

<b>APPLICATION NO.</b>	21/01050/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	21.05.2021
<b>APPLICANT</b>	Planning Base Ltd
<b>SITE</b>	Land Adjacent 5 Riverside Green, Kings Somborne, Stockbridge, SO20 6NG, <b>KING'S SOMBORNE</b>
<b>PROPOSAL</b>	Erection of one dwelling
<b>AMENDMENTS</b>	10.05.2021 – 2037-01 Rev A received 07.07.2021 – vehicle tracking plan received 22.07.2021 – nitrate neutrality calculations received
<b>CASE OFFICER</b>	Katie Andrew

Background paper (Local Government Act 1972 Section 100D)

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## 1.0 INTRODUCTION

- 1.1 This application is referred to Southern Area Planning Committee at the request of a member.
- 1.2 The applicants have recently submitted an appeal to the Secretary of State (via the Planning Inspectorate) on the basis the LPA failed to make a determination on the application with an agreed timescale. The effect of this is that the LPA no longer retains the ability to make a formal decision on the application. The decision making function has been passed to the Planning Inspectorate. In order to inform the LPA's position at the appeal the report sets out the Officer recommendation on the application at the point at which the appeal was made. Any resolution at SAPC – either in accordance with that recommendation, or differently, will form the basis for the LPA defending the appeal

## 2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The site is located within a settlement boundary (as defined by the Test Valley Borough Revised Local Plan 2016) in the village of Kings Somborne. The site is located to the north west of an established residential area known as Riverside Green, and is situated within the Kings Somborne conservation area. Riverside Green is accessed off Winchester Road and consists of a mixture of detached, semi-detached and terraced dwellings located within a cul-de-sac arrangement. Dwellings are two storeys in height and are of a traditional design. Materials used in the construction of the dwellings include brick and tile hanging under tiled roofs. The area also includes two separate blocks of garages, one of which is located directly adjacent to the site on its eastern boundary. Boundary treatments are mainly vegetated, however there are examples of close boarded fences within the vicinity of the site. The ground levels of the area rise slightly as you move further north into Riverside Green. The site area measures approximately 168 square metres.

2.2 The site is set back from the access road in Riverside Green, beyond a row of garages and bounded by substantial conifer trees to the west and temporary fencing to the south and east. The site was formally used for sewage treatment, and is now vacant and largely overgrown.

### 3.0 **PROPOSAL**

3.1 The proposal involves the erection of a new detached dwelling. The property would be located in the south west corner of the site, towards the front (south) and side (west) boundary. The main garden area would be located to the north and east side of the house. One parking space is proposed to the east of the dwelling. The two storey dwelling would be of a traditional design with a two gable ends and a pitched roof. The materials to be used in the construction of the dwelling would be red brick under a concrete tiled roof, with white upvc fenestration.

3.2 The proposed dwelling would have a footprint of approximately 32 square metres, and would have an eaves height of approximately 4.7 metres and a ridge height of approximately 7.4 metres.

### 4.0 **HISTORY**

4.1 18/02058/FULLS Erection of 2 bed dwelling. Permission subject to conditions and notes, refused at Planning Committee 27.09.2018. Recent dismissed appeal – APP/C1760/W/18/3214381. The inspector's decision notice is attached at appendix A.

4.2 17/03041/FULLS Erection of a 3 bed dwelling. Withdrawn 05.02.2018

4.3 07/01030/FULLS Erection of new dwelling on land adjacent to 5 Riverside Green including two car parking spaces. Withdrawn 25.05.2007

4.4 The following applications relate to the neighbouring site to the north:

17/03021/FULLS – Erection of a detached three bedroom dwelling and detached garage (Amended scheme) – PERMISSION subject to conditions 23.01.2018.

4.5 TVS.08129/3 – Erection of two detached 5-bedroom dwellings with associated garages and works – Refuse 20.08.1999 Dismissed at appeal 16.02.2000

### 5.0 **CONSULTATIONS**

5.1 Environmental Protection – no objection subject to conditions

5.2 Trees – comment

- The site lies within the Kings Somborne Conservation Area meaning all trees with a stem diameter of 75mm or larger at 1.5 metres above ground level are protected.

- There is a line of off-site trees along the western boundary of the site. Although these trees appear to be part of an old hedge, they are now trees which will constrain the proposed site. The location of the house and the impact this will have on off-site trees has not been considered, and it is highly likely that the traditional foundations will have a detrimental effect on the trees.
- The trees and the impact of the development (above ground and below ground) need to be evaluated, and information is needed to demonstrate how development can be achieved without detrimental damage to off site trees.

### 5.3 Ecology – comment (summarised below) and suggested conditions

- Ecology comments from Hampshire County Council Ecologists were provided within the previously refused planning application (18/02058/FULLS), which outlined the following:
- *“I have no major concerns that this development would adversely affect biodiversity. The site appears to be a small plot in the corner of the relatively-recently constructed Riverside Green development. It does have some developing scrub on the site and boundary conifers, so clearance of this will need to be mindful of the need to avoid harming active bird’s nests.*
- *The trees affected by the development appear to be unsuitable for supporting roosting bats. I note the tree officer’s comments about the need to protect the off-site walnut tree during construction, and I would support this.*
- *Possible condition wording might be: ‘Prior to commencement, details of biodiversity enhancements to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall subsequently proceed in accordance with any such approved details. Reason: to enhance biodiversity in accordance with the Natural Environment and Rural Communities Act 2006 and Policy E5 of the Test Valley Revised Local Plan DPD.’*
- The proposed dwelling within the current application appears to occupy a smaller footprint than the previous application, therefore I would advise that the above recommendations still apply to this current application.
- In addition to those recommendations outlined above, the site is also within 7.5km of the Mottisfont Bats SAC, which is an internationally designated site, and as such is protected under the EU Habitats Directive, and subsequently under the Conservation of Habitats and Species Regulations 2017. As a result of research, suitable habitats (e.g. hedgerows and trees) within 7.5km of the site are considered important for foraging, commuting and roosting opportunities for this species. The proposed development is adjacent to suitable foraging and commuting habitat, including hedgerows. I would advise that the following is therefore secured under planning condition:
- External lighting will follow best practice guidelines outlined by the Bat Conservation Trust and the Institute of Lighting Professionals (Guidance note 08/18 Bats and artificial lighting in the UK). Prior to commencement, a detailed lighting strategy for the construction and operation phase of the development shall be submitted to and approved in writing by the

Local Planning Authority. Development shall subsequently proceed in accordance with any such approved details, with the approved lighting strategy maintained in perpetuity.

Reason: To prevent disturbance to protected species in accordance with the National Planning Policy Framework and the Revised Test Valley Local Plan (2016).

- There are a number of internationally protected sites within the zone of influence for this proposed development. The impacts of developments on such sites are a material planning consideration under the National Planning Policy Framework and the Revised Test Valley Local Plan DPD, and therefore adverse impacts on these sites are likely to be contrary to local and national planning policy unless appropriately mitigated.
- These protected sites are: Solent and Southampton Water SPA and Solent Maritime SAC (nitrate neutrality) and New Forest SPA

#### 5.4 Highways – objection (summarised)

- Previous comments have been provided in regard to this proposal. Within these comments, the Highway Authority raised no in principle objections to the proposal, however this was subject to the applicant providing full vehicle tracking for a large family car with sufficient demonstration of efficient access and egress of the proposed parking space.
- The comments additionally highlighted that suggestion has been raised regarding the accuracy of the plans submitted and how they pertained to carriageway widths.
- Clarification was also sought regarding boundary treatment and associated heights.
- The submitted vehicle tracking plan is not considered to be acceptable and the highway authority requires full auto track/auto turn vehicle wheel and body tracking. The plans submitted would represent purely an architectural tracking path.
- Full tracking for access and egress of the bay is required. The submitted plan simply illustrates a forward manoeuvre into the bay and this is not acceptable. The design vehicle required must be a minimum of 4.8m in length.
- In line with the above, the Highway Authority maintains a significant standing objection to this proposal

#### 6.0 **REPRESENTATIONS** Expired 13.08.2021

##### 6.1 Kings Somborne Parish Council – x2 letters of objection (summarised):

- Overdevelopment of the site
- The footprint remains substantially unchanged from the previous application
- The design is not in keeping with the existing properties in the cul-de-sac
- The Council's objections remain the same
- 9 letters of objection have been received from residents. As before serious concerns have been expressed which are endorsed by the Council.

- Concerns remain on the question of land ownership and the covenant, protection of trees and their roots, the restricted access and turning points adjacent to the plot, the closeness of the property to the boundary, the inconvenience to neighbours that will be caused through the over development of the site.
- Risk of contamination as the site is in the location of an old sewage works

6.2 X2 letters of support (summarised):

- The land is currently un-kept and the conifer hedge is in a poor state
- This dwelling could provide a home for a young person and assist in getting them onto the housing ladder
- It could bring youth to the close and village and children for the local school
- The planning Inspector's comments have been addressed
- The properties in Riverside Green already overlook one another

6.3 X18 letters of objection, summarised below:

Character and appearance of the area and design

- The proposal does not integrate due to lack of front garden
- The design does not reflect the character of the area
- The fenestration on the front elevation is discordant and unattractive, and the façade is stark
- Overdevelopment of the plot
- The dwelling is smaller than other dwellings
- The design is cramped and overbearing and would appear discordant in the street
- Not in accordance with policies E1(a) or E9 or The local Neighbourhood Development plan
- The proposed dwelling has a bathroom, a separate shower room and a downstairs bathroom in a one bedroom dwelling. The layout suggests that one of these rooms could be converted to a bedroom
- The floorspace is large enough to be feasible to modify the internal layout or add a loft conversion, creating a two bed unit without the need for a second parking space
- The number of bath/shower rooms appears excessive and unrealistic for the reasonable needs of at most two persons.
- The dwelling could be expanded under permitted development rights
- Proposed bicycle shed to the front is not sympathetic to the cul-de-sac
- The site is cramped and is not capable of accommodating a dwelling along with provision for access, parking and garden space
- Design advice from architects panel should be sought

Vehicle access and parking

- Concern about safety of users of the front door of the proposed dwelling as it is close to a shared driveway
- Pedestrian safety
- Concern that delivery lorries to the proposed property would block access to occupants of other properties

- The submitted plans indicate that parking on the site would prove difficult given the narrow width of the gravelled drive
- There are already parking issues within Riverside Green
- No provision for visitor parking
- If the proposal is for a 2 bedroom house then there is a lack of parking available
- Concern that vehicles will not be able to turn safely
- The vehicle tracking diagram demonstrates that access and egress for the proposed parking space is not a viable or safe option

### Trees

- Loss of evergreen cypress trees adjacent to 11 and 15 Riverside Green and this would impact the visual amenity of the residents at numbers 7, 9, 11 and 15 Riverside Green.
- It is unclear who is responsible for removing the cypress trees if they die, as they are outside of the development plot

### Amenity

- Proposed garden is small, would be subject to extreme shade and has a boundary to the north consisting of rough vegetation.
- Potential overlooking and overbearing impact to number 5 Riverside Green
- The habitable rooms face north and the garden space slopes up to the north. The garden will be permanently shaded by the dwelling
- Overlooking into the private garden spaces of 17 and 24 from bedroom windows of the proposed dwelling
- The proposal contradicts policy LHW4(a)

### Accuracy of the plans

- The site is considerably smaller than the 0.1 hectare quoted on the application form
- Discrepancy between the floor plans and elevation drawings, in relation to the cloakroom – the layout shows a window facing to the front but this doesn't appear on the south-east elevation.
- Insufficient detail to the relationship of the development site to the adjacent track which provides a means of access – the width of the track is inaccurate

### Ecology

- Tawny owls are heard frequently in Riverside Green
- Bats can often be seen in Riverside Green
- The biodiversity checklist is not accurate

### Other matters

- Previous planning decisions have all been rejected
- It is understood that a restrictive covenant has been placed on this land to restrict its use to garden use only, and to remain undeveloped

- Construction work – the construction of number 17 Riverside Green caused issues for residents including obstruction of the shared access drive, damage to shared gravel drive and noise.
- As the site is small, where will materials be stored
- Concern about potential damage to the communal LPG storage tanks located adjacent to the construction site
- Issues which lead to previous refusals have not been overcome in this application
- Not long ago Government advice relating to making the best use of housing land suggested densities of around 30 dph. Given that the site is 168 sq m, this equates to a density of approximately 60 dwellings per hectare.
- If permission is recommended then a condition should be added which restricts the dwelling to one bedroom only.
- Access to the site is through a flood zone
- Concern about disturbance and damage to property during construction period and potential for road closures for site access
- The application doesn't mention the disused sewage tank which the proposed house will sit on the siting of this tank
- Concern that surface water SUDS are located too close to the property and does not comply with building regulations
- Ground water levels are relatively high in this area
- There is no mention of CIL payments being applicable
- Property doesn't have a ground floor accessible toilet facility for a wheelchair and does not comply with part M of the building regulations
- Why did it take time for the emails between the case officer and agent to be uploaded

Comments about the appeal for non-determination of the application

- The appeal questionnaire submitted by the agent continues to state incorrectly that the site area is 0.1 hectare
- The site is in fact nearly 0.017 of a hectare which would make the plot more than 5 times smaller than the site area quoted.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning (Listed Buildings and Conservation Areas Act) 1990

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

COM2 – Settlement hierarchy

E1 – High quality design in the Borough

E2 – Protect, conserve and enhance the landscape character of the Borough

E5 – Biodiversity

E7 - Water management

E9 – Heritage

LHW4 – Amenity

T1 – Managing movement

T2 – Parking standards

7.3 Supplementary Planning Documents (SPD)

Kings Somborne Conservation Policy (adopted September 1987)

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- The principle of development
- Impact on the character and appearance of the surrounding area and conservation area
- Rights of way
- Trees
- Ecology
- Impact on neighbour amenities
- Highways
- Other matters

8.2 **The principle of development**

The site is situated in a settlement boundary as designated by the Test Valley Borough Revised Local Plan 2016 (RLP). As a result, the proposed development is considered acceptable in principle under policy COM2 of the RLP provided the proposals comply with the other relevant policies contained within the RLP.

8.3 **Impact on the character and appearance of the surrounding area and conservation area**

The site is located in an established residential cul-de-sac. It is set back from the access road in Riverside Green, beyond a row of garages and bounded by substantial conifer trees to the west and temporary fencing to the south and east. The site was formally used for sewage treatment, and is now vacant and largely overgrown. These characteristics make the site have an anomalous appearance within the street scene, as the site is amongst dwellings and is located adjacent to a row of garages. Public views into the site are available from the public footpath along the northern boundary of the site and from Riverside Green. The immediate surrounding area consists of a mixture of detached, semi-detached and terraced dwellings which are two storeys in height and whilst the surrounding dwellings are traditional in their design, there is a mix of designs in the area in terms of detailing, particularly in relation to the detached dwellings in the area which are generally individually designed. Materials used in the construction of the external surfaces of surrounding dwellings include brick and tile hanging under tiled roofs. The area also includes two separate blocks of garages, one of which is located directly adjacent to the site on its eastern boundary. Boundary treatments are mainly vegetative, however there are examples of close boarded fences within the vicinity of the site. Public views into the site are available from the public footpath along the northern boundary of the site and from Riverside Green.

- 8.4 In terms of its design, the proposed dwelling would be traditional in its form with gable ends and a pitched roof. The design would utilise materials that are seen in the immediate vicinity, including red brick and concrete tiles. Comment has been received that the fenestration on the front elevation is discordant and unattractive, and that the façade is stark. The fenestration is white upvc which is in keeping with neighbouring sites.
- 8.5 With regards to the layout of the proposed dwelling within the site, the front of the property would face south east. The proposed dwelling would have similar orientation as the dwellings at 18, 20, 22 and 24 Riverside Green. As such, it is not considered that the orientation of the dwelling within the plot would be incongruous in the street scene.
- 8.6 With regards to plot size, these vary in the surrounding area. Whilst there are concerns that the resultant size of the plot would be small, it is considered that it would be comparable to the smaller plot sizes in the immediate vicinity of the site. For example, the size of the proposed plot amounts to approximately 168 square metres. The plot size for 10 Riverside Green is approximately 139 square metres. As a result, it is not considered that the proposed resultant plot size would result in an adverse impact on the character and appearance of the surrounding area.
- 8.7 The impact to the character and appearance of the area is a matter which is discussed in the recent dismissed appeal at this site. The Inspector noted that the appearance of the site as existing has no particular merit, and it is concluded in paragraph 14 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.’*

It is acknowledged that the design and appearance of the dwelling submitted under the previous application 18/02058/FULLS is different to what is now proposed. However the current design put forward has a smaller footprint than previously proposed. The proposed dwelling, being detached, and individually designed is considered to be in keeping with the general design approach in the surrounding area.

- 8.8 As a result of the above, it is considered that the proposed development would integrate, respect and complement the character of the area and does not conflict with policies E1 and E2 of the RLP.
- 8.9 Impact on the conservation area  
The site is located within the Kings Somborne conservation area. When discussing the character of the Stockbridge Road/Old Vicarage Lane/Nutchers Drove/Winchester Road area of the village the ‘Kings Somborne Conservation Policy’ adopted in 1987 states:

*“The Stockbridge Road forms the northern approach to the village centre together with important open areas bounded to the south by Old Vicarage Lane and Nutchers Drove. Winchester Road defines the linear extension of the medieval settlement and includes a number of listed buildings along its length eastwards to Manor Farm.”*

The site is not immediately adjacent to any listed buildings. Butcher’s End and Spencers Farm are the nearest listed buildings and these are located along Winchester Road adjacent to the entrance of Riverside Green.

- 8.10 There needs to be consideration as to whether the proposed development would result in any harm to this designated heritage asset or whether the character and appearance of the conservation area is preserved or enhanced. The proposed dwelling would be seen in context with the surrounding, modern, housing development from surrounding public vantage points, including from the public footpath which runs to the north of the site. As such, it is considered that the proposed dwelling would not adversely affect the character of the conservation area.
- 8.11 During the previous applications (18/00546/FULLS and 18/02058/FULLS) consideration was given to the proposed boundary treatment to the north of the site adjacent to the public footpath and important hedgerow, as defined in the Kings Somborne conservation policy. Under the previous application the applicant agreed to provide a lower fence along this boundary (maximum height of 1 metre), along with some screening vegetation. This was subsequently considered acceptable by the conservation officer. The plans submitted with this current application don’t show what the boundary treatment along the northern boundary would be. Had the recommendation been for permission, a condition would have been imposed requiring the developer to submit further details of the treatment of this boundary to the local planning authority for approval. Subject to such a condition being imposed, it is considered that the development would respect the character of the conservation area and would therefore positively contribute to sustaining the character and significance of the conservation area in accordance with policy E9 of the RLP. Furthermore, the Inspector for the recent dismissed appeal at this site did not highlight any conflict with policy E9; paragraph 15 of the appeal decision concluded that the proposal would have an acceptable impact upon the character and appearance of the area. It is considered that the proposals would preserve the character and appearance of the conservation area in accordance with policy E9.
- 8.12 **Rights of way**  
Kings Somborne footpath 14 is adjacent to the northern boundary of the site and provides an off-road route between Muss Lane and New Road. Hampshire County Council (HCC) have confirmed that the section of the route adjacent to the site is described as:

*“though 6 ft. wide gap between cottage wall and hedge, eastwards along grass and earth path enclosed between hedges.”*

- 8.13 It is noted that the Officer report for 18/02058/FULLS states that there was some concern that a 2 metre high close board fencing along the northern boundary of the site would impact on the amenity value of the right of way, contrary to policy T1 of the RLP. At that time the applicant agreed to amend the boundary treatment adjacent to the footpath to include a lower fence along this boundary (maximum height of 1 metre), along with some screening vegetation. Details of this revised boundary treatment are not provided under this application. Had the recommendation been for permission, then a condition would be considered necessary for this information. Subject to a condition requiring further details of the proposed treatment along the northern boundary of the site, it is not considered that the proposals would have an adverse impact on the amenity value of the right of way.
- 8.14 **Trees**  
The application is not supported by any arboricultural survey or method statement. The previous application was supported by 'Findings of BS5837 Tree Quality Survey and Arboricultural Method Statement (WRC Ecology & Arboriculture)'. This was submitted after previous issues were raised on the potential impact the proposed development could have on an off-site Walnut tree. At the time of the previous application, the Walnut tree's root protection area (RPA), calculated in accordance with BS5837 was 12.33 metres which is equal to a circle of 6.24 metres radius. The proposed development on the land from which the Walnut grows (the site to the north of application site) has resulted in root disturbance closer than this radius to the tree. Allowing for this disturbance results in a revised RPA radius of 6.73 metres.
- 8.15 Had the recommendation been for permission, then a "prior to commencement" condition would have been added requiring the submission of an Arboricultural Method Statement. This would explain exactly how the proposed development would be set out and all aspects of site works (excavation for footings, placement of foundations, scaffold placement, construction, drainage, services and final landscaping) to ensure that the Walnut is not adversely affected during the construction process. Imposing this condition would be in line with previous comments provided and is necessary for the avoidance to harm of the Walnut tree protected by virtue of this standing in a Conservation Area. The Tree Officer has reviewed the application and has agreed that it would be appropriate to impose this tree protection condition, however in this instance the recommendation is for refusal.
- 8.16 The boundary between numbers 11 and 15 and the application site currently consists of tall conifer hedging, although it is noted that this vegetation is likely to be lost as a result of the proposed development. However, they are not considered to be worthy of protection under a Tree Preservation Order (TPO).
- 8.17 As a result of the above, it is considered that the proposed development, subject to condition, would not result in any adverse impacts on trees. The proposals are therefore considered to comply with policy E2 in this regard.

## 8.18 Ecology

In relation to ecology, the site is a relatively small area of land previously used as a cesspit and more recently a vegetable plot but is now unmanaged. Ecology comments from the previous application 18/02058/FULLS, stated that there are no major concerns that this development would adversely affect biodiversity. The proposed dwelling within the current application has a smaller footprint than the previous application, therefore the ecologist has advised that the recommendations from the previous application still apply to this current application. As a result, the Council's ecologist has confirmed no objections in relation to the proposals. The application is therefore considered to comply with policy E5 of the RLP.

8.19 The site has developing scrub on the site along with trees and other vegetation around the site, which may support nesting birds in the spring and summer. As such, the Council's ecologist has recommended that a note be added to any permission informing the applicant of their duty under the Wildlife and Countryside Act 1981 (as amended) and that they should undertake clearance of bird nesting habitat outside of the bird nesting season.

## 8.20 Off site ecology: Solent and Southampton Water SPA and Solent Maritime SAC (nitrate 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. 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, without mitigation, would exacerbate this impact.

8.21 These sites are protected by National and European Law which requires the Council to undertake a formal assessment of the implications of any new plans or projects that may be capable of affecting the designated interest features of European Sites before deciding whether to grant planning permission for new residential development. This formal assessment is known as an Appropriate Assessment and considers the potential adverse effects of a plan or project (in combination with other plans or projects) on Special Areas of Conservation and Special Protection Areas. The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. The impact of the case law is that any development which could result in a decrease in water quality would cause a likely significant effect on the Solent's European sites.

8.22 In the context of planning, the impact comes from population increase and the resultant increase in effluent. Proposed developments for new housing, hotels and care homes (as well as other forms of overnight accommodation) are being affected by the issue as a result. Given the nature of this application the applicant was invited to provide an assessment and a finalised nitrate budget calculation has been provided for consideration. The total nitrogen budget for the proposed development is 2.9kg per year. As such nitrate offsetting has been

found to be required. As such, the proposed development could have likely significant effects upon the nearby Solent and Southampton Water European Designated Site which is designated for its conservation importance.

- 8.23 The application is not supported by evidence demonstrating how the scheme would be nitrate neutral. No mitigation that might be expected from a reduction in nitrogen load from developing agricultural land has been put forward and in the absence of a legal agreement the proposed development would not be nutrient neutral. It is not possible to ascertain that this proposal will not result in adverse effects on the site's integrity and that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out. Insufficient evidence has been submitted to conclude that the proposal would not adversely affect the special interest of the Solent and Southampton Water European Designated Site, therefore the application is not in accordance with Policy E5 and the Conservation of Habitats and Species Regulations 2017 (as amended).
- 8.24 Off site ecology: New Forest Special Protection Area  
In line with Policy E5 and Section 11 of the NPPF, consideration should be given to potential implications on international designations. The development would result in a net increase in residential dwellings within 15km of the New Forest SPA. This distance defines the zone identified by recent research where new residents would be considered likely to visit the New Forest. The New Forest SPA supports a range of bird species that are vulnerable to impacts arising from increases in recreational use of the Forest that result from new housing development. While clearly one new house on its own would not result in any significant effects, it has been demonstrated through research, and agreed by Natural England (the governments statutory nature conservation advisors, who have provided comments on this proposal) that any net increase (even single dwellings) would have a likely significant effect on the SPA when considered in combination with other plans and projects.
- 8.25 To address this issue, Test Valley Borough Council has adopted an interim mitigation strategy whereby a scale of developer contributions of £1300 per new dwelling has been agreed that would fund the delivery of a new strategic area of alternative recreational open space that would offer the same sort of recreational opportunities as those offered by the New Forest. This payment has not been received and therefore in the absence of a legal agreement, the application has failed to secure the required mitigation measures, in accordance with the Council's adopted 'New Forest SPA Mitigation - Interim Framework'. As such, it is not possible to conclude that the development would not have an in-combination likely significant effect on the interest features of these designated sites, as a result of increased recreational pressure. The proposed development is therefore contrary to the Council's adopted 'New Forest SPA Mitigation - Interim Framework', Policy E5 and Policy COM2 of the adopted Test Valley Borough Revised Local Plan (2016) and the Conservation of Habitats and Species Regulations 2017 (as amended).

## 8.26 **Neighbouring amenity**

### Impact on 5 Riverside Green

The southern side wall of the proposed dwelling, as re-sited, would be located approximately 6 metres from the boundary of the garden of number 5 Riverside Green. The proposed dwelling would be separated by the existing access road and boundary wall from the more westerly side of number 5's rear garden.

Whilst the proposed dwelling may be visible from the garden of number 5, as a result of the separation between the proposed dwelling and the garden boundary, it is not considered that the proposal would result in any adverse overbearing impacts. With regards to over shadowing, the proposed dwelling would be located due north of the garden of number 5. As a result of this, along with the separation mentioned above, it is not considered that the proposed development would result in any adverse overshadowing impacts on the garden area of number 5.

## 8.27 **Overlooking**

Two first floor windows are proposed on the front (south east) elevation and are top hung. These windows would serve a bathroom and a shower room. Had the recommendation been for permission then a condition of this recommendation would be that these two windows are fitted with obscure glazing. This is to protect the privacy of both the future occupiers and also prevent overlooking to 5 Riverside Green. However as the recommendation is for refusal, such a condition has not been added in this instance. As highlighted above in paragraph 8.25, there is separation distance between the application site and 5 Riverside Green, and it is considered that this mitigates the overlooking such that it is not necessary to add a reason for refusal based on overlooking to this neighbour.

## 8.28 **Impact on 3 Riverside Green**

The southern side wall of the proposed dwelling, as re-sited would be located approximately 23 metres from the garden boundary of number 3 Riverside Green. Whilst the proposed dwelling may be visible from the garden of number 3, as a result of the separation between the proposed dwelling and this neighbouring property, it is not considered that the proposal would result in any adverse impacts on the occupiers of this dwelling.

## 8.29 **Impact on 24 Riverside Green**

The neighbouring dwelling at 24 Riverside Green is located to the east of the proposed dwelling. The proposed dwelling would be separated from number 24 by a row of 4, pitched roof garages, however, due to the shape of number 24's garden, part of it is directly adjacent to the eastern boundary of the site. In relation to this part of number 24's garden, the proposed dwelling would be located approximately 10 metres to the south west. The proposed dwelling would be partially screened from this area of garden by the presence of the existing garage block. As a result, it is not considered that the proposal would be unduly overbearing on this area of the neighbouring property's garden.

- 8.30 With regards to overshadowing, the proposed dwelling would be located due west of the garden area in question, due to this orientation and due to the distance between this part of the neighbouring garden and the proposed dwelling, it is not considered that the proposals would result in any additional overshadowing or loss of light to this small part of a larger garden that would adversely impact on the amenities of the occupiers of this property.
- 8.31 With regards to overlooking, the proposed dwelling would include 2 ground floor windows, one serving the lounge and the other serving the base of the stairs. There aren't any first floor windows proposed on this elevation. As such views out of the ground floor windows would be predominantly over the car parking space and garden and the boundary treatment. As a result, it is not considered that the proposed dwelling would result in any adverse overlooking into the garden or dwelling at number 24.
- 8.32 Impact on 11 and 15 Riverside Green  
Numbers 11 and 15 Riverside Green are located to the west of the site. The front elevations of these neighbouring dwellings are located approximately 14 metres from the rear wall of the proposed dwelling. The boundary between numbers 11 and 15 and the site currently consists of tall conifer trees, although it is noted that these trees are likely to be lost as a result of the proposed development. The south west side elevation does not include any proposed windows, and as such there would be no adverse impact in terms of overlooking to 11 and 15 Riverside Green. The rear elevation of the proposed dwelling would have an eaves height of approximately 4.7 metres, the roof of the dwelling would then slope away from the boundary thereby limiting the impact the dwelling would have in terms of overbearing. As a result of this, in combination with the separation distance between numbers 11 and 15 and the site, it is not considered that the proposed dwelling would result in overbearing that would adversely impact on the amenities of the occupiers of these neighbouring properties. The existing high conifer trees on the boundary cast some shadow to the area to the front of numbers 11 and 15 Riverside Green. This area consists of a driveway and small area of front garden. Considering that existing shadowing is already being experienced by the presence of the boundary trees and considering the distance between the neighbouring dwellings and the site, it is not considered that the proposed dwelling would result in any additional overshadowing that would have an adverse impact on the amenities of the occupiers of the neighbouring dwellings. As a result of the separation distance between the proposed dwelling and the neighbouring dwellings at numbers 11 and 15, it is not considered that the proposal would result in any adverse loss of light.
- 8.33 Concern has been raised with regards to the potential for inserting further windows/dormer windows into the proposed dwelling, in the future under permitted development and that this could have a detrimental on surrounding neighbour amenities in terms of overlooking. It is considered that the insertion of windows/addition of dormer windows into the roof space of the proposed dwelling would result in additional windows facing directly into neighbouring dwellings that could adversely impact the amenities of the occupiers of these dwellings. It is therefore considered appropriate that the local planning authority

retain control over the insertion of windows not proposed by this application. Had the recommendation been for permission then it would have been appropriate to add a condition removing permitted development in relation to further windows/dormer windows.

8.34 Impact on proposed new dwelling to the north of the site

Permission has been granted for a single dwelling on a site to the north west. The dwelling proposed under this application will be located approximately 15 metres from the south eastern corner of the unfinished dwelling to the north west. As a result of this distance and as there would be an oblique relationship in terms of the layout of the two dwellings it is considered that the proposals would not result in any adverse impacts in terms of overbearing, overshadowing or loss of light. With regards to overlooking, it is not considered that the proposed bedroom windows at first floor level to the rear of the proposed dwelling would result in any adverse overlooking. There is separation distance, and also bedrooms are secondary accommodation where the occupants are unlikely to spend significant amounts of time in during the day. Additionally, views out of the windows onto the dwelling to the north west would be oblique, with the main views being onto the garden and boundary treatment.

8.35 Neighbour amenity summary

As a result of the above, it is considered that the proposals would not result in any adverse impacts on surrounding residential amenities. The proposals are therefore considered to comply with policy LHW4 in this regard.

8.36 Provision of private amenity for the proposed occupiers of the dwelling

Point (b) of policy LHW4 of the RLP requires residential development to provide for private open space in the form of gardens or communal open spaces which 'are appropriate for the needs of residents'. The policy wording does not specifically define what would constitute private open space being 'appropriate for the needs of residents' however the background text to policy LHW4 at paragraph 8.20 states:

*"Permanent residential development should be provided with adequate private open space to meet the needs of the people likely to occupy the properties. The amount of private open space required will depend on the type of residential development being proposed and the topography and character of the area in which it is located."*

In this instance, the proposed development would provide private open space in the form of gardens located to the north/north east of the building and to the south. These areas of garden would have a total area of approximately 112 square metres. For comparison, the scheme considered under 18/02058/FULLS had garden space totalling 70.4 square metres. The proposed dwelling would have one bedroom and would be of a size where it could be occupied by a family with or without children. The proposed garden area to the north would be sloped but not so steeply that it would be unusable and would be located away from potential sources of noise and smell. The garden areas would also not be unduly overlooked by neighbouring dwellings and would be screened from views from the adjacent public footpath by some existing vegetation and the

proposed boundary treatment. The private garden areas would provide space to dry washing and to allow children to play. Part of the garden is north facing and there would be some overshadowing of the garden by the proposed new dwelling in the afternoon hours, however the garden is of a good size and would get sun at other times of the day, in the morning. As a result, it is considered that it would be of a character and size that would be appropriate for the needs of the potential residents of the proposed dwelling. As such, it is considered that the proposals would comply with policy LHW4(b) of the RLP.

8.37 Notwithstanding the above, in order to prevent the loss of the area of private amenity space provided and thus protect the future amenities of the occupier of the dwelling, to enable the development to provide adequate private amenity space in accordance with policy LHW4 in perpetuity, it would have been considered appropriate to add a condition preventing the occupier of the dwelling to erect extensions and other outbuildings/structures on the private amenity space under permitted development, had the recommendation been for permission.

**8.38 Highways and parking provision**

The application proposes 1 off-street parking space. As the proposal is for a 1 bedroom property such parking provision is considered to accord with the parking standards set out in Annex G of the RLP. It is recommended that a condition be added to any permission requiring the provision for cycle parking, the retention of the parking spaces along with the provision of a non-migratory surface for the first 6 metres of the access. Subject to these conditions, it is considered that the proposal would comply with policy T2 of the RLP.

8.39 Concerns have been raised in relation to the adequacy of the parking/manoeuvring space proposed. A vehicle tracking diagram has been submitted with this application however this is of poor quality and shows access into the site only, and that arrangement is not from the direction you would be arriving at the site. The case officer has engaged with the agent and a copy of the highways comments have been provided. The agent's response stated that there were no highways reasons for refusal in the 2019 appeal dismissal. As set out in the D&A Statement, the appeal was only dismissed on the basis of the amenity of future occupiers of the building. The 2019 appeal dismissal included space to park two vehicles in a staggered arrangement to the north east of the proposed dwelling. This current scheme proposes one parking space, which is in the same location as one of the parking spaces as submitted in the appeal scheme. As the location of the parking space is the same as before, it is considered that the parking arrangements are comparable. During the course of the previous application the highways Officer consulted raised no objection subject to a condition such that the parking area was laid out prior to the development being brought into use. Furthermore, the comments state that 'the proposal would be provided with sufficient parking provision in line with adopted standards and sufficient manoeuvring space exists for vehicles to access and egress the site in a safe and efficient manner'.

8.40 The current application is for a one bedroom dwelling and so one parking space has been provided. This is a residential cul de sac where vehicle speeds are considered to be low. The access road is approximately 5.3 metres wide. For these reasons it is considered that 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, where care is needed to use the road to manoeuvre into and out of a driveway (e.g. reversing into the road from a driveway space). 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. If the recommendation were for permission then a condition would have been imposed to ensure that drawings showing vehicle tracking into and out of the site were received. However, for the reasons discussed above it is not anticipated that the current scheme proposes a significant risk to highway safety such that it warrants a further reason for refusal.

8.41 **Other matters –**

Previous appeal decision

Attention is drawn to a previous appeal decision in relation to the proposed dwelling on this site. The appeal was dismissed on a number of grounds. The decision is attached at appendix A. The Inspector concludes in paragraph 17:

*‘The Government is seeking to significantly boost the supply of housing and small and medium sized sites can make an important contribution. The proposal would provide a family sized home on a previously developed site in a location where occupants would make use of local services. However, the benefits of a single dwelling would be modest. Although the dwelling would not harm the character or appearance of the area nor the living conditions of the neighbours, I have found that the quality and size of the outside space would be unacceptable, and this is a matter to which I attribute significant weight’.*

8.42 In light of the inspector’s comments the scheme has been amended such that the footprint of the house has been reduced and the positioning of the property has been moved to the south west corner of the plot. As such, it is considered that the provision of private garden area is now sufficient to meet the needs of future occupants of the new dwelling and therefore impacts on the amenity of future occupants has been addressed (paragraphs 8.36 – 8.37 above).

8.43 Number of bedrooms

The submitted floor plans show one bedroom at first floor level however third party comments have raised concerns that the bedroom could be split into two and that the property might then have three bathrooms. It is acknowledged that the submitted floor plan shows that the bedroom at first floor level is large, it measures approximately 17.1sq m . This is over and above the bedroom size for a 2 bed dwelling as set out within the Technical housing standards – nationally described space standard, a copy of which is provided at appendix B.

The standards set out that a double bedroom needs a floor area of at least 11.5sq m. The dwelling could provide two single bedrooms of 8.5sq m, which is again over and above the space standards for a single bedroom, which would require a floor area of 7.5sq m. Furthermore, if one of the upstairs bathrooms was removed a large double and single bedroom could be provided which would be in excess of Government Space standards.

8.44 The case Officer has put this assessment of the space standards to the agent who responded to state that the application is submitted as a one bedroom property. It is established in case law that the LPA should deal with applications on the basis of the information submitted. In addition, the Planning Inspectorate's decision for an allowed appeal at a different site (2 Freemantle Road, Romsey, reference APP/C1760/D/18/3205051) concludes in paragraph 5 that 'unless there is clear evidence to the contrary, an application should be dealt with on the basis of its description and the information actually provided rather than supposition'. A copy of the appeal decision is attached at appendix C. However, there are also known appeal decisions that take a contrary view and have been dismissed on the basis that planning conditions cannot be used to control the internal arrangements/layout of a property and a common sense approach should be adopted. It is clear that such considerations are a matter of planning judgement. For the purposes of this report and recommendation Officers have considered the proposal to represent a 1-bed unit and assessed the merits on that basis.

8.45 Covenant

The local planning authority are aware that there is a covenant on the site which prevents the applicant from:

- a) using the land for any other purpose other than garden land
- b) not to erect any buildings of any other nature whatsoever on the land other than a garden shed and/or greenhouse with a total floor area not exceeding 7.5 square metres to be used only in conjunction with the adjoining garden.

Whether a covenant on the land exists, or not, is not a material planning consideration and therefore it cannot be part of the considerations of the merits of the proposed development. If the proposed development is permitted, the covenant would remain on the land. The applicant would need to address this as a separate, civil matter which is between the parties involved.

8.46 Gas tanks

It is noted that the site is adjacent to where there are underground gas storage tanks that were installed to supply the neighbouring dwellings to the west/south west of the site. There are concerns about the proximity of the proposed dwelling to these gas tanks and the potential safety implications this would have.

- 8.47 The location of the gas tanks in relation to the proposed dwelling is dealt with under Building Regulations (Part J). The Council's Building Control Officer has confirmed that the applicant/developer would need to comply with Part J with regards to the relationship between the proposed dwelling and the existing LPG tanks.
- 8.48 As the relationship between the existing LPG tank and the proposed development would be dealt with under separate, building regulation legislation, it is not a matter that is material to the consideration of this planning application.
- 8.49 Storage of building materials/issues resulting from construction vehicles  
Concern has been raised in relation to the storage of buildings materials and the impact the presence of construction vehicles would have on highways and accessibility to neighbouring dwellings. Under the previous application, an area was shown on the site to indicate where building materials were to be stored, this has been shown to demonstrate that materials can be stored within the site, away from an adjacent Walnut tree and thus prevent harm to the tree. The Council's tree officer confirmed at the time that he was content with the storage area shown.
- 8.50 With regards to the presence of construction vehicles, this is not a material planning consideration and as such is not a matter that can be considered as part of this application.
- 8.51 Ownership  
There have been various queries in relation to the ownership of the site throughout the previous application and through this current application. It is not the Local Planning Authority's role to arbitrate between parties who are disputing ownership. This is a separate, civil matter between the parties involved. The LPA considers that the application was correctly made with the appropriate Certificate of Ownership submitted. This is sufficient to progress with consideration.
- 8.52 Accuracy of the submitted plans  
Third party comments received about the accuracy of the submitted plans are acknowledged. The accuracy of the plans has been queried with the agent who has replied to state that 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 there is faith that the current plans supporting the application are accurate. 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 permission.
- 8.53 Discrepancy between plans  
A query has been raised about a discrepancy between the floor plans and elevation drawings, in relation to the cloakroom – the layout shows a window facing to the front but this doesn't appear on the south-east elevation. An amended plan has been received which shows that there is a cloakroom window on the south east elevation.

8.54 Uploading of emails between case officer and agent  
Emails dated 3<sup>rd</sup> August 2021 and 27<sup>th</sup> September 2021 received from the agent have been uploaded to the Council's website as publically viewable. These emails are intended to provide transparency about various matters (number of bedrooms, trees, site location plan and highways) ahead of the application being discussed at planning committee.

8.55 Comments about the appeal for non-determination of the application  
The third party comment received about appeal questionnaire submitted by the agent continuing to state an incorrect site area is acknowledged. As highlighted in paragraph 2.1 of this report, the site area measures approximately 168 square metres. The discrepancy will be highlighted to the Inspector.

## 9.0 **PLANNING BALANCE**

9.1 The proposed development is located within the Kings Somborne settlement boundary and as such the principle of the development is considered acceptable subject to the proposals complying with the other relevant policies contained within the Test Valley Borough Revised Local Plan 2016.

9.2 It is considered that the proposals would not have any adverse impacts on the character and appearance of the surrounding area and, subject to conditions, would not adversely impact on the character and appearance of the conservation area, which would be preserved. Subject to conditions, it is not considered that the proposals would adversely impact on the right of way or trees. It is considered that the proposals would not result in any adverse impacts on neighbour amenities or the residential amenities of future occupiers. Subject to a condition in relation to parking, it is not considered that the proposals would have any adverse impacts on highway safety.

9.3 However, the development would result in a net increase in residential dwellings within 15km of the New Forest SPA, whereby a net increase (even single dwellings) would have a likely significant effect on the SPA when considered in combination with other plans and projects. The required mitigation payment has not been received and therefore in the absence of a legal agreement, the application has failed to secure the required mitigation measures, in accordance with the Council's adopted 'New Forest SPA Mitigation - Interim Framework'. As such, it is not possible to conclude that the development would not have an in-combination likely significant effect on the interest features of these designated sites, as a result of increased recreational pressure.

9.4 Additionally, the proposed development could have likely significant effects upon the nearby Solent and Southampton Water European Designated Site which is designated for its conservation importance. No mitigation that might be expected from a reduction in nitrogen load from developing agricultural land has been put forward and in the absence of a legal agreement the proposed development would not be nutrient neutral. Insufficient evidence has been submitted to conclude that the proposal would not adversely affect the special interest of the Solent and Southampton Water European Designated Site.

- 9.5 The proposed development is therefore contrary to the Council's adopted 'New Forest SPA Mitigation - Interim Framework', Policy E5 and Policy COM2 of the adopted Test Valley Borough Revised Local Plan (2016) and the Conservation of Habitats and Species Regulations 2017 (as amended).
- 9.6 The benefits of the scheme would be the provision of a new dwelling and creation of jobs during the construction phase. However the Council can currently demonstrate a five year supply of deliverable housing sites. The addition of one residential unit would not significantly boost supply. In terms of the economic benefit, this is limited to additional spending and employment during the construction phase of the development. This economic benefit would not be greater than a similar scheme in a more appropriate location. As such, the social and economic benefits of the scheme are afforded limited weight. The benefits of providing an additional residential unit does not outweigh the harm identified and is therefore not acceptable.

## 10 CONCLUSION

- 10.1 The proposed development is located within the Kings Somborne settlement boundary and as such the principle of the development is considered acceptable in principle. However in light of concerns relating to ecology, the application is not in accordance with policies COM2 and E5 of the adopted Test Valley Borough Revised Local Plan (2016) and the Conservation of Habitats and Species Regulations 2017 (as amended). The social and economic benefits of the scheme are afforded limited weight. The benefits of providing an additional residential unit does not outweigh the harm identified and is therefore not acceptable. Therefore, the recommendation is for refusal.

## 11.0 RECOMMENDATION

**Had the Local Planning Authority been in a position to determine the application the formal decision of the Council would have been REFUSE for the following reasons:**

- 1. The site lies within close proximity to the New Forest SPA which is designated for its conservation importance. In the absence of a legal agreement, the application has failed to secure the required mitigation measures, in accordance with the Council's adopted 'New Forest SPA Mitigation - Interim Framework'. As such, it is not possible to conclude that the development would not have an in-combination likely significant effect on the interest features of this designated site, as a result of increased recreational pressure. The proposed development is therefore contrary to the Council's adopted 'New Forest SPA Mitigation - Interim Framework', Policies COM2 and E5 of the adopted Test Valley Borough Revised Local Plan (2016) and the Conservation of Habitats and Species Regulations 2017 (as amended).**
- 2. The proposed development by means of its nature, location and scale could have likely significant effects upon the nearby Solent and Southampton Water European Designated Site which is designated for its conservation importance. Insufficient information has been submitted with the application to allow the Council to reasonably carry out an appropriate assessment of the application**

as required under Regulation 63 of the Habitats Regulations. In the absence of information relating to the development achieving nutrient neutrality or onsite/off site mitigation, the applicant has failed to satisfy the Council that the proposal would not adversely affect the special interest of the Solent and Southampton Water European Designated Site, therefore the application is contrary to Policies COM2 and E5 of the adopted Test Valley Borough Revised Local Plan (2016) and the Conservation of Habitats and Species Regulations 2017 (as amended).

**Notes 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.