

TOWN AND COUNTRY PLANNING ACT 1990 (AMENDED)

APPEAL BY D & K CONTRACTING SERVICES LIMITED

**AGAINST REFUSAL OF PLANNING PERMISSION BY HAVANT BOROUGH
COUNCIL OF PLANNING APPLICATION: APP/21/014041**

AT

LAND BETWEEN 26 AND 32 PADNELL ROAD, WATERLOOVILLE, PO8 8DZ

AUGUST 2022

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Appendices

- Appendix 1: Decision Notice: reference: APP/21/01041, dated 12 May 2021 (The Refused Application)
- Appendix 2: Officer Report relating to the determination of planning application: APP/21/01041 (The Refused Application)
- Appendix 3: Annotations to the Proposed Site Plan (Drawing Number: 2021/04 Rev A), which show that two vehicles can safely manoeuvre past each other within the site itself.
- Appendix 4: Nitrogen Budget Calculation based on the most up-to-date calculation.

1. Introduction

1.1 This appeal is made under Section 78 of the Town and Country Planning Act 1990 against the refusal of an application for planning permission by Havant Borough Council (hereafter referred to as “the Council”), in their capacity as the Local Planning Authority (hereafter the LPA). The appeal is submitted on behalf of D & K Contracting Services Limited (“the Appellant”).

1.2 The application (hereafter the “Refused Application”), was submitted to Havant Borough Council on 10 September 2021 and refused on 28 February 2022. This was assigned the reference: APP/21/01041 and relates to the land between 26-32 Padnell Road, Waterloo, Hampshire, PO8

1.3 The Refused Application sought permission for a development with the following description:

“Erection of 2No.3bed and 2No. 2bed dwellings associated parking and bin/cycle stores.”

1.4 The Decision Notice confirming the refusal of planning permission and the reasons for this is enclosed at Appendix 1, and a copy of the Officer’s Report is enclosed at Appendix 2.

1.5 The five Reasons for Refusal provided on the Decision Notice are as follows:

1. ***The proposed development would result in an undesirable form of backland development out of keeping with the pattern and layout of the area, which is characterised by linear frontage development having open aspect spacious gardens. The introduction of two rear dwellings with associated access, parking and turning, would give rise to a scale and mass of development out of keeping with the of the area and visually harmful to neighbouring residents and the street scene. The proposal is considered to be at variance with local context and therefore contrary to Havant Borough Council Design Guide SPD 2011, policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.***
2. ***The siting and layout of the proposed backland development, with access drive, parking and turning areas close to shared boundaries, would give rise to additional comings and goings, with associated noise and disturbance, and light pollution, harmful to the quiet amenity of adjacent occupiers at 26 and 32 Padnell Road. In addition the siting, bulk and mass of the rear plots would result in an overbearing dominant effect with loss of outlook and privacy, and some associated overshadowing, to the occupiers of the adjacent dwellings, harmful to their amenity. The proposal is therefore considered harmful to residential amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.***
3. ***Given the small size of the garden of plot 1 and its siting adjacent vehicle movement areas, it would not provide future occupiers with a satisfactory standard of quiet usable amenity space. In addition the gardens of plots 3 & 4***

would be largely overshadowed by protected trees giving rise to dark and unsatisfactory gardens for these plots. Overall the standard of living for future occupiers of plots 1, 3 & 4, would be compromised and unsatisfactory, harmful to their amenity, contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Design Guide SPD 2011 and the National Planning Policy Framework.

- 4. It has not been adequately demonstrated that the site has appropriate visibility or sufficient internal carriage way width for 2 vehicles entering/exiting the site. The on site parking is an over provision resulting in an excessive frontage hard surfaced area dominating the appearance of the site; and no secure cycle storage is provided for plots 3 & 4. The on site refuse storage and collection points do not meet standards and would not function appropriately. Overall the on site parking, cycle storage and refuse collection arrangements would not provide an adequate standard of accommodation for future residents, and the proposal is contrary to policies DM13 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, Havant Borough Council Borough Parking SPD 2016 and the National Planning Policy Framework.*
- 5. In the absence of a Habitats Regulations Assessment and suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent European Sites. The development would be likely to result in increased recreational pressures from future residents and impact on the water environment and as such, it is contrary to Policy DM24 of the Havant Borough Local Plan (Allocations Plan) 2014, policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, emerging Policy E16 and EX1 of the Submission Havant Borough Local Plan, The Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework.*

1.6 In light of the Council's decision and the reasons for refusal set out above, we consider the following to be the key issues:

- The principle of backland development and whether/how this would impact on the character and appearance of the area (Reason for Refusal 1);
- Whether the development is in-keeping with the pattern and layout of the area (Reason for Refusal 1)
- Whether, as a result of the scale and massing of development and the introduction of parking and turning areas towards the rear of the site, there would be harmful impacts on neighbouring residential properties and the street scene (Reason for Refusal 1)
- Whether or not there would be disturbance to the amenity of neighbouring residential properties (Reason for Refusal 2)
- Whether the proposed development would result in overbearing and dominant effect on neighbouring properties (Reason for Refusal 2)
- Whether there would be loss of outlook and privacy or overshadowing effects on neighbouring properties that would be harmful to amenity (Reason for Refusal 2)
- Whether the amenity space provided at Plot 1 would be of a sufficient size and quality (Reason for Refusal 3)

- Whether the gardens of Plot 3 and Plot 4 would receive sufficient levels of lighting (Reason for Refusal 3)
- Whether or not there would be sufficiently high levels of amenity for the prospective occupiers of dwellings at Plot 1, Plot 3 and Plot 4 as a result of the size and/or levels of lighting of the garden areas associated with these dwellings (Reason for Refusal 3).
- Whether adequate visibility or internal carriageway width are sufficient/appropriate for the proposed development (Reason for Refusal 4)
- Whether the on—site vehicle parking provision would be appropriate, or whether the proposed development would result in an overprovision of a hard surfaced frontage areas within the proposed development (Reason for Refusal 4)
- Whether the level and nature of vehicle parking provision would be appropriate (Reason for Refusal 4)
- Whether the provisions of any potential legal agreement are sufficient and suitable to ensure that there would not be any significant impact on the Solent European Sites (Reason for Refusal 5).

1.7 Section 6 of this Statement seeks to address all relevant planning considerations, and specifically those listed above, prior to drawing conclusions as to the merits of the appeal.

2. Site Description and Context

- 2.1. The application site relates to an open parcel of land located on the south side of Padnell Road, opposite St Wilfrid's church. It has been known locally as "Joeys Field" for many years, although it is notable that the land is privately owned, and is neither accessible to or visible by the public and is not accessible to the general public. It comprises a gap in an otherwise continuously built-up frontage within the defined urban area, close to the Cowplain District Centre. The site area extends to some 0.107 ha. There have been no known permanent structures on the site since at least the 1950s and as such the site is not considered to be previously developed land as defined by the NPPF.
- 2.2. The site is primarily open and grassed land with the recent addition of some building materials including rubble etc. Formerly the site was wooded, but the trees were felled in Spring 2020. The site is currently secured to the Padnell Road frontage with high wooden boarding and gates; and the perimeter enclosed with 2m high close boarded fencing. In addition, across the centre of the site is a green railing fence. The site slopes down to the south with mature trees beyond the site boundary which are the subject of an Area Tree Preservation Order. These fall within the grounds of Padnell infant and junior schools directly to the south.
- 2.3. Either side of the Appeal Site are private dwellings – Number 32 Padnell Road directly to the east is a detached chalet style bungalow sited close to the shared boundary with the Appeal Site. Number 26 Padnell Road directly to the west is a semi-detached two storey dwelling. A single storey garage is built right up to the shared boundary with the Appeal Site.
- 2.4. The southern side of Padnell Road is generally characterised by detached and semi-detached dwellings which are of a varied scale, massing and character. The northern side of the road includes two larger buildings of St Wilfrid's Church and the large block housing retirement apartments at Nightingale Lodge. These developments are of a similar two storey height and scale but also extend much deeper into the site than the surrounding residential properties.
- 2.5. There are no parking restrictions directly outside the application site, although there is a stretch of double yellow lines directly outside the church. Padnell Road is unclassified. A Southern Water surface water drain runs close to the eastern boundary of the site, which requires that a 3 metre easement is maintained across the area of the Appeal Site up to and adjoining the eastern boundary.
- 2.6. The site is not in a Conservation Area, nor is it listed or in the vicinity of any listed buildings. The site is in Flood Risk Zone 1.
- 2.7. The site is approximately 200 metres to the east of Cowplain District Centre which provides convenient access to a wide range of amenities, including the Co-operative Supermarket, a pharmacy, GP surgery and a number of other specialist independent retailers.

- 2.8 The nature of the location means that there is good access to a wide range of local services and public transport links. The Number 37 bus route runs past the site along Padnell Road, and provides a link between Havant Bus Station and Petersfield Railway Station via Crookhorn Precinct, Waterloo Precinct, Horndean Precinct, and Tesco, Petersfield. Services run hourly throughout the day and every one and a half hours on Saturdays, while bus route 8* runs approximately 300 metres from the site, where it can be accessed from bus stops on London Road. The route runs between The Hard, Portsmouth and Clanfield Drift Road via Hilsea, Queen Alexandra Hospital, Waterloo Precinct and Horndean Precinct. This service runs every 15 minutes on weekday daytimes and every 20 minutes on Saturdays and Sundays.
- 2.9 The close proximity of the site to this range of amenities which also includes primary and secondary schools within easy walking distance, makes this a highly sustainable location where prospective residents would have convenient access to these facilities within walking distance, thus limiting the need for private car journeys.

3. Planning History

Site History

- 3.1. As of August 2022 there is another live appeal (ref: APP/X1735/W/21/327961), relating to the refusal of planning application (ref: APP/21/00024), in May 2021. This also relates to the appeal site.
- 3.2. Despite the appeal being submitted in June 2021, and formally commencing on 15th December, this remains under consideration as of August 2022. Due to the differences between the schemes and the fact that the initial appeal has been under consideration for some time it is not considered that there is any reason to link this and the current appeal.
- 3.3. Prior to the submission of planning application: APP/21/00024 in January 2021, there are no other records of planning applications relating to this particular site. However, there are other planning application records relating to other properties in the vicinity of the appeal site which may also have some relevance to the consideration of this appeal.

Other Sites

- 3.4. It is acknowledged that an appeal (ref: APP/X1735/W/21/3271208), which was dismissed in January 2022, following the refusal of planning permission for a detached bungalow to the rear of 23 Padnell Road, to the north of the Appeal Site. This followed the refusal of planning application: APP/20/01026 in October 2020.
- 3.5. However, this is not considered to be directly comparable to the scheme to which this appeal relates. The site at 23 Padnell Road is significantly smaller than the appeal site, and is currently a single detached dwelling, whereas the Appeal Site currently represents a gap between existing residential properties to either side of the site.
- 3.6. At the neighbouring property to the east (32 Padnell Road, planning permission was approved for a development described as:

Two storey rear extension and provision of dormer windows to the front elevation (revised submission)
- 3.7. This was approved following an appeal which was allowed in March 2004, following refusal of the planning application reference: 03/68236/001, in September 2003.
- 3.8. It is also relevant that the property at 20 Padnell Road to the west of the site has been redeveloped as a larger house. The planning records relating to this date from 2005 (ref: 05/70664/000 when planning permission was granted on 17 June 2005 for development described as:

Demolition of existing dwelling on site and erection of a replacement 3 bed dwelling with associated car parking utilising an altered access to Padnell Road.

- 3.9 It is also notable that an appeal against the refusal of planning application 06/71368/001 which sought consent for development described as:

Demolition of 36 Padnell Road and erection of 5 no. 2 and 3 bedroom dwelling houses, detached garages and car port and new access to Padnell Road.

- 3.10 This was then the subject of an appeal (ref: APP/X1735/A/07/2055809/NWF), which was determined in January 2008. The appeal decision was issued on 22nd January 2008 when the Inspector concluded that while the appeal was dismissed, the scheme, which would have resulted in a significantly larger development, did not represent a form of development that should be resisted in principle. The specific characteristics of that particular scheme led the Inspector to conclude that what was proposed would compromise the quality of the environment and would fail to take the opportunities available to improve the character and quality of the area and the way it functions.

4. The Refused Application

- 4.1 The Refused Application sought planning permission for Erection of 2No.3bed and 2No.2bed dwellings associated parking and bin/cycle storage.
- 4.2 The building frontage would be set back approximately 18 metres from the rear of the footway. A parking courtyard is proposed in this area between the site frontage on to Padnell Road and the front elevation of the proposed dwellings at Plots 1 and 2. 6 parking spaces would be provided in this area. The proposed building would present to the highway with a hipped roof and front gable feature constructed of a mix of render and facing brick.
- 4.3 An additional parking area would be provided to the rear of the proposed dwellings at Plot 1 and Plot 2, which would provide vehicle parking spaces for Plot 3 and Plot 4.
- 4.4 A bin storage area is proposed in the north-eastern corner of the site adjacent to the highway, while cycle storage areas would be provided within the ground of the proposed dwellings.

5. Planning Policy Considerations

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the determination of planning applications to be made in accordance with the statutory development plan, unless material considerations indicate otherwise. Where there is a difference in policy, Section 38(5) requires that the most recently adopted policy takes precedence.
- 5.2 The Government revised the National Planning Policy Framework (NPPF) in July 2021. This provides the overarching framework for planning policy at the national level. A key theme of this is to promote sustainable development through the planning process.
- 5.3 The documents that form the statutory Development Plan for Havant Borough Council are:
- Havant Borough Local Plan (Core Strategy) March 2011
 - Havant Borough Local Plan (Allocations) July 2014
- 5.4 The emerging local plan, The Havant Borough Local Plan was submitted for examination to the Secretary of State for Housing Communities and Local Government on 12 February 2021. This draft plan was formally withdrawn on 16 March 2022. This is therefore no longer a material consideration in the determination of planning applications or this appeal.
- 5.5 While not part of the development plan, Supplementary Planning Documents (SPD), are a material consideration in the determination of planning applications. In this instance, the Havant Borough Council Borough Design Guide SPD (December 2011) and Havant Borough Council Parking SPD (July 2016) are of relevance.
- 5.6 The Reasons for Refusal generally cite non-compliance with policies in the Havant Core Strategy, the Submission Local Plan (subsequently withdrawn), the Borough Design Guide SPD and the NPPF. Specifically, Reasons for Refusal 1 and 2 refer to Policy CS16 of the Havant Core Strategy which is entitled, 'High Quality Design'. This policy states that planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. It requires that all development should demonstrate that its design:

Responds to, [and] draws inspiration from and respects local context and:

- a) Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site;*
- b) Integrates with existing local landscape features, promotes wildlife and biodiversity and/or applies characteristics of the local area into the design of a scheme wherever possible to create variety and interest;*
- c) Uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors;*

- d) *Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible; and*
- e) *The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.*

- 5.7 The policy criteria set out above include responding to local context, reflecting the characteristics of the area such as the height, massing and proportions of building features, and contribution to the street scene including its relationship with existing built form. Development is to avoid over-dominance and not cause unacceptable harm to the amenity of neighbouring properties.
- 5.8 By their nature these criteria require a judgement to be made as to what represents 'high quality design' and whether there are specific aspects of the proposed development which are of a sufficient quality. The Appellant considers that the proposed development is consistent with this policy and that all of the relevant criteria have been satisfied.
- 5.9 Reasons for Refusal 1 and 2 also refer to the Havant Borough Design Guide SPD (December 2011). Chapter 5 of the Borough Design Guide SPD sets out specific design guidance for residential developments.
- 5.10 Paragraph 5.10 considers development proposals' impacts on existing properties' sunlight. It sets out that the 'extensive obstruction of sunlight to an existing property or its garden by the construction of a new building is likely to be unacceptable'.
- 5.11 Paragraphs 5.13 contains guidance on the provision of Private Residential Amenity spaces for houses. This states that:
- "the garden of a two storey home should be a minimum of 10 metres in length to provide appropriate daylight to minimise overlooking."* It also goes on to state that: *"Clearly there may be exceptions to this rule, depending on the local context, for example in urban areas there may be a historic pattern of development that dictates otherwise, such as three storey townhouse served by small courtyards of 10 metres rather than large gardens of 14 metres plus."*
- 5.12 The SPD contains guidance entitled, 'Accommodating the Car' (Paras 5.18 – 5.21). This sets out that the layout of schemes should not be dominated by the car or highways. It asserts that parking to the rear should be avoided and that the design of new developments should encourage access to homes from the primary street.
- 5.13 Paragraph 5.25, 'Residential Backland and Infill Developments' sets out at para 5.25 that development of infill sites should not have an adverse effect on neighbouring properties, should maintain and enhance the existing character and quality of an existing area and should create pleasant and attractive places to live.

- 5.14 It is not considered that the proposed development would be contrary to any aspect of the guidance contained within the Design Guide SPD.
- 5.15 The third Reason for Refusal also makes reference to Policy CS16 of the Core Strategy, the Design Guide SPD and the NPPF.
- 5.16 Reason for Refusal 4 again makes reference to Policy CS16, as well as Policy DM13 which is entitled: Car and Cycle Parking on Residential Development. This states that:
- “Residential development will only be permitted where it provides car parking and cycle storage in accordance with the standards set out in the Residential Car Parking and Cycle Provision Supplementary Planning Document.”*
- 5.17 Reason for Refusal 5 relates to the absence of mitigation measures against the impact of development on Solent European Sites.
- 5.18 It is acknowledged that the applicant has indicated a willingness to enter into a legal agreement to secure the appropriate mitigation against the impact of the proposals on the Solent European Sites arising due to the increase in recreation pressure and decrease in water quality arising due to the presence of four new dwellings. However, in the absence of a Habitats Regulations Assessment including an Appropriate Assessment of the impact on the Solent European Sites, the Local Planning Authority has determined that the non-provision of the avoidance and mitigation packages for both recreational disturbance and impact on water quality as a reason for refusal as contrary to policies CS11, CS21 and DM24.
- 5.19 While it is acknowledged that in the absence of a legal agreement, a potential conflict with policies CS11, CS21 and DM24 it is not considered necessary to rehearse the content of these policies, since the provision of an appropriately worded Unilateral Undertaking would be sufficient to address the reason for refusal.
- 5.20 The NPPF is also referred to in the Reasons for Refusal, although neither the Decision Notice nor the Officer Report specifies which areas of the Framework the proposal has been assessed as being inconsistent with or contrary to.
- 5.21 Aside the policies cited in the Reasons for Refusal, the full range of policies in the Development Plan and other material considerations in the assessment of the original application and in determining this appeal. The other potentially relevant policies and material considerations are set out below.

Havant Borough Local Plan Core Strategy

- 5.22 Policy CS9, ‘Housing’ sets out a range of priorities for how the provision of 6,300 homes should be delivered. This includes requirements for new development to be provided at suitable densities and that a mix of dwellings are provided.

- 5.23 Policy CS17, 'Concentration and Distribution of Development within the Urban Areas' requires that development makes effective use of land, and that new housing and other uses should be concentrated in the urban areas of the Borough. These include Waterloo. These include Waterloo.
- 5.24 Policy CS21, 'Developer Requirements' sets out that where appropriate the Council will seek on-site provision or financial contributions to ensure the timely off-site or on-site delivery of infrastructure.
- 5.25 Policy DM10, 'Pollution' sets out that development that may cause pollution, such as noise, will only be permitted where relevant criteria can be met.

NPPF

- 5.26 The following areas of the NPPF are of particular reference to the consideration of this appeal. Since it is acknowledged in the Officer Report (see Paragraph 7.4), that the Council is unable to demonstrate a five year supply position in the Borough, the presumption in favour of sustainable development applies.
- 5.27 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. It states that plans and decisions should apply a presumption in favour of sustainable development. It sets out that for decision taking this means:
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 5.28 Footnote 8 sets out that out-of-date policies include those relating to housing provision where the LPA cannot demonstrate a five year supply of deliverable housing sites. The Borough's five year housing land supply was updated in February 2021, and as acknowledged in the Officer Report, the Council has 4.2 years supply with a 20% buffer applied. This is below the five year supply threshold and as such, Paragraph 11d) of the NPPF applies, as above.
- 5.29 Chapter 11 of the NPPF is entitled, 'Making effective use of land'. Paragraph 119 is set out as follows:
- "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land."*

5.30 Paragraph 120 sets out that planning policies and decisions should:

- e) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*
- f) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)*

5.31 While this does not represent previously developed land, the latter part of Paragraph 118 is particularly relevant to the consideration of this application.

5.32 Paragraphs 124 and 125 of the NPPF are of particular relevance to the consideration of this appeal. Paragraph 124 requires that planning policies and decisions should support development that makes efficient use of land, taking into account the following factors:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed, attractive and healthy places.*

5.33 Paragraph 125 also contains important statements of policy which are highly applicable to the consideration of this appeal. The paragraph in its entirety reads as follows:

Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

- a) plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate;*

- b) *the use of minimum density standards should also be considered for other parts of the plan area. It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and*
- c) *local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).*

5.34 It is also important to note the direction provided by Paragraph 111 which relates to the consideration of highways matters when determining planning applications. This states that:

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

5.35 Notwithstanding the fact that the proposed development is generally in accordance with all of the relevant policies relating to highways matters, it is clear that the scheme would not have a severe impact on the road network.

6 The Case for the Appellant

6.1 Based on the five Reasons for Refusal set out in the Decision Notice, the main issues under consideration in this appeal are those set out at 1.6 above. These are as follows:

- *The principle of backland development and whether/how this would impact on the character and appearance of the area (Reason for Refusal 1);*
- *Whether the development is in-keeping with the pattern and layout of the area (Reason for Refusal 1)*
- *Whether the proposed development would result in noise, disturbance and/or light pollution to adjacent occupiers (Reason for Refusal 2)*
- *Whether the proposed development would result in overbearing and dominant effect on neighbouring properties (Reason for Refusal 2)*
- *Whether there would be loss of outlook and privacy or overshadowing effects on neighbouring properties that would be harmful to amenity (Reason for Refusal 2)*
- *Whether the amenity space provided at Plot 1 would be of a sufficient size and quality (Reason for Refusal 3)*
- *Whether the gardens of Plot 3 and Plot 4 would receive sufficient levels of lighting (Reason for Refusal 3)*
- *Whether adequate visibility or internal carriageway width are sufficient/appropriate for the proposed development (Reason for Refusal 4)*
- *Whether the on—site vehicle parking provision would be appropriate, or whether the proposed development would result in an overprovision of a hard surfaced frontage areas within the proposed development (Reason for Refusal 4)*
- *Whether the level and nature of vehicle parking provision would be appropriate (Reason for Refusal 4)*
- *Whether the provisions of any potential legal agreement are sufficient and suitable to ensure that there would not be any significant impact on the Solent European Sites (Reason for Refusal 5).*

6.2 These are discussed, in turn, below, although as is evident from the text, many- aspects of these are interrelated.

The Principle of Backland Development

6.3 The first of the reasons for refusal states that the proposals “*would result in an undesirable form of backland development*”. The implication of this is that it has been determined that any form of backland development is by definition undesirable. However, it is not considered that this is the case or that any form of backland development should be considered undesirable or harmful to the character of the area. It is acknowledged in the Design Guide SPD that backland development can take many different forms and that this may be acceptable.

- 6.4 It is maintained that each development of this nature should be considered on its merits and there should not simply be a presumption against development where there is no frontage on to the public realm.
- 6.5 In this case, it is important to distinguish between the Appeal Site where there is not any existing residential property in situ. This is more akin to the infilling of a gap site than typical backland development which can be problematic where all aspects of the design are determined by the existing building. In light of this, the proposed development can be considered differently to what is widely known as backland development. The position of the dwellings in this instance has sought to provide a degree of continuity as far as the frontage onto Padnell Road is concerned, while the dwellings to the rear have been positioned so as to make effective use of the site.
- 6.6 The layout of the proposed development has sought to make efficient use of the site as required by Paragraph 124 of the NPPF, which results in built form being spread across the site, rather than this being limited to the frontage alongside Padnell Road. It is considered that the proposed development would make effective use of the appeal site whilst ensuring that the spacing between buildings is sufficient and appropriate in the context of this location. While the prevailing built form to the south of Padnell Road is of a lower density, it is not necessary to replicate this in all development. Indeed, the proposals would result in a greater variety of built form and plot sizes which would be beneficial rather than detrimental to the character and appearance of the area.
- 6.7 It is therefore considered that this represents an appropriate form of development in the context of the site and its location, and that rather than opposing any dwellings sited to the rear of the existing building line (regardless of how well they relate to the site itself), it would have been more appropriate for the Council to recognise that this particular arrangement makes effective use of the site and ultimately represents sustainable development.
- 6.8 Should the Inspector disagree with this position, it is not considered that the siting and alignment of the proposed dwellings would represent significant or demonstrable harm which would be sufficiently harmful to outweigh the tilted balance in favour of sustainable development.

Whether the development is in-keeping with the pattern and layout of the area

- 6.9 The Officer Report (Paragraph 7.8), highlights the fact that at present each of the residential properties in this area has “*an open aspect and sense of spaciousness to the rear.*” This goes on to state that:
- “The introduction of a pair of semi-detached chalet style dwellings into the rear areas, aligned with the open private gardens of adjacent dwellings, would not be in keeping with the pattern of development in the area.”*
- 6.10 While dwellings sited to the rear of the main building line are generally not in evidence elsewhere in the immediate vicinity of the appeal site, the mere presence of buildings to the rear of the main building line on the southern side of Padnell Road is not necessarily harmful

to the character of the area. It is also notable that Plots 1 and 2 are designed so as to respond to and reflect the prevailing character of the area in terms of maintaining a frontage on to Padnell Road. This part of the proposed development, which is the most visible and which makes the greatest contribution to the character and appearance of the area, can be considered in keeping with the area, particularly in visual terms. The area towards the rear of the site can be considered differently, particularly since it is more contained and would have a more limited visual impact than that towards the front of the site.

- 6.11 While there are not generally separate dwellings sited to the rear of the main building line, it is notable that there are a number of domestic outbuildings sited to the rear of the main dwellings. While these domestic outbuildings are largely single storey and not necessarily comparable in terms of their scale and function, their presence provides a context in which proposals for development must be considered.
- 6.12 Moreover, it is evident that these relatively modest buildings which would not be visible from the public realm, would have a limited visual impact on the character of the area. The chalet style buildings would be of limited bulk and mass which makes them subordinate to those towards the front of the site. This would prevent them from being visible from the public realm and as such would limit the prospect of any harm to the character and appearance of the area.
- 6.13 The prospect of any harm as a result of the alignment of the buildings is therefore extremely limited, and it is certainly not the case that the impact of this form of development could be considered significant (as it would need to be in order to outweigh the presumption in favour of sustainable development set out in Paragraph 11(d) of the NPPF), nor in the event that the alignment and siting of the buildings were to be considered harmful, would any such harm be considered demonstrable.

Whether the proposed development would result in noise, disturbance and/or light pollution to adjacent occupiers

- 6.14 Reason for Refusal 2 cites the prospect of harm to amenity from increased activity associated with the “comings and goings” to and from residential properties via the access drive that it is proposed will run alongside the eastern boundary of the site. However, contrary to the assertion in Paragraph 7.15 of the Officer’s Report, it is not considered that the prospect of noise and disturbance from vehicle movements would be sufficiently harmful to warrant refusal of planning permission, particularly in the context of a pressing need for housing and the suitability of this site for providing new residential development.
- 6.15 The Appellant disagrees with this assessment of the impact of the proposed development and the conclusions reached by the LPA about how the scheme would affect the amenity of these existing residential properties. Any vehicle movements associated with two new residential properties would be limited in number and would not result in significant disturbance to amenity. There would certainly not be an excessive number of vehicle movements resulting from the presence of two modestly-proportioned dwellings. The ‘comings and goings’ cited as being detrimental to amenity would not be excessive or out of the ordinary in a residential area, particularly when compared to the generous areas of parking at existing residential properties in the vicinity where it is reasonable to expect there to be a number of regular

vehicle movements as part of the operation of a residential area. It is not considered that the presence of residential properties in this part of the site would result in levels of noise, disturbance or light pollution that would be over and above that associated with a residential context, and there is not considered to be harm to the amenity of the neighbouring residential properties as a result.

- 6.16 Furthermore, since officers main concerns relate to the activity associated with the use of the buildings adjacent to rear gardens rather than their presence, it must be noted that any noise and disturbance associated with the normal use of residential properties would not necessarily be greater than that associated with outbuildings or ancillary structures. Lawn mowers or gatherings in a rear garden have as much potential for disturbance as residents simply entering or leaving a property even when this involves movements by vehicles. None of this would be unreasonable or would represent unacceptable impacts on residential amenity.
- 6.17 Should the Inspector consider that there is harm to amenity as a result of noise, disturbance or light pollution, then it is not considered that this would be considered significant, nor would it be demonstrable that there would be harmful effects on neighbouring residential properties. In light of this, any alleged harm to amenity would not individually or cumulatively when considered alongside other factors, outweigh the presumption in favour of sustainable development.

Whether the proposed development would result in overbearing and dominant effect on neighbouring properties

- 6.18 Reason for Refusal 2 suggests that by reason of their siting, bulk and massing, the proposed development would result in an overbearing, dominant effect on neighbouring properties. The Appellant disagrees with this assertion, and contends that the Local Planning Authority have taken an approach to the protection of amenity which is weighted too heavily to the preservation of the existing relationships between dwellings rather than is necessary for the protection of amenity.
- 6.19 It is correct that the proposed development would introduce new built form into areas where there are not currently any buildings, but it not the case that this would result in a dominant or overbearing relationship between the proposed dwellings towards the rear of the site and the existing residential properties to either side. Two factors which contribute towards reducing the prospect of such a relationship being present are the change in levels from north to south across the site, which results in the rear plots being at a lower level than the existing dwellings. It is also the case that the side elevation of Plot 4 does not run parallel to the boundary between the appeal site and 26 Padnell Road. Paragraph 7.7 of the Officer's Report states that the proposed dwelling at Plot 4 would only be 0.5 metres from the common boundary with the appeal site. However, this is only the case at the north-western corner of Plot 4, since both the front and side elevation steps away from the boundary and prevents or at worse reduces the prospect of there being an overbearing relationship which may have been a possibility had the side elevation of the dwelling at Plot 4 extended up to the boundary.

- 6.20 In addition to their well-considered siting, the roof form of the proposed dwellings ensures that these do not have a dominant relationship with the neighbouring properties. The resulting relationship will of course be different from the current situation where the appeal site represents an area of open ground. However, it is not true that an overbearing or dominant relationship will occur simply as a result of the presence of new built form within the site. The change in the character of the site and the relationship between the appeal site and the neighbouring dwellings will not necessarily be harmful to the amenity of neighbouring properties.
- 6.21 Furthermore, the absence of any upper floor windows in the western elevation of Plot 4 prevents there being any prospect of overlooking which may otherwise have contributed towards a perception that the proposed dwellings had an overbearing effect on the neighbouring property at 26 Padnell Road. The same is true about the relationship between the appeal site and 32 Padnell Road where there is a substantial gap which would remain between the side elevation of the proposed dwellings and the common boundary with the residential property to the east.
- 6.22 Overall, the spaciousness of the rear garden areas which the Officer Report notes is a feature of the appeal site and its immediate surroundings, is something that ensures that there is scope for this modest degree of intensification and capacity to accommodate four dwellings without there being an overbearing or dominant relationship with neighbouring properties.
- 6.23 Should the Inspector consider that any aspect of the proposed development would have an overbearing or dominant relationship with the neighbouring residential properties, it is not considered that this would be to such an extent that it would result in harm to amenity that would significant or demonstrably outweigh the benefits of the provision of new housing in a sustainable location.

Whether there would be loss of outlook and privacy or overshadowing effects on neighbouring properties that would be harmful to amenity

- 6.24 The Officer's Report suggests at Paragraph 7.19 that there would be some early morning shading to the rear garden of 26 Padnell Road, and late afternoon shading to the garden of 32 Padnell Road. It suggests that the overshadowing to private garden areas would 'further erode' the level of amenity enjoyed by residents of these neighbouring residential properties. It is notable that the same paragraph acknowledges that there would not be any loss of sunlight to habitable rooms, and that the overshadowing issue therefore relates solely to some limited areas of the gardens at certain times of day. While it is acknowledged that there would be some limited overshadowing of parts of these residential gardens as a result of the proposed development, it is evident that these gardens are extensive and generously-proportioned. While any reduction in amenity as a result of overshadowing may impact on how these spaces are used, it does not ultimately detract from the ability of the residents to enjoy their south-facing rear garden areas, the majority of which would remain completely unaffected for the majority of the time.
- 6.25 In terms of outlook and privacy, Paragraph 7.17 of the Officer's Report suggests that the main issue relates to the first-floor windows in the front elevation of Plot 4, and the impact that these would have on the rear elevation of 26 Padnell Road. This paragraph acknowledges that

these windows would be obscure glazed but maintains that *“their very presence in the bulk and mass of a substantial pair of semi-detached dwellings would have a significant presence and be highly visible from the rear of number 26, harmful to their outlook and sense of privacy.”*

- 6.26 It is not considered that the presence of obscure glazed windows would have any tangible impact on the amenity of neighbouring residential properties in terms of outlook and privacy. In addition, the Appellant disagrees that mere presence of the proposed buildings would be detrimental to either outlook or privacy. Both of the neighbouring properties directly to the east and west of the appeal site, as well as other properties in the vicinity, benefit from a wide outlook towards the mature trees to the south. All would continue to experience unobscured immediate outlook and there would be no prospect of actual (as opposed to perceived), impacts on privacy from obscure glazed windows. Appropriately worded conditions would ensure that this remained the case.
- 6.27 Since there would be no direct obstruction to the windows of habitable rooms in neighbouring properties, any impacts from the proposed development would be on private views, which unlike outlook would not be material planning considerations.
- 6.28 Should the Inspector consider that there would be harmful impacts on neighbouring properties as a result of the proposed development, it is not considered that this would be significant, and as such would not outweigh the benefits of the provision of new housing and the presumption in favour of sustainable development that this represents.

Whether the amenity space provided at Plot 1 would be of a sufficient size and quality

- 6.29 The proposed development would provide a total of 42 square metres as amenity space for Plot 1. While the configuration and dimensions of this area would not necessarily accord with the requirements of the Council’s Design Guide SPD, particularly in relation to the depth of the garden area, it is notable that this is not necessarily intended to be applied rigidly. Furthermore, despite it being more limited in size than the external amenity areas that would be provided for Plots 1, 3 and 4, this would provide a garden that compares favourably with many residential areas, particularly those in urban settings where the minimum external amenity space required for a three-bedroom dwelling is between 6 and 8 square metres¹
- 6.30 It is also notable that residential properties in this area benefit from close proximity to a wide range of areas of open space. The recreation ground immediately adjacent to Padnell Junior School is no more than 200 metres from the appeal site. There would be safe and level access between these this extensive area of open space where there are sports pitches and an equipped children’s play area as well as opportunities for informal recreation. In addition, Padnell Cut Woods provides an alternative area for outdoor recreation which is approximately 400 metres to the east of the appeal site. This also links into the wider network of public rights of way, including those at Hazelton Common, which is an additional 400 metres further to the north.

¹ Based on the London Plan standards for external amenity space which require a minimum provision of 5m² for one and two-bedroom dwellings and an additional 1m² for each additional occupant.

- 6.31 It is ultimately considered that in this context, the rear garden area at Plot 1 would be sufficient for providing day-to-day needs of prospective occupiers, and is sufficient as play space for young children, while the close proximity and accessibility of the alternative and more extensive areas of open space referred to above would provide for informal play needs of older children and adults.

Whether the gardens of Plot 3 and Plot 4 would receive sufficient levels of lighting

- 6.32 The main contention behind this is that the Local Planning Authority do not consider that the rear garden areas of the proposed dwellings at Plot 3 and Plot 4 would receive sufficient levels of lighting. It is asserted by the Local Planning Authority that the presence of protected trees along the southern boundary of the site. While there are mature trees in this location, their presence, and the depth of the gardens would not be to the detriment of the quality of amenity space provided. The southerly aspect and modest proportions of the proposed dwellings would ensure that these spaces receive acceptable levels of lighting.
- 6.33 It is evident in Photograph 1 below that the tree cover at the southern boundary of the site is not so extensive that it would be detrimental to the levels of lighting that the proposed dwellings at Plot 3 and Plot 4 would receive.



Photograph 1: View towards the rear of the site where the trees adjoining/forming part of the southern boundary are evident.

- 6.34 It is acknowledged that the depth of the rear gardens here would be below the threshold of 10 metres identified as a requirement in the Council's Design Guide SPD. However, as is evident from the labelling in Drawing No: 2021/04 (Proposed Plans), the gardens at these plots

would have a depth of 9 metres which would represent a modest shortfall relative to that required in the guidance. This would provide a sufficient level of external amenity space for prospective residents.

Whether adequate visibility or internal carriageway width are sufficient/appropriate for the proposed development

- 6.35 Reason for Refusal 4 has been applied on the basis that the Local Planning Authority are not satisfied that sufficient information has been provided to demonstrate that the proposed access would enable there to be safe access and egress to and from the appeal site. The primary concerns are evidently those relating to visibility from vehicles undertaking manoeuvres out of the site and whether the width of the access would be sufficient to enable two vehicles to pass side-by-side.
- 6.36 The latter point has now been addressed through the provision of annotations to the proposed site plan (Drawing Number: 2021/04 Rev A), which show that two vehicles can safely manoeuvre past each other within the site itself. This drawing is enclosed as **Appendix 3** of this Statement.
- 6.37 In terms of visibility, it is not possible to achieve the visibility splay of 2.4 x 59 metres. This is typical of properties in the vicinity of the site, where it is generally the case that similar access arrangements are provided to that at the appeal site.
- 6.38 Other private accesses at Padnell Road are similar in nature to that at the appeal site, and it is notable that while these generally relate to single dwellings, there is no record of any collisions at any point along this stretch of Padnell Road. There is no reason to believe that the proposed access will be any less safe than the very substantial number of private drives along Padnell Road.
- 6.39 As set in the Transport Statement submitted as part of the planning application, the four houses would generate peak period outbound flows which are no greater than those associated with an individual house. While there would be a greater number of parking spaces within the site than the neighbouring residential properties, this does not necessarily impact on the intensity or nature of the use of the junction. Indeed, the number of parking spaces within does not necessarily reflect or determine the maximum hourly flow of vehicle movements using the junction.
- 6.40 In addition, a comparison with the access arrangements at the nearby Padnell Junior School shows that this would not achieve the preferred visibility of 2.4m x 59m.
- 6.41 Therefore, while it would not be possible to achieve the level of visibility sought by Hampshire County Council in their capacity as the Highways Authority, it is evident that the proposed access would be comparable to the substantial number of existing private access arrangements elsewhere in this part of Padnell Road. There are no records of collisions resulting from vehicles using these to manoeuvre to or from Padnell Road.

- 6.42 It is also notable that Hampshire County Council in its capacity as the Highways Authority did not raise any objection to the recent application for 6 flats which was refused in May 2021 and which at the time of writing is also the subject of an appeal (ref: APP/X1735/W/21/3279615). The proposed access arrangements for the appeal scheme are almost identical to that previously considered acceptable when the Highways Authority assessed this application.
- 6.43 On the basis that the view of the Highways Authority is that there would not be unacceptable impacts on highway safety or severe impacts on the highway network, planning permission should not be refused on highways grounds as per the direction provided by Paragraph 111 of the NPPF.

Whether the level and nature of vehicle parking provision would be appropriate

- 6.44 The Council's Parking SPD (July 2016), sets out the minimum vehicle parking requirements for particular types of housing. Table 4A sets out vehicle parking for C3 'dwellinghouses'. On the basis that the site is outside of Havant or Waterlooville Town Centre, a total of 8 no. allocated parking spaces would be required as a minimum. This is based on the requirement for 1 space per 1 bed unit, and 2 spaces per 2 bed unit.
- 6.45 Table 4B sets out the shared/communal parking (unallocated). A total of 6.2 spaces would be required on the basis that 0.9 spaces per 1 bed unit, and 1.3 spaces per 2 bed unit are required.
- 6.46 While the level of vehicle parking provision in the proposed development would represent an over provision of vehicle parking relative to the relevant areas of the Parking Standards SPD. The minimum car parking requirements for residential development are set out in Table 4B of the SPD. An extract of this, which refers to the relevant areas of the table is provided below:

Size of Dwelling Minimum Car Parking Requirement	
2 Bed Unit	1.3 spaces
3 Bed Unit	1.9 Spaces

- 6.47 These standards apply to residential development in the areas of the Borough outside of Havant and Waterlooville Town Centres. Based on these standards, the minimum requirement for vehicle parking spaces for a development of this scale and nature is 6.4 spaces. An additional 20% is required for visitor parking which takes the total requirement to 7.68 spaces.
- 6.48 A total of 10 spaces would be provided as part of the proposed development. This would result in an overprovision of 2.3 spaces, however, since the SPD sets minimum standards for vehicle parking provision.
- 6.49 Furthermore, Paragraph 108 of the NPPF makes it clear that maximum *standards "should only be set where there is a clear and compelling justification that they are necessary for managing the local road network."* In this case, there is no such need for these restrictions or any particular justification for restricting the level of parking provision.

Whether the level and nature of on-site parking, cycle storage and refuse collection arrangements would provide an adequate standard of accommodation for prospective residents

- 6.50 Reason for Refusal 4 cites the presence of an 'excessive frontage hard surfaced area' which the Local Planning Authority contends, 'dominates the appearance of the site', and more specifically the area of the site to the front of the proposed buildings. However, it is maintained that the provision of a total of six car parking spaces to the front of Plots 1 and 2 does not represent an excessively large area laid out for this purpose. In addition, its presence is not considered to be out of keeping or harmful to the street scene. The size of the car parking area is broadly comparable with the forecourt parking arrangements for other residential properties in the area. The frontage of many other properties in the vicinity of the Appeal Site are either completely or predominantly paved and a number appear to accommodate four or more parked vehicles in a range of different parking arrangements. It is evident from observation of the site and its immediate surroundings that the neighbouring property at 26 Padnell Road, immediately to the west of the Appeal Site, currently provides parking for five vehicles.
- 6.51 The linear nature of the forecourt parking area, which would be more formally arranged and set within a landscaped frontage of the property, mean that it would integrate well into the street scene. The landscaping around the proposed parking spaces would mean that it would compare favourably to the frontages at other residential properties in the vicinity. the proposals in their current form would result in the provision of off-street parking in a form that is entirely appropriate and which does not detract from the visual amenity of the area. While the Officer's Report highlights the fact that the car parking areas for Nightingale Court and St Wilfrid's Church opposite the site are provided to the rear of the buildings, it is not considered that these are comparable in terms of their scale and relationship to the street of that proposed at that site. The officer failed to comment on the substantial number of properties on Padnell Road with significant parking areas. Furthermore, it is not considered that there would be any benefit from providing additional parking to the rear of the building.
- 6.52 The Appellant therefore disagrees with the conclusion that the LPA has reached in terms of the proposal's visual impact on the street scene, which the Officer's Report acknowledges is visually appropriate and compatible with the character of the area in elevational terms when considered in the context of the street scene. It is not considered that the footprint, size, depth or siting of the proposed development would be excessive or would cause the development to be out of keeping with the pattern and character of the area.
- 6.53 In relation to cycle parking provision, Table 4D of the Parking Standards SPD sets out the requirements for cycle parking/storage provision for dwellings. Two cycle parking spaces per unit are required for the two and three bedroom dwellings that would be provided. No additional 'short stay' spaces are not required owing to the limited size of the scheme (i.e. one providing fewer than 10 dwellings). A total of 8 spaces would therefore be required.
- 6.54 The Officer Report actually acknowledges at Paragraph 7.25 that while dedicated cycle storage lockers are only provided for Plots 1 and 2, it is accepted that the gardens of Plots 3 and 4 could readily provide secure sheds for cycle storage.

Whether the provisions of any potential legal agreement are sufficient and suitable to ensure that there would not be any significant impact on the Solent European Sites

- 6.55 This matter is referred to in Paragraphs 7.34 and 7.35 of the Officer's Report, which acknowledges that the refusal of the application on other grounds has meant that no assessment of the impact of the proposed development has been undertaken. It also confirms that the matter can be resolved at the appeal stage and that the appropriate mitigation packages can be secured by a legal agreement which the applicant has indicated a willingness to enter into at the appropriate stage.
- 6.56 It is acknowledged that since the Refused Application was submitted and since it was determined, there have been changes to the approach to mitigation and the basis on how the financial contributions towards off-site mitigation measures are calculated. In light of this a new Nitrogen Budget Calculation has been provided, which provides a revised estimate of the total annual nitrogen load that requires mitigation. This is enclosed at **Appendix 4** of this Statement of Case.
- 6.57 As per Annex D of the relevant procedural guidance for planning appeals following the written representations procedure, a certified copy of the planning obligation will be submitted within 7 weeks of the Start Date of the appeal. Once the appeal has been confirmed as valid discussions will commence with the Local Planning Authority in relation to the scope of what would need to be covered by this, and the level of any financial contributions required to provide the appropriate level of mitigation as required by the Solent Recreation Mitigation Strategy.

The Planning Balance

- 6.58 The proposed development would result in the provision of four residential units which, in the context of the location of the appeal site within an urban area of the Borough, and given the housing land supply situation, the failure of the Housing Delivery Test and the recent withdrawal of the emerging Local Plan, the delivery of housing in a sustainable location represents a clear benefit of the scheme which can be afforded substantial weight.
- 6.59 The operation of Paragraph 11(d) of the NPPF is such that in these circumstances planning permission should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh benefits, when assessed against the policies in the Framework as a whole.
- 6.53 On the basis of the above, and the assessment of the nature and extent of the alleged harms identified as reasons for refusal of the application, it is not considered that this degree of harm arises or that the Local Planning Authority has demonstrated that such harms would be caused. While the Local Planning Authority has identified a limited number of areas where it contends that the proposed development conflicts with areas of local planning policy or areas of Supplementary Planning Guidance, it is not considered that any of these constitute significant or demonstrable harm or significant or demonstrable conflicts with either the Framework or of local planning policy.

- 6.54 With respect to the reasons for refusal of the application, it is not considered that there would be such a departure from the prevailing character or appearance of the area that this would be harmful to visual amenity. Indeed, the siting of the buildings and the nature of the proposed dwellings at Plot 1 and Plot 2 is such that this would ensure that when the site is viewed from the public realm it would appear similar to the neighbouring residential properties. The only harm identified in Reason for Refusal 1 is that to how the site may be perceived from neighbouring properties. There is no actual harm to the amenity of these neighbouring residential properties arising from the development, and while the site would be developed at a higher density than these neighbouring plots, this simply reflects the fact that the prevailing density of the area is relatively low. As such, the Appellant considers that little to no weight should be afforded to the perception of greater or more intensive development simply as a result of the presence of built form to the rear of the existing frontages and building lines.
- 6.55 The Appellant contends that this site, which is larger than the individual residential properties in the vicinity, lends itself to providing a higher density of development, not least since it is in a highly sustainable location where there is a good access to public transport and a wide range of local amenities, including schools, public open space and shops. Indeed, by not doing so, any development would not make effective use of land that provides for the optimal use of the site as required by Paragraphs 124 and 125 of the NPPF. There is therefore no significant or demonstrable harm associated with providing four dwellings on this site in the manner proposed and should there be any perception that this may be out of keeping with the pattern of development in the area, this would not in itself or in combination with other factors outweigh the clear benefits of providing housing.
- 6.56 Any harm to residential amenity identified in Reason for Refusal 2 would be as a result of vehicle movements within the site or through lighting to residential properties. It is not considered that the presence of two dwellings towards the rear part of the site would in itself lead to such a large number of vehicle movements that this would be disruptive or harmful to residential amenity. A modest number of vehicle movements associated with residential occupation of the land would not in itself or in combination with other factors cause there to be significant or demonstrable harm to the neighbouring residential properties or others in the area.
- 6.57 In the context of the clear direction from the NPPF for development proposals to make efficient and effective use of land, it is not considered that any weight should be afforded to the areas of potential harm identified in Reason for Refusal 2, particularly since these relate to activities which are typical of residential areas. A reasonable number of vehicle movements to and from residential properties and modest lighting (the extent of the latter may also be controlled by condition), to residential properties would be part and parcel of residential use and these would clearly not be present to such an extent that there would be potential for or actual harm to residential amenity. Indeed, while there may be a degree of change experienced by the change in the use of the site from a vacant, undeveloped plot of land to new dwellings, this is not necessarily harmful, and certainly not harmful to the extent that it would cause unacceptable harm to amenity that would outweigh the benefits of housing provision.

- 6.58 It is not considered that the living conditions of prospective occupiers of the proposed dwellings would be compromised as a result of the proposed development or any aspect of its design or layout. A high standard of accommodation would be provided within a setting which benefits from the presence of mature trees as a backdrop, and where sufficient spacing has been provided for between the proposed buildings.
- 6.59 In terms of access and highways, the consultation response provided by the County Highways Authority identifies the absence of information relating to the visibility splays at the proposed point of access, and the uncertainty as to whether two vehicles could pass safely within the site. As outlined above, an annotation has been made to the proposed site layout drawing which confirms that the internal access road is sufficiently wide to enable two vehicles to pass side by side.
- 6.60 The visibility for vehicles leaving the site and turning left or right into Padnell Road does not accord with the specific requirements of the County Highways Authority at a distance of 0.3 metres from the carriageway edge. However, sufficient visibility can be achieved at a distance of one metre from the carriageway edge which is a more standard and widespread point of reference for determining whether a safe access and egress to new development can be provided. The fact that this is achievable and that the proposed arrangements are comparable to those at numerous private driveways in Padnell Road, and at the nearby Padnell Junior School, allied with the fact that there are no records of collisions in this area as a result of vehicles entering or leaving Padnell Road, provide a strong indication that the proposed access arrangements are safe and would function effectively without significantly increasing the risk of accidents or prejudicing highway safety.
- 6.61 In light of the above, and the need direction in Paragraph 111 of the NPPF that development should not be refused on highways grounds unless the impact of doing so would be 'severe', it is not considered that any significant weight should be afforded to the fact that visibility for vehicles leaving the site and turning left or right into Padnell Road does not achieve the unusually exacting standards for visibility which are evidently sought by the County Highways Authority. The fact that safe access and egress to or from the site can be achieved and that this is comparable to other properties in the vicinity of the appeal site, along with the limited scale of the proposed development, mean that any impacts on highway safety could not be considered severe.
- 6.62 The other factors cited as a basis for refusing planning permission and set out in Reason for Refusal 4 are all considered to be relatively minor issues to which limited weight should be afforded in the consideration of whether this application should be approved. The question of whether there is an overprovision of vehicle parking has been addressed above, and it is considered that by providing a greater number of spaces than required in the minimum parking standards for a scheme of this scale and nature, there would not necessarily be any conflict with the policy (particularly since the relevant standard sets a minimum requirement and not a maximum figure). There should be little to no weight afforded to the number of parking spaces provided, while the effect of doing so, which is claimed to be harmful to the character and appearance of the site due to the presence of parking spaces in the frontage, is not something that detracts from the amenity of the site or the wider area. There is therefore no significant or demonstrable harm in doing this.

- 6.63 Other issues highlighted including the distance that residents of Plots 3 and 4 would be required to move waste bins for collection, and the absence of any formal cycle storage facilities within Plots 3 and 4 are relatively minor considerations in the overall consideration of the application. While it is accepted that the latter can be resolved through a condition requiring the details of cycle provision to be provided prior to the development commencing, the former would represent a minor inconvenience to prospective residents, rather than a matter which is fundamental to whether a sufficiently high standard of accommodation is provided. It is therefore considered that the fact that residents would be required to move portable bins up to 39 metres on the day of their collection is outweighed by the benefit of providing a dedicated and well-located bin storage area adjacent to the site entrance. Furthermore, it is considered that the overall weight to be afforded to this matter is limited relative to the benefits that would result from the provision of housing.
- 6.64 As to whether this would be considered sustainable development that would benefit from the presumption, the proposal would result in the provision of four residential units and would therefore make a contribution towards the Council's housing need. The proposals would also bring an unused, vacant plot of land into active use, removing the existing hoarding immediately adjacent to the rear of the footway, and the uncertainty about the future of the site. Both of these factors Should be afforded substantial weight in the determination of this appeal.
- 6.65 It is accepted that the supply of land for housing in the Borough is currently equivalent to 3.9 years with the 20% buffer applied (as confirmed by Paragraph 7.4 of the Officer's Report). The provision of new housing within the existing urban area and in close proximity to a range of facilities and amenities represents sustainable development which should benefit from the presumption in favour unless the adverse impacts of the development are significantly and demonstrably outweigh the benefits arising through the provision of new housing.
- 6.66 It must also be stressed that Paragraph 11(d) of the NPPF does require that individual developments make a significant or substantial contribution towards addressing housing need. It directs LPAs to grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is evident that there would not be significant or demonstrable adverse impacts arising from the development and that planning permission should be granted.
- 6.67 The limited size of the proposed development should therefore not limit the weight afforded to the benefits of the provision of housing, particularly given the need for housing provision within the existing built-up areas of the Borough and within walking distance of a range of amenities. As highlighted above, this represents sustainable development and should be supported regardless of the supply situation, and particularly so given the need for additional housing over and above that currently identified on known developable sites.

7. Conclusions

- 7.1 The Refused Application would provide much needed housing in a sustainable location within one of the main built-up areas of the Borough. The scheme will result in a vacant and under-utilised site, which because of its current condition currently detracts from the amenity of the area. There would be substantial benefits afforded to this, along with the provision of housing which, in the context of a Borough where there has been consistent under delivery of housing relative to the objectively assessed need, culminating in the failure of the Housing Delivery Test and the requirement that there is a presumption in favour of sustainable development.
- 7.2 The proposal represents sustainable development, and this along with the improvements to the condition of the site and the delivery of new housing should be afforded substantial and significant weight in the determination of this appeal.
- 7.3 Having carefully considered and examined the reasons for refusal of the application, it is considered that each of these has been addressed in this Statement of Case. Where there is potential harm identified by the Local Planning Authority, it is not considered that any of the areas of alleged harm would either individually or cumulatively outweigh the benefits identified above.
- 7.4 Given the clear position set out by Paragraph 11(d) of the NPPF in relation to these situations, it is respectfully requested that the Appeal is allowed, subject to any conditions that the Inspector considers it appropriate to apply.