

## REPORT TO THE SOUTHERN AREA PLANNING COMMITTEE

<b>Date of Meeting:</b>	10 <sup>TH</sup> May 2012		
<b>Application Number:</b>	S/2012/00312/OUT		
<b>Site Address:</b>	Out of The Way, Southampton Road, Alderbury, SP5 3AF		
<b>Proposal:</b>	Outline application to demolish existing dwelling and erect three detached dwellings.		
<b>Applicant:</b>	Mr. H Euridge		
<b>City/Town/Parish Council</b>	Alderbury Parish Council		
<b>Electoral Division</b>	Alderbury & Whiteparish	<b>Unitary Member</b>	Cllr Richard Britton
<b>Grid Reference:</b>	Easting: 418906.9		Northing: 126966
<b>Type of Application:</b>	Outline		
<b>Conservation Area:</b>	Cons Area: -N/A		LB Grade:- N/A
<b>Case Officer:</b>	Mrs. Becky Jones		Contact Number: 01722 434388

### Reason for the application being considered by Committee

- Cllr Britton has called the item to committee on the grounds of the relationship to adjoining properties and the environmental/highway impact of the development.

### 1. Purpose of report

To consider the above application and the recommendation of the Area Development Manager that planning permission be GRANTED subject to conditions.

### 2. Report summary

The main issues in the consideration of this application are as follows

1. Site history (Appendix 1)
2. Principle of outline development and impact upon the character of the area
3. Impact upon amenities of neighbours
4. Highway safety
5. Trees and Ecology
6. Affordable Housing and Public Open Space

11 letters of objection, 2 letters of support. Objection from Alderbury Parish Council, observations regarding easements and public sewers from Wessex Water. No objections from highways or trees subject to conditions. Ecological (bat) condition recommended.

### 3. Site Description

The site forms part of the rear portion of land behind a new development of three houses, which recently replaced a bungalow called The Heather. The site lies within the Alderbury Housing Policy Boundary and Special Landscape Area, in an Area of Special Archaeological Significance.

Out of the Way (a vacant dwelling) lies in the northern part of the site. Dwellings lie to the north (Arundell), east (three new dwellings, Forest View and Moorland) south (The Gables) and west (Mere). A dense belt of tall trees (mainly coniferous) forms the south west boundary with Mere, and a tree report has been submitted with the application. The site is accessed from Southampton Road via a sloping drive situated to the east (which also serves Forest View and provided pedestrian access to Out of the Way). Land adjacent to the access onto the highway from the site (within Plot 1) is landscaped with mature trees some of which are the subject of a Tree Preservation Order (407). To the north in the garden of Arundell/Rose Buds is a large copper beech tree protected by a TPO. Public sewers traverse the site in the southern section (see plan).

#### 4. Relevant Planning History

Please see **Appendix 1** for full planning history. Summary below:

Application	Proposal	Decision
S/09/676	Build 1 x 2 bed bungalow & alterations to access	Refused
S/09/1853	Build 1 x 2 bed bungalow	Refused
S/10/388	Build 1 x 2 bed bungalow	Refused
S/10/821	Build 1 x 2 bed bungalow	Refused Appeal dismissed
S/11/914/OL	Build 1 x 2 bed bungalow	Refused Appeal awaiting decision
S/11/1746 OL	Erection of 1 x 2 bed bungalow	Refused Appeal awaiting decision

#### 5. Proposal

The applicant is seeking outline consent to demolish Out of The Way (3 bed) and erect three dwellings. The application is in outline, and all matters have been reserved for consideration under a future application (access, appearance, layout, landscaping and scale).

*Indicative* details of the proposed dwellings, layouts and turning areas have been submitted and suggest a traditional brick style with hipped tiled roofs. The applicant has suggested the following:

- Plot 1: Two storey dwelling with 4 beds and integral garage
- Plot 2: Chalet bungalow style dwelling with 3 beds and integral garage
- Plot 3: 2 bed bungalow with separate garage.

All existing boundary hedges and screening would be retained. A vehicular access would be provided by the existing track off Southampton Road, adjacent to Forest View. Certificate B has been completed and 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.

#### 6. Planning Policy

- Salisbury District Local Plan (Adopted 30 June 2003). The relevant policies are: G2, H16, D2, C6, C8, C12 & R2.
- South Wiltshire Core Strategy. Core Policy 3 (affordable housing).
- The Swindon & Wiltshire Structure Plan 2016 adopted 2006
- National planning policy framework
- Draft Wiltshire Core Strategy

## 7. Consultations

### Parish Council

Object on grounds of density being out of keeping with the surrounding area, overlooking, and concern that access road is narrow with no passing place, a car may have to reverse onto Southampton Road to allow another to exit.

### Highways

No objection subject to conditions

### Trees

No objection subject to conditions

### Wessex Water

Connections and adoptions to be agreed with Wessex Water. A three metre easement is required for all public sewers. The applicant has confirmed that the sewer has been identified on site and the position of the dwelling on Plot 1 would provide more than the required easement (see plan).

## 8. Publicity

The application was advertised by site notice, and neighbour consultation which expired on 29<sup>th</sup> March.

11 letters of objection and 2 letters of support were received. Objections were on the following general grounds:

- Backland and tandem development out of character, out of scale, too high density, garden grabbing, urbanisation and loss of village's rural setting. Impact on Oak Drive and village. Not an urban area – semi rural. Already loss of boundaries and hedges. Juxtaposition with Housing Restraint Area to the west of the site.
- Dominant appearance of Plot 3, elevated site, loss of privacy and overlooking between plots and from trackway into adjacent and nearby dwellings, noise and light pollution, loss of quiet enjoyment, headlights shining into gardens, proximity of cars to boundaries
- Insufficient parking – impact on Southampton Road and danger to users. Exacerbated by The Heather development. Impact on public transport and buses.
- Dangerous access onto Southampton Road, lack of passing space will cause vehicles to reverse onto road. Inadequate access for fire and emergency vehicles. How can splay be provided without loss of boundaries? (*Officer note: the splay is shown on Plan 08/470B02, without loss of front boundaries*)
- Disruption during construction, bin area encourages rodents etc, waste collection point unacceptable, capacity of utilities to cope with increase
- Ongoing appeals, possible overlap with any scheme to be approved would cause more overdevelopment. (*Officer note: the applicant would not be able to implement this scheme in tandem with another permission, due to the layout of the three plots occupying the whole site and the need for development to be in accordance with any approved plans.*)
- Need for geological survey to assess soakaway effectiveness
- Bats – roosts likely to be on site

- Site history - lack of amenity space, blurring of boundary with The Heather and Out of The Way. Out of The Way would not get planning permission in present time in backland location, one appeal has been dismissed.
- Query boundary of site with Mere (*Officer note: the red line plan has been checked and is correct on the plan*)

Support:

- Exceptional quality of development at The Heathers, Out of the way was breeding ground for vermin. Would not be overlooked, neighbours adequately screened, will fit well into village, and benefit buyers, including first time buyers.

## 9. Planning Considerations

### 9.1 Site History (Appendix 1) and appeal decision for S/2010/821

The Appeal Inspector's report sets out several guiding principles for development on the site. In considering the scheme for a bungalow on the site, he upheld the reason for refusal relating to the cramped *siting* and likely indirect effects on the protected copper beech tree resulting in unacceptable harm to the character and appearance of the surrounding area. However, he did not agree that the plot size and *width* would be out of keeping. Para 8 states:

*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.*

The Inspector further maintained that, *"Although it is likely the bungalow would, at most, only be glimpsed from Southampton Road, local residents would be aware of the cramped relationship. The proposal is not similar to the permitted replacement of The Heather by three houses, as they would have more spacious surroundings."*

The size and siting of the proposed plots 1-3 are discussed below.

### 9.2 Impact on the Character of the Area

The site is within the Housing Policy Boundary (HPB) of Alderbury as defined by the Local Plan, and adjacent to a Housing Restraint Area (west). Therefore, in principle new residential development is acceptable. Whilst the National Planning Policy Framework (NPPF) excludes private gardens from the definition of previously developed land, Policy H16 does not distinguish between previously developed land and other land, so this is not a new consideration for garden land within the HPB. Policy H16 does not preclude backland development. The acceptability of such proposals must be judged in relation to access, parking and the amenity of neighbouring properties.

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Good design should contribute positively to making places better for people. Permission should be refused for poor design

that fails to take opportunities available for improving and the character and quality of an area and the way it functions.

The scheme for Plots 1-3 of The Heather (S/2008/1942) 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 The Heathers Plot 2 measures approximately 12m by 12m. The garden area for proposed Plot 1 would be about 13m by 35m. Each of the proposed plots is spacious, with ample space around the dwellings and between plots. For this reason, it would not seem reasonable to refuse the scheme on the grounds that that the plot size would be cramped or contrary to the character of the area. Policy D2 also specifies that the characteristic plot *width* is an important consideration. The plot *width* compares favourably to other plots in the vicinity, such as Forest View and Moorland to the south. Furthermore, the proposed separation between plots (the minimum being about three metres separating Plot 1 from the boundary with Forest View) is not uncharacteristic in this part of Alderbury. It allows for space for movement around the dwellings, unlike some of the previously refused schemes.

Consent is not sought at this stage for the size or style of dwelling. However, Plots 1-3 each demonstrate space for parking and turning areas and reasonable front garden space.

In summary, it is considered that refusal reasons relating to plot size and width and the principle of backland development on the site could no longer be supported at appeal. Permission for siting is not sought at this stage. Therefore, the *principle* for the development of three dwellings on the site would not be contrary to policy.

### **9.3 Impact upon neighbouring amenities**

Policy G2 seeks to ensure that development avoids unduly disturbing, interfering, conflicting with or overlooking adjoining dwellings to the detriment of existing occupiers.

**9.3.1 Overlooking, loss of privacy and dominance:** Elevation details of the dwellings and site sections have not been provided at this outline stage. Therefore, it is not possible to identify specific locations for overlooking. However, given that the plots are spacious, and there is adequate separation between the dwellings and the boundaries of the site, it would seem reasonable to assume that single storey dwellings, with no windows above eaves level, would not give rise to undue overlooking. Furthermore, single storey dwellings on each plot are unlikely to appear unduly dominant within the plots, or seem unacceptably prominent when viewed from adjacent gardens and dwellings. Therefore, in the absence of elevation details, and given that all matters including appearance are reserved, it is suggested that a condition requiring all the dwellings to be single storey (with no windows above eaves level) would be appropriate on an outline consent, to overcome this concern.

**9.3.2 Noise and Disturbance:** The use of the existing driveway alongside Forest View as well as the regular use of the proposed parking, refuse collection and garden areas will result in additional disturbance to adjoining occupiers, including noise, light and general activity. However, the occupiers of Forest View, who would probably experience the greatest level of disturbance, have not objected to the development. A scheme for an acoustic fence along the boundary with Forest View would be desirable, to help reduce the impact. Some third parties have objected to the light disturbance from headlights using the access, but the access already exists and could be used for vehicles. Adequate boundary planting exists to the south west.

**9.3.3 The access:** This type of development which utilises an existing driveway is not unusual and the Inspector did not raise potential disturbance as an issue in the appeal. The

driveway creates a fallback position, as it could be used without the need for planning consent to access Out of The Way. Furthermore, Out of The way could reasonably be extended (or demolished and replaced) to create much more living space, and the large plot area could have been used to provide plentiful garage space for multiple vehicles without planning consent. In this case, three dwellings are proposed in place of one and therefore, the additional activity of two dwellings must be carefully considered. The plots are considered to be spacious, but in limiting the dwellings to single storey, the numbers of bedrooms and size of accommodation is also likely to be limited and controlled. In turn, this is likely to limit vehicular movements to and from the site to a reasonable level. On balance, the impact on neighbouring amenities in terms of additional noise and disturbance created by use of the access for three dwellings is likely to be acceptable, provided adequate boundary treatments are provided or retained and the size of dwellings is limited.

**9.3.4 Gardens:** Neighbours have objected on the grounds of additional noise and disturbance to gardens arising from the development. The three plots would adjoin the boundary with Mere, which is set within large grounds with mature trees and planting along its boundary with the site. Mere is some 21 metres from the boundary with the site, and for this reason, it is unlikely that the level of disturbance to Mere from general activity on the plots would be *undue*. In the vicinity for example, the separation distance between Oakwood and Arundell is less than 3 metres, and just 4 metres separate Moorland from Forest View. However, it is considered that the boundary trees should be protected by condition, to maintain an adequate level of privacy.

## **9.4 Highway Safety**

Highway officers have noted the numerous objection letters received from local residents, which pay particular attention to highway safety concerns in relation to the proposal. The existing access would serve 4 properties; the 3 new dwellings and Forest View, which is acceptable in principle from a Highway perspective given that up to 5 dwellings can be served via a shared private drive.

However, the existing access track is long, narrow and poorly aligned. This causes concern for emergency and service vehicle access. However, the proposal seeks to widen this track to 3.7m minimum, in accordance with advice given at pre-application stage and within the national Government guidance document, Manual for Streets. Furthermore, vehicle tracking data for a fire engine has been submitted and confirms that access and turning for emergency and service vehicles could be achieved, alleviating these concerns. Whilst there is a short section of track, approximately 30m long, which does not offer a passing place, highways are satisfied that sufficient passing space is available. Also, conflict between vehicles will be infrequent due to the low number of dwellings using this access point.

The visibility at the existing access has already been discussed in principle under previous applications, and a splay with dimensions of 2m x 70m could be achieved without disturbance to trees and their roots. This is still a requirement and must be achieved prior to any occupation of the new dwellings.

Whilst the parking provision for each dwelling seems sufficient, the turning areas are not. However, as the application is in outline, layout issues can be dealt with under reserved matters in due course.

Highways do not consider that the proposal would have a detrimental impact upon highway safety and whilst the significant local objections on highway grounds are noted, Highways consider that these points have been mitigated sufficiently. Therefore, no highway objection is raised, subject to conditions (see recommendation).

## **9.5 Trees & Ecology**

A bat survey has been submitted and concludes that roosts are unlikely to be found in Out of The Way, because of its 1950s style of construction: it has no attic, no large timber joists, no large timbers or hung tiles. Spiders webs and rat droppings were found, which further suggested the absence of bats. No visual evidence for bats was found. However, the survey recommends a revisit within 4 months, if the building remains closed. Neighbouring trees with ivy cover are potential summertime roosts. If any occupation by bats is found, work must stop and the advice of Natural England sought. A condition should be added to any permission, requiring the recommendations of the survey (including the revisit) to be carried out.

The tree officer has reviewed the information provided in the Arboricultural Report (dated Feb 2012) and it is severely lacking in detail. Firstly, it is not in line with the requirements of BS5837:2005 because there is not a complete tree survey including the trees on neighbouring land, and the impact of the development on these trees has not been fully considered. There are a number of mature trees within the grounds of the adjacent property known as 'Mere', to the south west, that will almost certainly have rooting areas well within the red line of the site. The Arboricultural Report has only identified two of these trees (2 x Sitka Spruce) when in fact there are approximately ten of a significant size. No explanation has been provided as to why the other trees have not been included.

The line of trees as a whole is an important feature of the local area, and forms a leafy backdrop behind the residential development, when viewed from Southampton Road to the east.

The report does correctly point out that the planned dwelling adjacent to the 2 spruce is outside of the root protection area (when calculated in accordance with BS5837:2005). However, there is no consideration given to the above ground constraints such as overshadowing and potential fear to future occupiers should such large trees fall or shed branches. Officers would normally expect issues such as this to be addressed. Especially given that there were similar concerns on the northern boundary of the site on previous applications.

In this instance, it is difficult to object on the grounds of overshadowing because each of the new properties will be positioned no closer to the western boundary than the existing property (Out of the Way). In fact, Plot 3 is positioned about the same distance away but plots 1 and 2 are significantly further away.

Calculations indicate that all development will be outside of the root protection areas of the trees with the exception of the parking spaces associated with plot 1. Therefore, subject to the provision of an appropriate tree protection plan (based on a full survey of all trees) and a method statement explaining how above ground surfacing techniques can be used to implement the parking area, officers have no grounds for objection. This information could be requested by condition.

A number of trees have already been removed from the site so a condition requesting a limited amount of new planting would also be appropriate.

## **9.6 Affordable Housing and Public Open Space**

Core Policy 3 of the South Wiltshire Core Strategy requires developments of four dwellings or less to make a financial contribution towards affordable housing and Policy R2 of the Local Plan requires proposals for new residential development to make an appropriate financial contribution towards public open space.

For developments, such as Out of the Way it is impracticable for the development to provide a facility within the development site. Normally, with an outline application, the LPA would place a condition on the outline permission requiring the applicants and any other relevant parties to enter into a unilateral Section 106 Agreement at full planning/reserved matters stage, whereby a commuted payment is made for the provision and maintenance of open space and affordable housing provision. The Agreement would be completed before permission is issued.

Previously, the Heather's Inspector considered that no quantified evidence for the additional demands on facilities in Alderbury 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 had been presented. For this reason, the refusal reason on the full application was not upheld.

The LPA now has evidence from the Parish Council to support the request for a contribution towards public open space provision in Alderbury. In a recently dismissed Appeal (APP/Y3940/A/11/2152933) for an application in Alderbury, the Appeal Inspector considered the evidence submitted in Appendix III. (Please note that this appeal related to a full application).

*“Turning to the second reason for refusal, the Council requests a financial contribution which would be used to improve recreational open space facilities. Four potential schemes have been put forward by the Parish Council which are all local to Alderbury, including upgrades to the skateboard park. The proposed development would lead to an increase in the local population that would benefit from any of the options proposed. I conclude that a financial contribution would be directly related to the proposed development and fairly and reasonably related in scale and kind, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations (2010). The desired contribution to public recreational open space is necessary to make the appeal development acceptable. No section 106 undertaking has been submitted. For this reason, the proposed development fails to comply with policy R2 of the LP.”*

Therefore a condition relating to Policy R2 and Core Policy 3 should be attached to any outline planning permission, requiring the developer to enter into a Section 106 Agreement at full planning or reserved matters stage.

## **10. Conclusion**

Whilst the development of three dwellings (following demolition of Out of the Way) would result in some additional disturbance to neighbouring properties, it is considered that neighbours would not be unduly disturbed by dominance, overlooking or loss of privacy, provided the development is single storey in height. The proposed plots are spacious, so there would be no adverse impact on the wider character of the area. Additional planting and appropriate boundary treatments would reduce noise impacts from additional activity on the site. There would be no detrimental impact on highway safety, protected trees or protected species such as bats. Provision for affordable housing and public open space could be secured on this outline consent through appropriate condition.



## **11. Recommendation:**

### **Planning Permission be GRANTED for the following reasons:**

The proposed outline development of three dwellings (and demolition of Out of the Way) would be in accordance with the saved policies G2, D2, H16, C6, C8, C12 and R2 of the Salisbury District Local Plan and policy CP3 of the South Wiltshire Core Strategy, including the saved policies in Appendix C.

The erection of three dwellings within spacious plots would not harm the existing character of the area, which lies within the Housing Policy Boundary for Alderbury (Policy H16 and D2).

Provided the dwellings are single storey, with no windows above eaves level, neighbouring amenities would not be unduly disturbed in terms of overlooking, loss of privacy, or dominance. Provided existing boundary trees and fences are retained, there would be no undue disturbance to neighbouring occupiers resulting from the use of the access for three dwellings or use of the gardens by the occupiers (Policy G2 and D2)

Subject to conditions relating to access and visibility, the development would not be detrimental to existing highway safety arrangements for Southampton Road, or the access itself (Policy G2).

Existing and protected trees and nature conservation interests such as bats and their roosts would not be adversely affected by the development, subject to conditions (Policy C8, C6 and C12).

Affordable housing and public open space provision could also be made in accordance with Policy CP3 and R2, subject to a condition requiring the applicant to enter into a legal agreement at the full planning or reserved matters stage.

### **And 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. 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 layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;
- (e) The means of access to 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.

3. 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.

4. The buildings hereby permitted shall be of single storey construction only (with no windows, rooflights or dormer windows above eaves level).

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

POLICY- G2 General Principles for Development and D2 design

5. No development shall take place until details of provision for offsite affordable housing and recreational open space in accordance with Core Policy 3 of the South Wiltshire Core Strategy and saved policy R2 of the Salisbury District Local Plan have been submitted to and agreed in writing by the Local Planning Authority.

REASON: To ensure that the development makes appropriate off site provision for public open space and affordable housing.

POLICY Local Plan policy R2 and Core Policy 3.

6. 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 Principles for Development

7. No development shall commence until details of vehicle parking and turning, for each dwelling, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first occupied until the said parking and turning spaces have been completed in accordance with the approved details. Such parking and turning space shall thereafter be retained for these purposes in perpetuity.

REASON: To ensure sufficient parking provision is accommodated on site and to enable all vehicles to enter and leave the site in forward gear in the interests of highway safety.

POLICY- G2 General Principles for Development

8. No development hereby approved, including site clearance, shall commence until the visibility splays shown on the approved plan (08/470/B/02 dated Dec 11 and received 21/2/12) 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 Principles for Development

9. 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: To ensure that the development can be adequately drained.

POLICY- G2 General Principles for Development

10. The mitigation measures in Section 3.0 of the approved Ecological Assessment (The Whitelands Project, Visual & Evidence Based Bat Survey for Probuild Ltd, Feb 2012) shall be carried out in full in accordance with the approved timetable detailed in the Ecological Assessment.

REASON: To mitigate against the loss of existing biodiversity and nature habitats.

POLICY: Planning Policy Statement 9: Biodiversity and Geological Conservation and Policy C12.

11. Notwithstanding the provisions of Classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no enlargement, additions or extensions to any building forming part of the development hereby permitted. No garages, sheds, greenhouses or other ancillary domestic outbuildings shall be erected other than those expressly approved on the plans.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions/extensions or external alterations.

POLICY- G2 General Principles for Development and D2 Design

12. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (a) indications of all existing trees and hedgerows on the land;
- (b) details of any to be retained, together with measures for their protection in the course of development;
- (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- (d) finished levels and contours;
- (e) means of enclosure, including an acoustic fence for the boundary with Forest View;
- (f) other vehicle and pedestrian access and circulation areas;
- (g) hard surfacing materials;
- (h) proposals for new and replacement tree planting

The development shall be implemented in accordance with the approved scheme, before there is any occupation of the dwellings.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY- C6 and C8 Trees and Landscape

13. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

POLICY- C6 and C8 Trees and Landscape

14. The development, including site clearance, shall not commence until a full tree survey has been undertaken and all trees that have a Root Protection Area (calculated in accordance with BS5837:2005) encroaching into the site, have been identified. This includes the proposed visibility splay. This information shall be used to provide a Tree Protection Plan which shall be submitted to the Local Planning Authority and approved in writing, before development commences.

The Tree Protection Plan must include any necessary fencing, in accordance with the relevant British Standard (Guide for Trees in Relation to Construction, BS.5837: 2005). It must also include any other means needed to ensure that all of the trees to be retained will not be harmed during the development, including damage to their root system. The trees must be protected in accordance with the agreed Tree Protection Plan throughout the period of development, unless the Local Planning Authority has given its prior written consent to any variation.

REASON: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the most important trees, shrubs and hedges growing within or adjacent to the site is adequately protected during the period of construction.

POLICY- C6 and C8 Trees and Landscape

15. 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- D2 Design

16. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 on weekdays and 08:00 to 13:00 on Saturdays.

Reason: In the interests of neighbouring amenities

POLICY- G2 General Principles for Development and D2 Design

17. The development shall be implemented in accordance with the following plans and documents hereby approved:

Design & Access Statement, received 21/2/12

The Whitelands Project, Visual & Evidence Based Bat Survey for Probuild Ltd, Feb 2012, received 21/2/12

Access and visibility splay shown on 08/470/B/02 dated Dec 2011, received 21/2/12

Red and Blue line Location Plan, 08/470/B/01 dated Dec 11, received 21/2/12

Reason: For the avoidance of doubt and in the interests of proper planning.

**Informatives:**

1. The applicant's attention is drawn to the letter from Wessex Water dated 5<sup>th</sup> March 2012, regarding easements, water supply and sewer connections.
2. This decision is taking in accordance with Policy G2, D2, H16, C6, C8, C12 and R2 of the Salisbury District Local Plan which are saved by Appendix C of the South Wiltshire Core Strategy, Policy CP3 of the SWCS and the guidance in the National Planning Policy Framework.

## Appendix 1 Site History

S/09/676	Build 1 x 2 bed bungalow & alterations to access	Refused
S/09/1853	Build 1 x 2 bed bungalow	Refused
S/10/388	Build 1 x 2 bed bungalow	Refused
S/10/821	Build 1 x 2 bed bungalow	Refused Appeal dismissed
S/11/914/O L	Build 1 x 2 bed bungalow	Refused Appeal awaiting decision
S/11/1746	Erection of 1 x 2 bed bungalow	Refused Appeal awaiting decision

### **S/2009/676 reasons for refusal:**

1. On the basis of the information submitted to date, it has not been satisfactorily demonstrated by the applicant that the proposed development and the necessary improvements to the existing access could be satisfactorily accommodated on the site without causing harm to protected trees and their root systems.

The impact of the future growth potential of the protected copper beech tree has not been identified, and the Local Planning Authority is concerned that due to the proximity of the proposed dwelling to the tree, it may cause significant overshadowing as it grows, and give rise to safety fears and maintenance issues, which could ultimately create pressure to fell the 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, the development appears cramped 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.

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.

### **S/2009/1853 reasons for refusal:**

1. The proposed development would result in the unacceptable loss of three trees (2 Yew trees and a False Acacia) that are protected by a Tree Preservation Order, which, contrary to the details contained in the submitted arboricultural report, are considered to contribute to the screening of the site and the character of the area, and have the potential to develop into good, mature specimens. However, without the removal of these trees the proposed protection measures to prevent root damage to the other protected trees that are shown to be retained as a result of the required works to improve and widen the existing vehicular access are unachievable. Therefore, on the basis of the submitted arboricultural report, it has not been satisfactorily demonstrated that the proposed improvements and widening of the existing vehicular access can be carried out without the unacceptable removal of protected trees which would be detrimental to the visual amenities of the site. Without the removal of these trees, there would be harm to the root systems of other trees proposed for protection. Without the removal of the trees, the existing vehicular access would be detrimental to highway safety by reason of its restricted width and the inability for two vehicles to be able to pass each other. The proposed visibility splay is required to be clear of the bank at and above a height of 500mm. Without the provision of the visibility splay, the development would be harmful to highway safety due to lack of sufficient visibility.

The Local Planning Authority is also 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 fell the tree. Furthermore, the proposed development and submitted information fails to take 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 the laurel hedges on the adjoining boundaries, the development appears cramped 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

2. The site cannot accommodate adequate facilities to enable two vehicles to park and turn and it is essential to highway safety that vehicles enter and leave the highway in a forward gear. The development is therefore contrary to Policy G2 of the adopted Salisbury District Local Plan.

3. 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.

#### **S/2010/388 reasons for refusal**

1. The proposed development would result in the unacceptable loss of three trees (2 Yew trees and a False Acacia (Robinia) that are protected by a Tree Preservation Order, which, contrary to the details contained in the submitted Arboricultural report, are considered to contribute to the screening of the site and the character of the area, and have the potential to develop into good, mature specimens. Further trees in the vicinity are also likely to suffer root damage as a result of the required excavations, which would be detrimental to their long term health and visual amenity value. Without the removal of the trees, the existing vehicular access would be detrimental to highway safety by reason of its restricted width and the inability for two vehicles to be able to pass each other. The proposed visibility splay is required to be clear of the bank at and above a height of 500mm. Without the provision of the visibility splay, the development would be harmful to highway safety due to lack of sufficient visibility.

The Local Planning Authority is also 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 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 the adjoining boundaries, the development appears cramped 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.

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.

### **S/2010/821 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.

### **APPEAL DISMISSED – attached overleaf**

### **S/2011/914 OL reasons for refusal**

1. The proposal, by reason of the awkward shape of the plot and the awkward relationship between the siting of the proposed dwelling and established development, would result in a cramped and contrived development which would detract from the character and appearance of the surroundings. In particular, the plot has an uncharacteristically small front garden in relation to established development, and the gap between the proposed dwelling and the neighbouring property, 'Out of the Way', is uncharacteristically small. Consequently the proposal comprises an inappropriate form of backland development. This is contrary to saved Policies G2, D2 and H16 of the Salisbury District Local Plan and Central Government planning guidance set out in Planning Policy Statement no. 3.

### **S/2011/1746 /OL reasons for refusal**

1. The proposal, by reason of the awkward shape of the plot and the awkward relationship between the siting of the proposed dwelling and established development, would result in a cramped and contrived development which would detract from the character and appearance of the surroundings. In particular, the plot has an uncharacteristically small front garden in relation to established development, and the gap between the proposed dwelling and the neighbouring property, 'Out of the Way', is uncharacteristically small. Consequently the proposal comprises an inappropriate form of backland development. This is contrary to saved Policies G2, D2 and H16 of the Salisbury District Local Plan and Central Government planning guidance set out in Planning Policy Statement no. 3.



2. The proposed outline development does not make provision for public open space or affordable housing. This is contrary to saved Policy R2 of the Salisbury District Local Plan and Core Policy 3 of the draft South Wiltshire Core Strategy, respectively.



---

## 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