.

A semi mature common oak, with a stem girth of 45-50cm is proposed in the corner of the garden.

One maple and one rowan planted as replacements for previously felled trees covered by a TPO.

Tree planting plan
Proposed tree planting

Land adjacent to Dingwall, Little Ann, Nr Andover, Hampshire

Barrell Plan Ref: 19396-2

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TREE CONSULTANCY

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