

| | | | |
|----------------------|--|--------------------|--------------------------------------|
| Date of Meeting | 29 September 2011 | | |
| Application Number: | S/2011/0914 | | |
| Site Address: | The Heather, Southampton Road, Alderbury, Salisbury. SP5 3AF | | |
| Proposal: | O/L Erection of one 2 bedroom bungalow | | |
| Applicant/ Agent: | Applicant Mr Harvey Euridge | | |
| Parish: | Alderbury | | |
| Grid Reference: | Easting 418920.507 Northing 126975.388 | | |
| Type of Application: | Minor | | |
| Conservation Area: | Cons Area NA | LB Grade: NA | Grade NA |
| Case Officer: | Case Officer Mrs J Wallace | Contact Number: | Case Officer Number 01722 434 687 |

Reason for the application being considered by Committee

Councillor Britton has requested that the application be determined by Committee due to the Relationship to adjoining properties

1. Purpose of report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Report summary

1. Summary of differences between current scheme and previously refused schemes.
2. Scale, design and impact on character of the area
3. Impact on neighbours
4. Highway Safety
5. Trees
6. Public Open Space

The application has generated objections from the parish council; no indications of support and 3 letters of objection from the public.

Neighbourhood Responses

Three letters received objecting to the proposal

No letters of support

No letters of comment

3. Site Description

The site lies within the Alderbury Housing Policy Boundary and Special Landscape Area, in an Area of Special Archaeological Significance. The gardens of the former dwelling on the site (a bungalow called The Heather now demolished) were landscaped with mature trees and hedges. Some of these have now been removed. The trees along the roadside (Southampton Road) are the subject of a Tree Preservation Order.

To the north of the site, is a single storey dwelling Arundell, in whose rear garden adjacent to the site, is a large copper beech tree protected by a TPO. There is a substantial laurel hedge along the boundary between the site and Arundell.

To the south of the site is a chalet bungalow with rooms in the roof called Out of the Way. The boundary hedge has been partially removed and part of the side garden of Out of the Way has been incorporated into the application site.

To the east of the site, three two-storey dwellings are currently under construction, accessed adjacent to Arundell.

The site of the proposed bungalow will be accessed via a sloping gravel drive from Southampton Road which also serves Forest View and provides pedestrian access to Out of the Way.

4. Relevant Planning History

| Application Number | Proposal | Decision |
|--------------------|---|----------|
| 99/0526 | Construction of single storey rear extension. | AC |
| 08/1357 | Demolition of existing bungalow and erection of 4 no 4 bed houses | REF |
| 08/1942 | Demolition of existing bungalow and erection of 3 no dwellings | A |
| 09/0676 | Build 1x 2 bed bungalow and alterations to access | REF |
| 09/1853 | Build 1x 2 bed bungalow and alterations to access | REF |
| 10/388 | Build 1x 2 bed bungalow and alterations to access | REF |
| 10/0821 | Build 1 x 2 bed bungalow | REF |

10/821 Build 1 x 2 bed bungalow

REF

Reasons for refusal

1 The Local Planning Authority is concerned that due to the proximity of the proposed dwelling to the protected copper beech tree, the tree may cause significant overshadowing as it grows, and give rise to safety fears and maintenance issues, which could ultimately create pressure to prune or fell the tree. Furthermore, the proposed development and submitted information fails to take adequate account of the future growth potential of this tree.

The shape of the dwelling appears contrived, in order to try and accommodate the building on the plot within the constraints set by the tree. Taking the tree and its root protection zone into consideration, and the proximity of the development to both existing and proposed (Plot 3) adjoining boundaries, the development appears cramped and restricted within the site. It is concluded that on the basis of the information submitted, the proposal would result in an undesirable backland development, contrary to Policy G2, D2 and H16 of the adopted Salisbury District Local Plan. Furthermore, PPS3 has removed gardens from the definition of previously developed land, and places greater emphasis on the importance of gardens for wildlife and as amenity spaces within settlements. The proposal would also be contrary to the revised PPS3, given its cramped and contrived appearance in a backland location.

2. The proposed residential development is considered by the Local Planning Authority to be contrary to Policy R2 of the adopted Salisbury District Local Plan because appropriate provision towards public recreational open space has not been made.

Dismissed on Appeal on 16 December 2010 (Appeal decision attached)

The Inspector upheld the first reason for refusal in relation to the cramped siting and likely indirect effects on the protected tree resulting in acceptable harm to the character and appearance of the surrounding area, but did not uphold the R2 reason for refusal. The appeal was therefore dismissed only in relation to cramped development and detrimental impact on the protected tree.

5. Proposal

The applicant is seeking to erect a single storey bungalow, with vehicular access provided by the existing track, off Southampton Road, adjacent to Forest View. The application is in outline, with only the layout of the site and the access to be determined. There are only indicative details of the proposed dwelling. It is suggested that it would be a two-bedroomed single storey dwelling with a hipped pitched roof. The laurel hedges boundaries would be partly retained and a partially created, with the remaining boundaries to be close boarded fences.

An article 6 notice has been served on the owner of Forest View, in respect of land to be used as part of the access for the development and on the owners of Out of the Way, in respect of land to be incorporated within the site if the dwelling. Certificate B has been completed.

6.Planning Policy

| | |
|-----------|-----------------------------------|
| G1 and G2 | Aims and criteria for development |
| H16 | Housing Policy Boundary |
| D2 | Design Criteria |
| C6 | Special Landscape Area |
| TR11 | Off street parking |
| R2 | Public open space |
| PPS1 | Planning for sustainability |
| PPS3 | Housing |

7. Consultations

Parish Council

Object. Proposed bungalow will be overlooked by three new houses on front of plot. Impact on surroundings

Wiltshire fire and rescue

Comments regarding need for adequate access for fire fighting, adequate water supplies and encouragement to provide domestic sprinkler system

Highways

Previously refused similar proposals in this location. But an acceptable scheme, from a highways perspective, was agreed as part of application S/2010/0821. This latest submission also includes a larger site area, which has led to an improved highway layout. Due to this, recommend no Highway objection is raised, subject to conditions on provision of visibility splays, consolidated surfaces of access and a turning area as well as a scheme for the discharge of surface water

Arboricultural Officer

No objections.

8. Publicity

The application was advertised by site notice, and neighbour consultation with an expiry date of 21 July 2011.

Three letters of letters of objection received

Summary of key relevant points raised:

- Plot is too small and development would appear cramped; backland development
- Out of character with surrounding spacious development
- Change in character of area, urbanising
- Density of development would be dangerous precedent
- Too close to neighbours
- Too close to protected copper beech tree; will result in pressure to fell it.
- Will be overlooked by three new houses on front of plot
- Create noise and disturbance

9. Planning Considerations

9.1. Summary of differences between current scheme and previously refused scheme.

Previous applications S/09/676, S/09/1853, S/10/388 and S/10/821 were refused on grounds relating to the impact on protected trees and their roots, and the cramped appearance of the development, in a backland location. The current scheme differs from the previously refused scheme in the following ways:

- a) The applicant has obtained a right of way from Forest View, to enable a passing bay to be constructed alongside the Southampton Road without the removal of the protected trees or hedge.
- b) The applicant has obtained agreement from Out of the Way, to include part of their garden into the application site.
- c) The bungalow is repositioned, amending the previous distance of 11697mm from the Copper Beech tree to 18000mm. This has been achieved by moving the bungalow largely onto land in the ownership of the garden of Out of the Way and 15510mm from the rear elevation of the dwelling on plot 2.
- d) The proposed dwelling would be 3814mm from the side elevation of Out of the Way and 15814mm from the Laurel hedge of Arundell.

9.2. Scale, design and impact on character of the area

Unlike previous applications, the current application is in outline only. It seeks consent for the principle of the erection of a single storey dwelling on the site, with only the proposed layout and access to be considered at this stage.

The site is within the Housing Policy Boundary of Alderbury as defined by the Local Plan. Therefore, in principle residential development is acceptable. Whilst PPS3 has been amended so that its definition of previously developed land excludes private gardens, as the policy H16 does not distinguish between previously developed land and other land, the

change to PPS3 is not significant. Local Plan Policy H16 also does not preclude backland development. The acceptability of such proposals would be judged in relation to access, parking and the amenity of neighbouring properties. These issues were judged acceptable. The reasons for refusal, which were upheld by the Inspector related to the character of the area and the impact of the development on the protected copper beech.

The scheme for Plots 1-3 (S/2008/1942) has been approved and is under construction. This has provided a guideline for the size of the plots that would be acceptable on the site. For example, the rear garden area for plot 2 measures approximately 6.7m by 5.5m. The proposed rear garden area for this proposed bungalow would be about 33m by 16m. The rear garden size is therefore larger than that approved for the other dwellings on the site, and for this reason, it would not be reasonable to continue to refuse the scheme on the grounds that that the plot size would be contrary to the character of the area, in the specific terms of characteristic plot *size*. Policy D2 also specifies that the characteristic plot *width* is an important consideration. The plot *width* compares to other plots in the vicinity, such as Forest View and Moorland to the south.

The shape of the revised dwelling appears more conventional than the appeal scheme (S/10/821), and similar to the other houses and bungalows in the vicinity. By increasing the area of the site, more space has been created around the proposed dwelling and there is a significantly greater separation distance between it and the copper beech. The relocated dwelling appears though to be quite close to the side elevation of Out of the Way, with a gap of only 3814mm between the proposed bungalow and the side elevation of Out of the Way. The dwelling will though be screened by an 1800mm close boarded fence and a laurel hedge and a separation distance of approximately 4m is not unusual in an established residential area. It allows for space for movement around the dwellings, unlike the previous application, where the proposed dwelling was sited directly upon the boundary wall for Plot 3.

9.3. Impact on Neighbours.

One early scheme in 2008 for a two storey dwelling on this site was refused on the grounds of potential and perceived overlooking between the plots and adjoining neighbours. However, the current scheme is for only a single storey dwelling. Though there are no details, there would be no first floor overlooking into adjoining gardens and any consent could be conditioned to have no windows above eaves level. Any ground floor windows in a single storey dwelling would be unlikely to result in any overlooking, given the retention of the laurel hedge on the boundary with Arundell and the proposed boundary treatment on the remaining boundaries.

The proposed layout is though likely to result in some overlooking, from the future occupiers of plots 1 to 3, (by the upper floor windows) of the private amenity space of this new dwelling. The proposed garage could though screen some of the garden area and the future landscaping (a reserved matter) could also be designed to screen the amenity space.

The use of the existing driveway alongside Forest View as well as the proposed parking and garden areas by any new occupiers will result in additional disturbance to the occupiers of Forest View, Out of The Way and Plots 1-3. But, the driveway already exists, and could be used for additional vehicles to access the rear portion of the garden of The Heather. It is difficult to argue that a dwelling would result in more disturbance to the existing occupiers of Out of the Way and Forest View than the fallback scenario.

However, the use of the rear portion of the garden of The Heather for another dwelling would give permanence to this additional usage and activity. The position of the existing drive would be close to the boundaries of Plots 1 and 2, but this relationship is considered to be acceptable. However, the parking and turning areas are all sited immediately on the boundary of Plots 2 and 3, and this is likely to give rise to an undesirable (but not undue) level of disturbance to the future occupiers. Indeed when considering the earlier applications the Planning Authority, did not consider that the location of the dwelling and the proposed access would create such a disturbance to neighbours as to be uncharacteristic of the surrounding area and therefore unacceptable. In the vicinity for example, the separation distance between Oakwood and Arundell is less than 3metres, and just 4m separate Moorland from Forest View.

9.4. Highway Safety

Earlier applications on this part of the site received a refusal on highway grounds due to insufficient width being available at the proposed access point. However, by including an area of land originally part of the neighbouring property Forest View, which improved the visibility splay, the earlier reasons for refusal were overcome. Inadequate visibility was therefore not a reason for refusal for the application dismissed on Appeal and again no highway objections have been made to this proposal subject to conditions being attached to any permission granted.

9.5. Trees

9.5.1 Proposed access

Given the amendments to the proposed visibility splay, the previous reasons for refusal in relation to protected trees and the visibility splays were considered to have been overcome. Conditions would need to be attached to any permission to ensure that the splays are implemented in accordance with the arboricultural method statement.

9.5.2 Copper Beech (subject of a TPO)

Previous applications have been refused because of their likely impact upon this protected tree which has significant amenity value. It is growing in an adjacent garden and is approximately 18 metres high with branches that extend 8.5 metres towards the site of the new dwelling. The quality of the tree was commented on by the Inspector 'in good condition with an estimated life expectancy of 25 to 50+ years'...'it is of considerable amenity value'. In the Inspector's opinion, the 'erection of a bungalow on the appeal site would be likely to lead to pressure to fell the tree'.

The current application proposes that the new dwelling be sited 18m from the copper beech and the tree officer has commented as follows

"I am disappointed at the insistence of the developer to squeeze another dwelling in this small area of land because it has involved the removal of a number of unprotected trees on an adjacent site.

Furthermore, I am also concerned that the protected Beech tree in the rear garden of Arundell appears to have been poisoned. A number of holes have been drilled around the base of the tree which has now become defoliated. It is unclear, at this stage, whether or not it will die? If it does it will need to be replaced by a reasonable sized specimen of a similar species and afforded sufficient space to grow to maturity.

The current planning application proposes to locate the dwelling 18 metres away from the Beech tree, which provides sufficient clearance so that I can no longer formally object. However, the relationship between the position of the dwelling and the location of the tree is such (especially given that it is a single story dwelling), that an unsympathetic future owner/tenant is likely to assert pressure to have it reduced or removed. It should be noted, for the record, that all such attempts will be resisted, where appropriate”

As a result, it is the officers’ opinion that a refusal based on the impact of the proposal on the protected tree would be difficult to defend on appeal

9.6. Public Open Space

The Inspector considered that as no quantified evidence of the additional demands on facilities which would be likely to arise from the proposal had been provided and also no details of the facilities on which the financial contribution would be spent, that this reason for refusal could not be upheld. On the basis that this reason for refusal was not upheld, the applicant has stated that he is not willing to enter into a Section 106 Agreement in accordance with Policy R2 (Public Open Space provision).

However, Members should note that the Inspector appears to have come to that decision at a point in time, simply because he considered that not enough evidence had been provided by the LPA to justify the requested financial contribution. It follows therefore that provided suitable justification is in future provided by the LPA, then it is likely that the Inspectorate may well come to a different conclusion regards this matter, and support the request for a financial contribution.

Whilst it would normally be the case that where an applicant refuses to make a contribution towards public open space, a refusal of planning permission on this policy basis would result, in this particular case, the applicant would only have to commit to pay such a contribution upon submission/approval of a future reserved matter application related to the details of the scheme.

It is therefore considered that in this rather unusual situation, a condition related to a future open space contribution still passes the relevant Circular tests, and it is hoped that the applicant or other future developer would in future agree to such a contribution based on the weight of evidence the Council can provide to justify such a payment.

10. Conclusion

The Local Planning Authority now accepts that, in this application, because of the enlarged size of the plot that the proposed dwelling will be sufficiently distant from the protected copper beech tree, that it is unlikely that the copper beech will create overshadowing of the dwelling or that its presence on the boundary would give rise to safety fears, which could create pressure to fell the protected tree and that therefore this reason for refusal has been overcome.

Since the previous appeal, the plot has been enlarged and the layout of the site amended. The dwelling would be located further from its neighbours. The indicative details suggest that the proposed dwelling would also be much more conventional in design. On the basis that the application site has been substantially increased in size as well, allowing there to be more space around the proposed dwelling; so that the development no longer appears cramped and contrived within the site, it is considered that this previous reason for refusal

has been overcome and subject to suitably restrictive conditions the revised proposal is therefore considered acceptable.

11. Recommendation

Planning Permission be GRANTED for the following reason:

The proposed development has overcome the reasons for the dismissal of the appeal and on this basis accords with the provisions of the Development Plan, and in particular Policies G1 and G2 (General Criteria for Development), D2 (Design), H16 (Housing Policy Boundary) and R2 (Public Open Space) of the saved policies of the adopted Local Plan, insofar as the proposed development is considered to have an acceptable access and layout, and conditioned regarding the details of the design and the provision of public open space also would not adversely affect the amenities of the neighbours or the character of the surrounding Housing Policy Boundary and would be in accordance with national policy as expressed in PPS1 and PPS3.

Subject to the following conditions:

1 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Drawing ref. no 08/470/P4/05 A
Arboricultural Impact Assessment and method Statement prepared by Bill Kowalczyk dated 26.05.2010
CellWeb Tree root protection system

REASON: For the avoidance of doubt

3 No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The external appearance of the development;
- (c) The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

4 An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

5 No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

POLICY: G2 General criteria for development

6 The building(s) hereby permitted shall be of single storey construction only and no window, dormer window or rooflight shall be inserted above the height of the eaves.

REASON: In the interests of amenity having regard to the characteristics of the site and surrounding development.

POLICY: G2 General criteria for development

7 No part of the development shall be first occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

POLICY: G2 General criteria for development

8 The development hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety

POLICY: G2 General criteria for development

9 No part of the development hereby permitted shall be first occupied until the turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety

POLICY: G2 General criteria for development

10 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: In the interests of highway safety

POLICY: G2 General criteria for development

11 No development shall take place until details of provision for recreational open space in accordance with policy R2 of the Salisbury District Local Plan have been submitted to and agreed in writing by the Local Planning Authority.

REASON: In order to comply with policy R2 of the Salisbury District local Plan

POLICY: R2 Public open space

INFORMATIVE: POLICY R2 of the Salisbury District Local Plan

You are advised to contact the Local Planning Authority prior to any submission of details so that compliance with Policy R2 can be discussed.

APPENDIX

Appeal decision on S/2010/0821



Appeal Decision

Site visit made on 7 December 2010

by **G M Hollington MA, BPhil, MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 December 2010

Appeal Ref: APP/Y3940/A/10/2135252

The Heather, Southampton Road, Alderbury, Salisbury, Wiltshire, SP5 3AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Probuild Residential Ltd against the decision of Wiltshire Council.
 - The application Ref. S/2010/821/FULL, dated 18 May 2010, was refused by notice dated 24 August 2010.
 - The development proposed is to build one two-bedroom bungalow.
-

Application for Costs

1. An application for costs has been made by Probuild Residential Ltd against Wiltshire Council. This application will be the subject of a separate Decision.

Decision

2. I dismiss the appeal.

Main Issues

3. The main issues are:
 - (a) the effect of the proposed development on the character and appearance of the surrounding area; and
 - (b) whether the financial contribution sought by the local planning authority (LPA) in respect of off-site open space provision is reasonable and necessary to make the proposed development acceptable in planning terms.

Reasons

- (a) Character & Appearance
4. The appeal site lies within the Housing Policy Boundary of Alderbury, as defined by policy H16 of the adopted Salisbury District Local Plan (June 2003), where residential development is acceptable in principle. The site forms part of the garden of The Heathers and Planning Policy Statement (PPS) 3: *Housing* has been amended so that its definition of previously-developed land now excludes private residential gardens. Nevertheless, in the Housing Policy Boundary, policy H16 does not distinguish between previously-developed and other land, so the change to PPS3 is not significant.

5. Local Plan policies G2, D2 and H16 provide criteria against which development proposals are to be considered. They include respecting or enhancing the character or appearance of an area, not constituting inappropriate backland development and avoiding the loss of features such as trees which it is desirable to retain. These are complemented by PPS1: *Delivering Sustainable Development* and PPS3, which seek to achieve high quality development which is appropriate to its context.
6. The proposed bungalow would be sited in the rear part of the existing curtilage, behind three dwellings facing Southampton Road for which there is an extant planning permission. It would be reached by an access between The Heathers and Forest View.
7. Other dwellings in the vicinity are arranged mostly in the form of a ribbon of development along Southampton Road, although the roofs of houses in The Copse can be glimpsed behind the frontage development. Policy H16 does not preclude all backland development and its accompanying text judges the acceptability of such proposals only in relation to access, parking and the amenity of neighbouring houses, none of which here is of concern to the LPA.
8. The plot size and width would not be out of keeping with their surroundings but the proposed dwelling would have a cramped relationship with its site and surroundings. The bungalow would occupy almost the full width of the plot, reaching close to the boundary with Out Of The Way and adjoining the wall proposed on the boundary with the already permitted plots 2 and 3. This would be an uncharacteristically tight relationship in an area where, even though some dwellings' flank walls are relatively close, this is mitigated by their long front and/or back gardens, whereas the proposed bungalow would have no significant front garden.
9. Although it is likely the bungalow would, at most, be only glimpsed from Southampton Road, local residents would be aware of the cramped relationship. The proposal is not similar to the permitted replacement of Heatherfield by three houses, as they would have more spacious surroundings.
10. Standing in the neighbouring garden of Arundell but spreading over part of the appeal site is a copper beech tree. It is substantial in size (at least 15m tall) and in good condition, with an estimated useful life expectancy of 25-50+ years. The tree is the subject of a tree preservation order and it is of considerable amenity value, being visible from Southampton Road, and it supplements the wooded backdrop to the housing.
11. The LPA does not object to the direct effect of the proposal on this tree. Taking into account the advice of BS 5837:2005 *Trees in Relation to Construction - Recommendations*, the bungalow would be sited outside the root protection area, which could be protected during site works.
12. Some pruning of the tree has previously been undertaken, but the lower branches would reach to within about 4m of the proposed bungalow. The tree is not fully mature and can be expected to grow further, even if it is close to its eventual height. Some limited pruning of existing low branches could be acceptable but the tree is of such size that it would have some effect on light to the bungalow, notwithstanding the rooms' orientation.

13. Furthermore, the tree would rise well above the proposed dwelling, in sufficient proximity that it is likely that this would cause inconvenience or fear of danger to future occupiers, as a result of an overbearing presence and leaf or branch fall. Mesh guards for the gutters would be only a partial remedy.
14. It is not unusual for people to be unaware of the full implications of trees until they inhabit a property, so that LPAs are often under pressure from house owners to lop or fell protected trees. *Tree Preservation Orders: A Guide to the Law and Good Practice* stresses the need to avoid layouts where trees cause unreasonable inconvenience, leading inevitably to requests to fell.
15. Erection of the bungalow on the appeal site would be likely to lead to pressure to fell the tree (which might be difficult for the LPA to resist on safety grounds) or to lop it in a way which could harm its appearance and amenity value or represent a significant longer term threat to its survival. This would harm the area's character and appearance. Any conditions regarding best arboricultural practice during construction or landscaping would not adequately mitigate these harmful effects and it would be difficult to secure replacement planting of equivalent amenity value.
16. It is possible pressure to undertake work to the tree could come from the occupiers of Arundell, which is in close proximity and to the north of the tree. However, that is an existing relationship and it would be inadvisable to add to likely pressures by siting an additional dwelling close to the tree.
17. My conclusion on this issue is that, because of its cramped siting and likely indirect effects on a protected tree, the proposal would result in unacceptable harm to the character and appearance of the surrounding area. This would be contrary to the aims of Local Plan policies G2, D2 and H16, PPS1 and PPS3.

(b) Financial Contribution

18. The appellant has submitted a section 106 planning obligation which would ensure, prior to the commencement of development, payment to the Council of the cost of providing, improving and/or maintaining adult or children's sport, play or recreation facilities or installing and/or maintaining equipment in connection with such facilities.
19. The Local Plan states there is a shortfall of recreational open space within the locality and the wider district, which policy R2 seeks to address. However, there is no quantified evidence of the additional demands on facilities which would be likely to arise from the proposal and no details have been provided of the facilities on which any financial contribution would be spent.
20. In these circumstances, the financial contribution sought by the LPA in respect of off-site open space provision has not been shown to be reasonable and necessary to make the proposed development acceptable in planning terms; it would not accord with the tests in Regulation 122 of the Community Infrastructure Levy Regulations, which also form part of those set out in Circular 05/2005: *Planning Obligations*. This conclusion does not, however, outweigh my conclusion on the first main issue.

G M Hollington

INSPECTOR