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07 March 2024

Fowley Cottage, 46 Warblington Road, Emsworth, PO10 7HH

Application Ref. APP/23/01078

We are instructed by the residents of [REDACTED] Warblington Road to submit an **OBJECTION** to the above-referenced planning application. These properties are located immediately adjacent to the application site and are directly affected by the proposed development.

Prior to outlining the terms of the objection, I have set out below the background to matters which are material to this application and relevant to the residents' concerns.

Relevant Background

Application Site Planning History

In 1998 planning permission was granted under Ref. 98/51660/003 for the erection of 7no. detached dwellings on the application site. No records are available for this application. However, it is clear that this development was considered to represent an appropriate response to the character and appearance of the area whilst making efficient use of the available land – noting that Planning Policy Guidance (PPG) 3 'Housing' was in force at that time and strongly resisted densities of less than 30 dwellings per hectare.

In 2020 planning permission was refused under Ref. APP/19/00623 for the erection of 7no. dwellings on the application site. This refusal was upheld at appeal later in 2020 with the Inspector citing conflicts with the Development Plan and the NPPF at that time. The conflicts with the adopted Local Plan (Core Strategy 2011) were in relation to policies CS9 and CS17, and a conflict with the emerging Local Plan policy H3. The decision also cited a conflict with Policy E3 of the emerging Emsworth Neighbourhood Plan. These policies deal with the appropriate density of development and the efficient use of land, and the Inspector considered that all of the aforementioned policies were consistent with paragraphs 117, 122 and 123 of the NPPF (2019).

In 2021 planning permission was refused under Ref. APP/20/00376 for 9no. dwellings on the application site. The refusal cited a single reason for refusal relating to the density of development and conflicts with the same Development Plan policies as cited in the previous appeal decision.

Status of the Council's Development Plan

The Development Plan for the purposes of this planning application comprises the Havant Borough Local Plan, which includes the Core Strategy (2011) and Site Allocations DPD (2014), and the Emsworth Neighbourhood Plan (2021).

The Core Strategy, which outlines the Spatial Strategy and provides the policy context for development in the Borough, was adopted in 2011 and is now 13 years old. The policies need updating in accordance with Paragraph 33 of the NPPF, and this is acknowledged by the Council in their efforts to progress a new Local Plan. However, this process is not due to conclude until 2025, at the earliest, according to the Council's most recently published Local Development Scheme (LDS).

Consequently, the policies in the currently adopted Local Plan are “out of date” and should be afforded limited weight for decision-making purposes.

The emerging Local Plan (‘Building a Better Future’) remains in its early stages of preparation (Regulation 18) and the Council does not anticipate adoption until 2025. Therefore, its policies can be afforded very limited weight at this stage.

Revised National Planning Policy Framework (NPPF)

Since the submission of Refs. APP/19/00623 and APP/20/00376, the NPPF has undergone two significant revisions in 2021 and 2023. These revisions focused heavily on the Government’s response to the Climate Change emergency, better environmental protection and a stronger emphasis on character and design.

The 2021 revision saw the introduction of revised policy text at paragraph 180d seeking net gains in biodiversity rather than encouraging it, as was the case for paragraph 175d in the 2019 NPPF (my underlining for emphasis)

“development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”

It also placed a much stronger emphasis on tree protection with the addition of new policy text at paragraph 131(my underlining for emphasis).

“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

The Government published a revised NPPF in December 2023, reflecting wider changes set out in the Levelling Up and Regeneration Act. The revised NPPF includes a number of significant changes which are relevant to the current planning application.

The revised NPPF retains a focus on making efficient use of land and achieving appropriate densities. However, where previously (NPPF, 2021) this was reflected in the use of minimum densities at paragraph 125, the revised NPPF includes a new caveat at paragraph 130. It states (my underlining for emphasis):

“Significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area”

This change shifts the balance away from maximising density at all costs and places a much stronger emphasis on the protection of existing character. The basis for this change is set out in the “Government response to the Levelling-up and Regeneration Bill: reforms to national planning policy consultation (December 2023):

“Density or character

The Framework sets out the importance of development that makes efficient use of land, alongside the desirability of maintaining an area’s prevailing character and setting, including

that of residential gardens. To further support our approach to density and local character, we proposed a change to policy to make clear that local character can be taken into account when local planning authorities consider their ability to meet their housing needs. This was to recognise the importance of being able to plan for growth in a way which recognises the distinctive character of places and creates attractive environments which have local support.”

This change aligns with various other amendments to the NPPF, where for planning policies and decision-making the Government has placed a new emphasis on creating “beautiful” places and where design and character are at the forefront of place-making.

Revised National Planning Practice Guidance (NPPG)

The revised NPPF also places a greater emphasis on environmental protection and climate change. As stated above, the NPPF has included provisions seeking net gains in biodiversity since 2021. However, recent changes to the NPPG make a minimum 10% net gain mandatory for new development. Planning applications for major development submitted prior to February 12th 2024 are exempt from this requirement.

The Residents’ Objection

The neighbouring residents do not oppose the principle of development and accept that the site can accommodate additional dwellings. However, the additional development needs to be at a scale that is appropriate to the site’s context, and in a form that responds sensitively to the unique technical and environmental constraints that exist in this location.

The current proposal is considered unacceptable and raises a number of concerns. It adopts a density that is out of keeping with the prevailing pattern and grain of development in the area. This results in an unacceptable impact on the character and appearance of the area. It also generates a number of technical issues and environmental impacts which are symptomatic of overdevelopment.

Detrimental impact on character

It is worth noting at the outset that planning permission was granted in 1998 for a development of 7no. detached dwellings. This was considered to be a suitable level of development and an appropriate density at a time when the Labour Government were pushing for minimum densities under the emerging PPG3.

There has been no discernible change to the site or the surrounding area over the intervening period, as evidenced by the aerial photographs at Figures 1 and 2 below. The site and surrounding area are characterised by detached dwellings set within spacious landscaped plots. These were the defining characteristics of the area in 1998 and remain so in 2024. In the absence of any change over the intervening period, it follows that the assessment of character undertaken in 1998 remains equally relevant now and the character response deemed to be appropriate at that time remains appropriate now.

Figure 1 – aerial photograph 1999

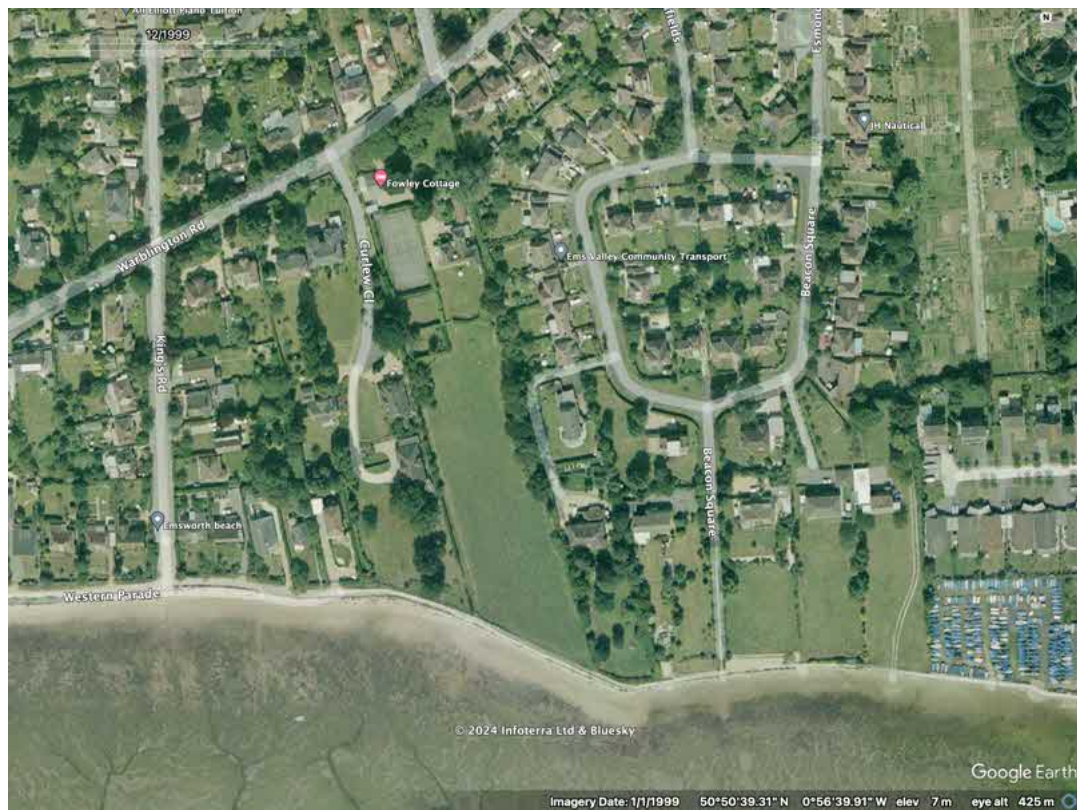
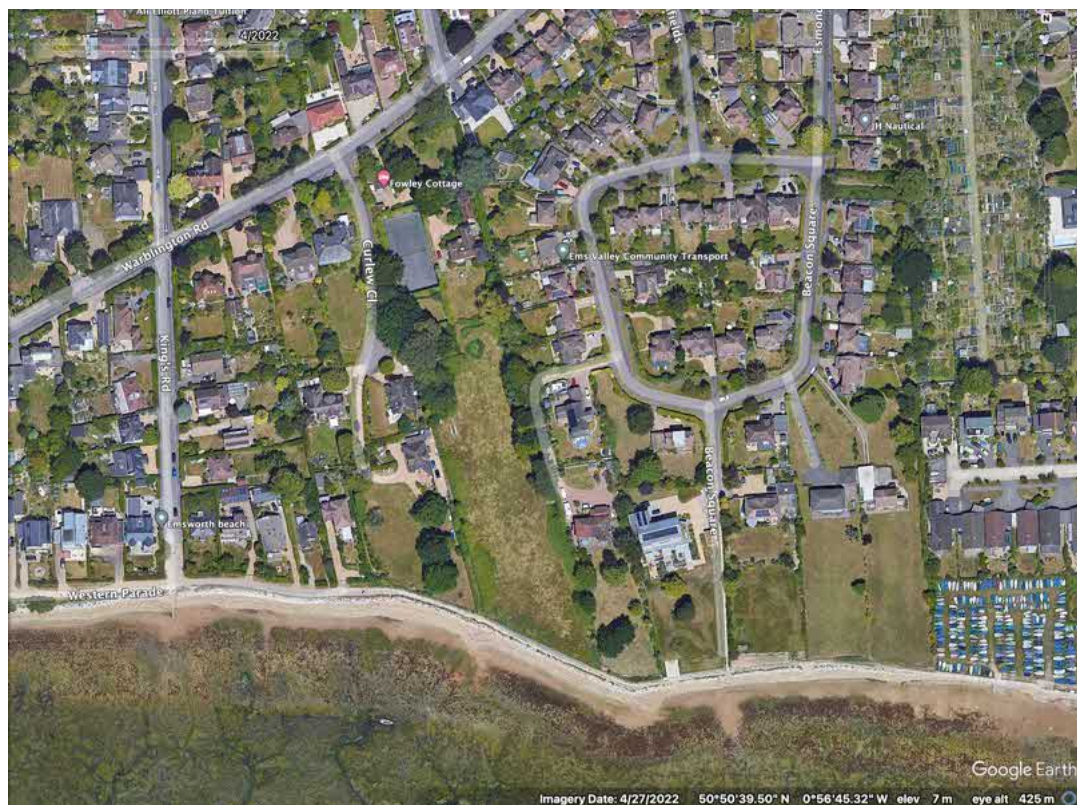


Figure 2 – aerial photograph 2022



It is clear from my assessment of the site's more recent planning history (first planning application in 2020 and second application in 2021) that emerging Development Plan policies relating to minimum densities have heavily influenced the Council's assessment of character on this site; and the appeal decision in 2020 endorsed this approach for the first application. However, the policy basis has materially changed in the intervening period. Where previously, 7no. dwellings and 9no. dwellings may have conflicted with target densities indicated in the adopted Local Plan (Core Strategy) policies CS9 and CS17 and emerging Local Plan policy H3, these conflicts no longer exist. The adopted Local Plan is considerably out-of-date, and the emerging Local Plan has been withdrawn. Furthermore, the publication of a revised NPPF, including additional provisions seeking a balance between efficient use of land and safeguarding character, casts doubt over the consistency of those Development Plan policies with national policy. The Emsworth Neighbourhood Plan is the only local Development Plan document that is up-to-date and Policy D3 'Layout, Form and Density' is consistent with the revised NPPF as it advocates a context-led approach to deriving an appropriate density. It seeks to 'optimise' densities in this way as opposed to prescribing minimum densities. It is notable in this context that the Emsworth Forum, who prepared the Neighbourhood Plan, endorse the concerns cited in this objection.

With these considerations in mind, this application needs to be viewed differently to previous proposals. The density of development needs to have proper regard to the prevailing character, grain and pattern of development in the area. Paragraph 23 of the dismissed appeal states that the surrounding density is 10.35dph yet the gross density of the proposed development is 19.5dph, almost double the existing density. This results in a form of development that is completely at odds with its context. Currently the site and surrounding area are characterised by detached dwellings set within spacious landscaped plots, incorporating generous landscaped frontages and landscaped buffers to boundaries. These defining characteristics are absent from the proposed layout. The layout is highly suburban, featuring a central estate road and including shallow frontages which are dominated by hardstanding to facilitate the parking and circulation demands of 15 dwellings in limited space. The lack of space between proposed buildings removes any possibility of meaningful landscaping to mitigate the proposed density in visual terms. Similarly, garden sizes may be compliant with the Council's design guidance but the lack of depth in comparison to surrounding properties makes it impossible to deliver any meaningful soft landscaping without compromising the amenity of the proposed gardens. The lack of garden depth also places significant pressure on existing boundary trees to be retained as part of the development. In combination, these factors reinforce the stark suburban appearance of the development whilst exposing its jarring effect on the sylvan character of the surrounding area.

On this basis, the current proposal is contrary to the NPPF (paragraph 130) .

Flood Risk and Drainage

I note the recent comments of the Lead Local Flood Authority (LLFA) which highlight a number of unsubstantiated assumptions relating to the proposed surface water drainage proposals. We await responses from the applicant in relation to the technical matters raised and will comment further, as necessary, should additional information be submitted. However, it is clear from the evidence submitted to date that the proposal assumes surface water discharge to an existing public sewer. This does not engage in the hierarchy required by Part H of Building Regulation and the NPPG.

The LLFA has suggested a more appropriate alternative in the provision of a private sewer. However, we note that this would not be deliverable within the current application site boundary as the red line does not extend to the foreshore where the new sewer and outfall would be provided. If an alternative approach is submitted, then any associated implications would need careful consideration given the environmental sensitivity that exists and the dense nature to the development. The residents request that they are formally notified of any revised drainage proposal and reserve the right to comment further.

The submitted Site Plan shows part of the site affected by flood risk (defined by an orange line and annotation 'SFRA'). This orange line denotes the extent of the expected Flood Risk Area for 2115 as defined by the Council's Strategic Flood Risk Assessment – this is shown in clearer detail below.

Figure 3 – 2115 Flood Extent Map from Havant BC online mapping



Section 14 of the NPPF deals with *'meeting the challenge of climate, flooding and coastal change'*. The overarching principle of the subsection entitled *'planning for flood risk'* is to avoid placing development at risk of flooding in areas of flood risk (this includes future flood risk when applying the impact of climate change). To achieve this objective, the NPPF requires Local Authorities to apply a sequential, risk-based approach to the location of development. The tool advocated in delivering this approach are the Sequential Test.

In May 2022 the Council adopted a Sequential Test *'Policy Guidance Note for Applicants and Planning Officers'*. Paragraph 3.1 of the Note outlines when a Sequential Test is required. It states that the Test is required for all 'sites' within flood zones 2 and 3 and it defined the 'site' as any land within the application site boundary. Exceptions are made for minor development or where only a small part of the site falls within the flood risk area and this area is not fundamental to safe access.

It is assumed that the applicant in this case is seeking to exempt the proposed development from the Sequential Test on the basis of the limited extent of land within the application site boundary affected by flood risk. However, it is clear that this red line has been contrived with this intention in mind, as shown in Figure 4 below – this is apparent in 1) the angle of the red line on the southern site boundary, which aligns as closely as possible with the extent of flood risk whilst including all of the proposed dwellings; and 2) the artificial nature of the red line on the southern site boundary which bisects the gardens of the two southernmost dwellings.

Figure 4 – Contrived application site boundary



Whilst the contrived nature of the application site boundary may have reduced the proportion of the site within the area of flood risk, the southernmost detached dwelling is directly impacted by flood risk and the garden of the neighbouring detached dwelling is heavily compromised. This clearly goes beyond the allowed exemptions and a Sequential Test is required in accordance with the Council's guidance. The suggestion in the applicant's Flood Risk Assessment (FRA) is that no Sequential Test is required as the proposed dwellings are "*located in Flood Zone 1, taking into account climate change*". This is misrepresentative as one of the dwellings is within future Flood Zone 2/3 as modelled by the Council. The FRA proposes higher finished floor levels above the predicted flood level for the affected dwelling. However, this is not an acceptable approach as the assessment of flood risk for the purposes of the Sequential Test is based on the existing situation without any mitigation. If mitigation in the form of finished floor levels is considered an acceptable approach in this case, then a precedent would be established to bypass the Sequential Test and undermine the Council's policy position. The FRA also highlights that previous decisions do not highlight any reasons for refusal relating to flood risk. However, the Council was not using the 2115 flood mapping when these applications were determined.

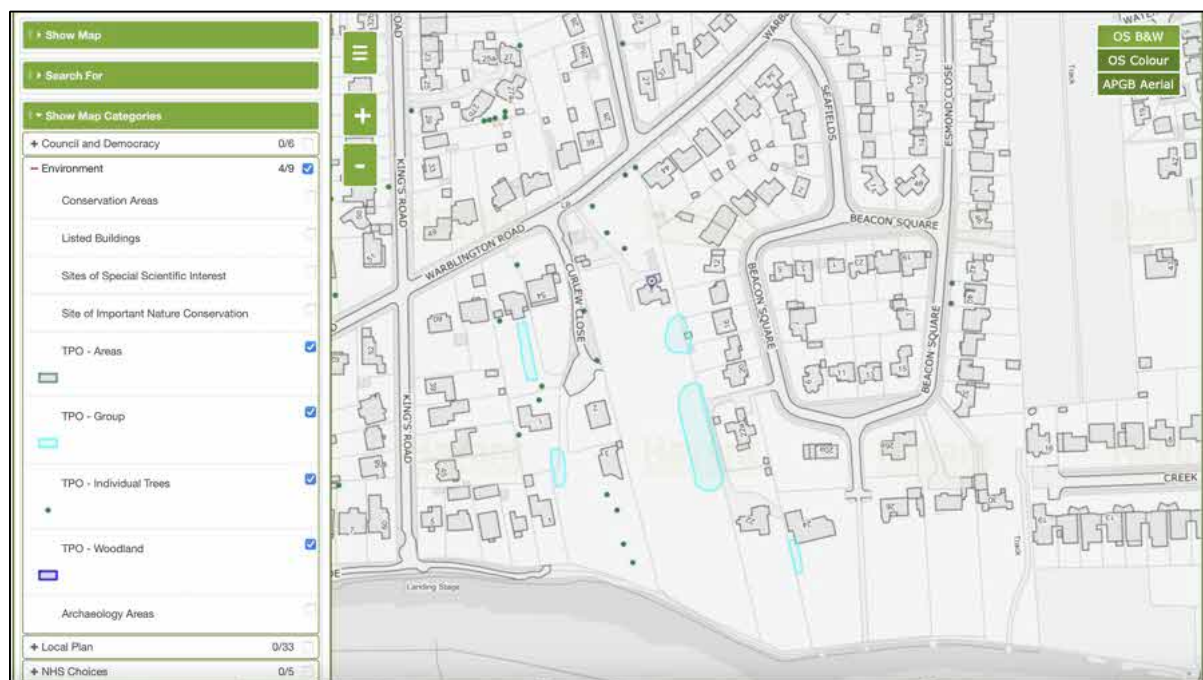
In the absence of a Sequential Test and Exception Test, the proposed development is contrary to the NPPF (paragraphs 167 - 171) and the Council's Guidance Note.

Arboricultural Impacts

As noted above, the NPPF places significant emphasis on tree protection and states that trees should be retained where possible.

The application site contains a number of high-quality trees that make a significant contribution to the character and visual amenity of the area as viewed from Warblington Road. The existing trees also provide a verdant backdrop to development as viewed from the coastal path to the south and from the wider Chichester Harbour Area of Outstanding Natural Beauty (AONB). The site includes individual trees subject to Tree Preservation Orders (TPO) on the northern portion of the site adjacent to Warblington Road; and two groups of trees on the eastern site boundary which are subject to Group TPOs. The location of protected trees is shown at Figure 5 below.

Figure 5 - TPO Map from Havant BC online mapping



The proposed development results in a significant impact on existing trees within the site. The submitted Arboricultural Impact Assessment (AIA) does not accurately reflect the level of impact and this has been highlighted in recent comments from the Council's Tree Officer. It acknowledges the removal of a Silver Birch on the site frontage to Warblington Road, which is subject to a TPO, but it does not reflect the true impact of development elsewhere on the site. It is evident from the submitted Tree Protection Plan that the engineering works necessary to deliver the relocated foul sewer, surface water drainage proposals and site access will make the retention of other highly prominent and protected (TPO) trees on the site frontage to Warblington Road impractical. Setting aside the obvious impracticality of retention, even if these trees could be retained as part of the development, the proposed layout places them in shallow private gardens where they would be at immediate risk of unauthorised works and/or removal.

The need to deliver housing in the area is acknowledged but this cannot be at the expense of high-quality protected trees that are longstanding features in the character of the area and make a significant contribution to the environment. There is no compelling justification to warrant the removal of protected trees from this site and any development proposal for the site should be designed around the retention of the existing trees.

In its current form, the proposed development results in an unacceptable impact on trees that are worthy of retention (including protected trees), contrary to Emsworth Neighbourhood Plan Policy D3 (including the Design Checklist 'Woodland and trees') and the NPPF (paragraph 136).

Ecological Impacts

The requirement to provide Biodiversity Net Gain is not applicable to this application as it was submitted prior to 12 February 2024. However, this requirement is relevant insofar as the purpose of the requirement is to ensure that the natural environment is left in measurably a better condition following development. It is seeking to avoid the type of development proposed in this case, where there is a disproportionate loss of natural space and habitat within the site. If the proposed development was assessed, including a more realistic assessment of tree loss, I am confident that it would deliver a significant net loss in biodiversity.

Access & Parking

The proposed access arrangements show two entry/exit points to Warblington Road, via the existing site access and Curlew Close. It is our understanding that covenant exists preventing access from Curlew Close and the proposal may be amended to remove this arrangement. If that is the case, then the residents request that are formally notified in order that the amendment can be properly considered, and comments made where necessary. Appendix 7 of the Transport Statement includes Swept Path analysis for refuse and fire tender access. The analysis shows access via Curlew Close, however this requires a significant reversing manoeuvre within the site over a distance of over 40m. British Standard BS 5906:2005 'Waste Management in Buildings Code of Practice' states that reversing manoeuvres should be avoided and limited to 12m. The proposed arrangement is completely unsafe given the excessive reversing distance and tight nature of the internal road network. Refuse turning should be provided onsite, in an efficient and safe manner. If the proposed entry/exit from Curlew Close is not achievable and development is reliant on the existing access, then it is questionable whether the necessary radii exist for either refuse or fire tender to access the site. Even if the radii can be created, it will result in significant additional tree loss and is likely to require vehicle entering and leaving the site to cross the carriageway. This would be an unsafe arrangement.

The submitted Transport Statement outlines the proposed parking provision based on the Council's adopted Parking SPD (2016, updated 2018). However, have set out the requirements for allocated and unallocated parking, the statement goes on to state that:

"In accordance with the LPA car parking guidance, the scheme should provide a minimum of between 28 and 33 car parking spaces"

This is incorrect. The parking requirement is established by the type of parking chosen and it does not establish a range within which development will be deemed compliant.

In this case the proposal provides 23no. allocated spaces are provided for the 4-bedroom and 3-bedroom houses, 5no. unallocated spaces are provided for the 2-bedroom flats, 2no. unallocated spaces are provided for two of the 3-bedroom houses and 6no. visitor spaces are provided across the site. This equates to a total of 36no. spaces across the site. It is clear that the applicant is seeking to rely on 2no. unallocated parking spaces provided at the 3-bedroom houses to accommodate the shortfall in unallocated parking for the flats, whilst treating these unallocated spaces as allocations for the two houses – effectively double-counting the provision. In reality, the occupiers of these houses will seek to control the unallocated parking for their own use as their allocation of 1no. space per dwelling is insufficient to meet the demand of a 3-bedroom house. This will lead to a shortfall for the flats or vice versa. There are visitor spaces in the vicinity, but these are an additional requirement based on predicted visitor demand and should not be used to fill a shortfall in provision to meet resident parking demand.

The unallocated parking demand for the flats is 5.2 spaces and the guidance confirms that this should be rounded up to 6 spaces. The allocated parking demand for the houses is 25 spaces. The visitor demand at 20% of the total compliant parking provision is 7 spaces (rounded up from 6.2 spaces). Therefore, the total parking demand for the site is 38no. spaces. Therefore, the provision is 2no. spaces short of the requirement.

Given the narrow carriageway width available on the eastern end of Warblington Road (adjacent the application site) and the unsuitability of the surrounding road network to accommodate overflow parking, this shortfall is significant. Without compliant parking the application is contrary to Policy D1 of the Emsworth Neighbourhood Plan and the NPPF (Section 14).

An additional concern is the provision of a made public footpath through the application, linking Warblington Road to the coastal path. Residents accept that this may represent improved permeability for pedestrians and improve recreational opportunities, as noted in the Neighbourhood Plan. However, the Local Authority needs to balance and address the impacts associated these benefits. In this case the width and geometry of the surrounding road network is compromised. An improved footpath link will inevitably increase informal parking in the area and as such the Local Authority needs to ensure that measures are put in place to avoid conflicts with the existing operation and safety of the surrounding network. Traffic Regulation Orders are therefore required along Warblington Road from its junction with Kings Road to its junction with Seafields. This is to avoid visual and physical obstructions for traffic accessing Kings Road, Curlew Close, the application site, Clovelly Road, Seafields and the many driveways along that stretch.

Design & Appearance

The site forms the eastern edge of a wider cluster of housing which was developed in the early 20th century. This cluster is predominantly characterised by two-storey detached dwellings set within large, landscaped plots, although it does feature some bungalows. The areas west and north of the application site were developed for housing in the post-war period and comprise two storey detached and semi-detached dwellings. Whilst these areas do feature a more regular and linear form of development, changes in roof forms and materials results in a significant degree of variety. Features such as clay roof tiles, tile-hanging and hipped gables help to soften the appearance of development in the existing townscape. Despite both areas emerging during different periods, the use of traditional architecture brings a consistency to the character and appearance of the area. This is reflected in the Emsworth Neighbourhood Plan, which places the site in Residential Character Area 5 'South of Havant Road' and provides the following description:

"5. South of Havant Road

A variety of mainly individually designed 19th and 20th century houses with some infilling. Extending westwards there are more recent estates of buildings of more uniform design.

There are several “colonial” villas set back in large plots of land, particularly on the western side of Beach Road at the southern end. These are of architectural interest and contribute to the character of the area.”

In contrast, the proposed development comprises contemporary architecture, which lacks any coherence with the existing context. The lack of variety in the form and appearance of the proposed dwellings, particularly the roof forms and materials, is directly at odds with the variety that exists in the surrounding area. This uniformity, coupled with use of excessive fenestration, results in stark character and this is exacerbated by the lack of landscaping relief that exists within a cramped layout.

The lack of landscaping is also a significant departure from the established character of the area. This is particularly damaging at the site's frontage to Warblington Road. The tree removal as cited above has the implication of making the larger format flatted building at the front of the site more apparent and overbearing in the streetscene. In this respect, the CGI at page 20 of Design & Access Statement is misleadingly and misrepresentative. It shows the northern elevation of the flatted building obscured by an existing Silver Birch tree when viewed from Warblington Road. Firstly, the position of the Silver Birch tree is incorrectly shown – it has been moved slightly westwards from its true position, closer to the corner of the application site where it would most benefit the proposal. Secondly, the Arboricultural Impact Assessment states that this tree is to be removed in any event.

For these reasons, the proposed design approach is considered inappropriate for the site and its context, contrary to Policy D1 of the Emsworth Neighbourhood Plan (including the design checklist) and the NPPF (Section 12).

Amenity Issues

I note the inclusion of balconies within the proposal. Whilst separation distances to surrounding dwellings is in accordance with the Council's minimum standards (albeit not reflective of the local character), the number of balconies in combination with the arboricultural issues we have raised elsewhere results in perceived overlooking of private gardens to the north and south. Also, the provision of balconies such a dense and overdeveloped layout result in direct overlooking between the proposed dwellings and their associated private gardens,

For the proposed flats, the proximity of ground and first floor accommodation to an existing large Poplar tree on the northern site boundary has not been properly assessed. This accommodation is single aspect to the north and will suffer from significant overshadowing. Consequently, the accommodation will not receive adequate natural light and provided substandard living accommodation for occupiers.

A separate concern relates to the extent of proposed development in close proximity with the common boundary to No.44 Warblington Road. The northern elevation of the proposed flats extends along the majority of the boundary where the resultant scale, bulk and massing results in an oppressive and overbearing relationship. The AIA confirms that the proposal will see the existing hedgerow on the northern site boundary removed, which will exacerbate this impact. It is notable that this is not accurately represented on the proposed site layout which shows the hedgerow retained.

Consequently, the proposal results in unacceptable impacts on private amenity, both to neighbouring residents and internally. The application should be refused on this basis.

Summary and Conclusion

In summary, the proposal appears to be a legacy of the Council's previous resistance to lower density development. Where previously the Development Plan policies may have supported the need for a higher density development, this is no longer the case. The current proposal needs to be considered in the context of the recently revised NPPF, which seeks to provide a balance between making efficient use of land and safeguarding the character of an area. The proposed development

does not achieve this balance. It provides an overly dense and cramped form of development that is out of keeping with its context and character. It results in a number of significant impacts which are symptomatic of overdevelopment. Additionally, the use of contemporary architecture is not in keeping with the site's context and the development would significantly detract from the attractive character and appearance of the surrounding area.

As noted at the outset, the neighbouring residents are not opposed to additional development on this site and feel that this can be achieved. However, the layout and form of development needs to be more sensitive to its setting - creating better balance between built and unbuilt spaces within the site, retaining existing landscape features (including protected trees) that make an important contribution to the character of the area and providing opportunities for biodiversity net gain. Any revised proposal would also need to ensure that suitable access and parking is required to ensure that the development caters for the needs of future residents and ensures the safety of other road users.

With these considerations in mind, we respectfully request that the application be refused planning permission. In the event that planning permission is granted for the proposed development, the residents are seeking the following planning conditions on a without prejudice basis.

Requirement for the applicant to secure a Traffic Regulation Order to secure parking restrictions on the surrounding road network

Construction Environmental Management Plan (including measures to control access for labour and deliveries and site noise levels) to protect neighbour amenity.

Restriction on working hours to protect neighbour amenity.

Requirement for pre-development and post development survey of surrounding residential road network leading to the A259, to ensure that any damage resulting from development is made good.

Yours faithfully

