

**WRITTEN STATEMENT
OF
WINCHESTER CITY COUNCIL
APPEAL BY MR M OAKLEY
TEXAS, TEXAS DRIVE, OLIVERS BATTERY SO22 4HT
PINS REFS: APP/L1765/W/18/3197434 & APP/L1765/C/18/3195411
WCC REF: 17/02190/FUL & 17/00018/COND**

PLANNING OFFICER'S STATEMENT

November 2018

Site Description

The appeal site (1.6ha) is located in the open countryside within the Winchester – Compton Street settlement gap, south of the built up area of Olivers Battery which is identified on the urban fringe of Winchester as having its own village status (Oliver's Battery Village Design Statement (July 2008)). The site is therefore within a semi-rural area which has a high awareness of and good access to, the wider countryside area. Public rights of way lead from the edge of Olivers Battery across the open down land to Yew Hill and beyond to Compton Street. Nearby is an ancient monument (Tumuli). A bridleway runs along the lowest boundary to the sloping site joining up with the rights of way.

The site is therefore is a sensitive location in terms of short and long distance views. The panoramic views and more significantly glimpses of river valley, cityscape, fields and woodland are an intrinsic feature to Olivers Battery. Photographs are attached at **Appendix 1** showing the extent of the area.

The site, although part of Olivers Battery is accessed via a single width un-metalled track known as Texas Drive. The track also serves a neighbouring property and stops at the entrance to the site.

It is apparent when viewing the site engineering works have already commenced. Ground levels have been altered and a concrete slab has been laid. However, there are subtle differences to the shape of the slab when comparing with the works approved on 28th October 2016 under ref 16/00320/FUL for the demolition of the existing bungalow and outbuildings and the proposed replacement single storey dwelling with attached garage.

The slab in its current location is highly visible with a naked eye when seen from the rights of way looking down towards the site from Yew Hill. The photographs do not do it any justice.

The site is also subject to a tree preservation order no. 2239. This was served on 24th November 2018 and the order is attached in **Appendix 2**.

Relevant Planning History

-13/01367/FUL Demolition of existing dwelling and erection of replacement five bedroom dwelling, landscaping and associated works. Refused 28 August 2013.

Refusal reason:

The proposed development would be contrary to policy CP18 of the Winchester District Local Plan Part 1 - Joint Core Strategy and saved policies CE2 and CE23 of the Winchester District Local Plan 2006 Review because it represents a replacement dwelling in the countryside which would result in increased visual intrusion and harm by reason of its considerable size and design, particularly when compared to the existing single storey dwelling which is modest in scale and has a limited landscape impact, and

would also reduce the stock of more affordable dwellings in the countryside. The proposal would also result in development that would physically and visually diminish the Local Gap and thus undermine its function which would be detrimental to the visual amenities and character of the area.

-14/00868/FUL Demolition of existing dwelling and erection of replacement 1 no. four bedroom dwelling, landscaping and associated works (RESUBMISSION)
Refused 16 July 2014.

Refusal reason:

1 The proposed development would be contrary to policy CP18 of the Winchester District Local Plan Part 1 - Joint Core Strategy and saved policies CE2 and CE23 of the Winchester District Local Plan 2006 Review because it represents a replacement dwelling in the countryside which would result in increased visual intrusion and harm by reason of its considerable size and design, particularly when compared to the existing single storey dwelling which is modest in scale and has a limited landscape impact, and would also reduce the stock of more affordable dwellings in the countryside. The proposal would also result in development that would physically and visually diminish the Local Gap and thus undermine its function which would be detrimental to the visual amenities and character of the area.

2 The proposed development is contrary to saved policy CE23 of the Winchester District Local Plan 2006 Review as it represents a replacement dwelling in the countryside which would result in increased visual intrusion and harm by reason of its considerable size and design, particularly when compared to the existing single storey dwelling which is modest in scale and has a limited landscape impact, and would also reduce the stock of more affordable dwellings in the countryside.

APP/L1765/A/14/2223749 dismissed due to the significant harm it would cause in terms of character and appearance, and some additional harm in terms of diminishing a local gap, the proposal would conflict with the third, environmental, dimension. 15 December 2014. (See **Appendix 3**).

-16/00320/FUL Demolition of existing bungalow and outbuildings, proposed replacement single storey dwelling with attached garage. Permitted 28th October 2016 (See **Appendix 4**).

-17/00126/FUL Alterations to extant permission under planning application ref: 16/00320/FUL: Demolition of existing bungalow and outbuildings, proposed replacement single storey dwelling with attached garage. Withdrawn 26.03.2017

National Planning Policy Framework

The NPPF is a material consideration in determining planning applications as referred to in the framework (Paragraph 2).

So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (Paragraph 10).

Para 11 notes that plans and decisions should apply a presumption in favour of sustainable development approving development that accords with an up to date local plan.

The status of Winchester City Council Development Plan is set out below with relevant policies.

Section 12 Achieving well designed places.

Following on from this the NPPF para 124 states that 'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Para 127 notes 'Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Para 130 notes that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

Section 15 Conserving and enhancing the natural environment.

Para 170 states that the planning system should 'contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes...; and recognise the intrinsic character and beauty of the countryside... '.

Local Plan Policy

The relevant policies of the Local Plan Part One Joint Core Strategy adopted March 2013 include Policy CP13, CP18 and CP20 of the Winchester District Local Plan Part 1 – Joint Core Strategy (LPP1). These policies are referred to within the reason for refusal.

Policy CP13 sets out that development is expected to meet the highest standards of design, analysing the constraints and opportunities of the site and surrounds and makes a positive contribution to the local environment, enhancing the natural environment.

Policy CP18 considers development within Local Gaps. It seeks to retain the generally open and undeveloped nature of the defined settlement gap. The policy seeks to restrict development to that which does not physically or visually diminish the defined gaps. Development which would threaten the open and undeveloped character of this area will be resisted and the land should be managed to ensure the long-term retention of its rural character.

Policy CP20 supports development which recognises, protects and enhances the District's distinctive landscape and heritage assets and their settings (designated or undesignated). Particular emphasis should be given to conserving local distinctiveness in terms of characteristics materials, trees, form and layout, tranquillity, sense of place and setting.

The relevant planning policies of Winchester District Local Plan Part 2 - Development management and site allocations (adopted April 2017) (LPP2) are DM15, DM16, DM17 and DM23. These policies are referred to within the reason for refusal.

Policy DM15 refers to local distinctiveness where it states that 'Development should respect the qualities, features and characteristics that contribute to the distinctiveness of the local area.' Development is supported by this policy where it conserves or enhances the local distinctiveness of the area. This policy also goes on to say that 'regard will be had to the cumulative effects of development on the character of the area'.

Policy DM16 allows development that 'Responds positively to the appearance and variety of the local environment, within and surrounding the site, in terms of its design, scale and layout'. (iv) states that boundary treatments should respond positively to the local context around the site and (vi) states that development should be permitted where it 'uses high quality materials that are appropriate within the context of the site'.

Policy DM17 is also referred to in the reason to refusal where it states that new development should be satisfactory in terms of their impacts both on and off the site. It goes on to say that development will not be permitted where it has an unacceptable impact on key townscape characteristics. This policy goes on to say that proposals should provide only for lighting that is not visually intrusive on the surrounding area.

Policy DM23 states that outside defined settlement boundaries, proposals will be permitted where they do not have an unacceptable effect on the rural character of the area by means of visual intrusion and by the introduction of incongruous features. Development shall protect and enhance the key characteristics of the landscape and should avoid elements that detract from the special qualities of the place. Remodelling of the landscape will also be taken into account.

Statement of Case regarding the Reason for Refusal

The reason for refusal is as follows:

The proposed dwelling is situated in the countryside within a locally designated gap between Winchester and Compton Street. The proposed location of the dwelling further into the site on a raised platform within the site results in visual intrusion in a sensitive landscape setting visible in long important views into the site from locally well used public rights of way. The location of the dwelling along with the re-modelling of the original natural topography during unauthorised works are visually harmful to this sensitive rural landscape and therefore contrary to policies CP13, CP18 and CP20 of the Winchester District Local Plan Part 1 – Joint Core Strategy adopted March 2013, and policies DM15, DM16, DM17 and DM23 of the Winchester Local Plan Part 2 adopted April 2017.

The Council's case is that the proposal is visually harmful and therefore contrary to policies CP13, CP18 and CP20 of the Winchester District Local Plan Part 1 – Joint Core Strategy adopted March 2013, and policies DM15, DM16, DM17 and DM23 of the Winchester Local Plan Part 2 adopted April 2017.

The Landscape section defines the Local Gap, the sensitive landscape character, and the long important views and public rights of way (PROW) in the area.

The reason for refusal has two main components which result in the harmful impact; the siting of the proposed dwelling on a raised platform further forward of the approved position and the remodelling of the topography.

Proposal

The proposal subject to the appeal is for a detached 4 bed dwelling with integral annex and external parking. It was noted at the site visit for the planning application that the footings of it were sited approx. 4m to the southeast from the approved position. The original site levels had also been materially altered and were considered to be an engineering operation. Proposals for landscaping and boundary treatment are also included in the proposal.

Consultations

Consultations were undertaken with highway and drainage engineers and Southern Water during the planning application with comments as follows:

Engineers: Drainage: No objections; this amendment doesn't contain any significant alterations to the proposed drainage and the proposed drainage solutions are still the most sustainable.

Engineers: Highways: No objections – the proposal does not contain any significant highway issues.

Southern Water: No objection on previous application. Site plan of sewer included.

Landscape: No objection

Landscape consultation for the appeal

Notwithstanding previous conclusions drawn by the Landscape Officer who originally dealt with the application, I have reviewed the application in its entirety in order to draw my own conclusions.

The planning case officer will include a description of the site and its surroundings and I will therefore not repeat this here, but instead focus on the key landscape issues.

This appeal relates to amendments to extant permission 16/00320/FUL, which include moving the proposed dwelling 4m further east, adding additional rooflights and alteration to site levels. These all have consequences in terms of landscape character and visual amenity.

The appellant has submitted a number of views with visualisations of the existing situation, the approved scheme and the proposed amended scheme (which is the subject of this appeal). There are a number of issues with the proposed viewpoints.

- a. The views were all taken in summer, so do not show the maximum visibility scenario (as described in the GLVIA3).
- b. No views to the north of the site have been included (despite one view being identified in the Village Design Statement as important see Page 21).
- c. The views (Existing, Approved, and Proposed) do not use the same baseline photograph, which makes comparison either impossible or inaccurate.
- d. The visualisation in View 2 shows the approved building as higher in the landscape than the proposed scheme but the appellant's drawing 'Context Elevations South: Proposed' (1501b_08_P1) clearly shows that the approved dwelling sits lower in the landscape than the proposed.
- e. All of the 'approved' views fail to accurately show the new planting that was proposed as part of this scheme (shown on T2 drawing 1501_02_P2 – 'Block Plan'), making the approved dwelling appear more visually prominent than it would be once the vegetation has established. Conversely, the 'proposed' views include the new planting proposed as part of the appeal scheme (TGD drawing 1516_0103_Rev B,

Sept 17, with Rev on 28.11.17). The result is that the approved scheme appears more visually prominent in the visualisations than the proposed amended scheme, which is inaccurate. The repositioning of the dwelling 4m further southeast, and set higher in the landscape, will make the proposed (appeal) scheme much more visually prominent than the approved scheme.

The refusal of planning permission cited a number of policy reasons for refusal. I have addressed each of these below:

CP13 – the development does not make a positive contribution to the local environment, as the dwelling's position within the site would result in it being visually prominent from a number of local public viewpoints and its proposed predominant material (off white/light grey render) would make its visual intrusion even more pronounced than it might otherwise be. Large sections of glazing are proposed on the southwest elevation around the southeast corner and along the south eastern (rear) elevation, which are the most visually prominent sides of the development. Glazing creates glare and therefore can be highly visible within a countryside setting such as this. The altered position of the dwelling, 4m forward of the approved scheme, will make these elements more highly visible from key viewpoints on the PROWs that run up to Yew Hill. The additional rooflights noted in the Design and Access Statement would also create additional reflections, which would be seen from viewpoints located on higher ground, such as from Yew Hill.

CP18 – the Compton Street settlement gap indicates the importance of this area of countryside bordering Oliver's Battery. However, although the proposed dwelling is larger than the demolished dwelling on site, its scale does not appear to be of a sufficient size to say that its presence would physically or visually diminish the gap.

CP20 – this policy supports development which recognises, protects and enhances the District's distinctive landscape and heritage assets and their settings (designated or undesignated). This area of countryside has a distinctive character, which is made up of the open access grazing land to the west and the valley sides upon which this site sits, and that rise away to the east. This landscape is also historically and culturally important, given the presence of tumuli (Scheduled Ancient Monument) and the important role the area plays in the social and recreational life of Oliver's Battery residents. The proposed development does not protect or enhance this distinctive character or setting, by virtue of its visual prominence in the views from local PROWs, which offer sweeping views of this landscape. The proposal would be highly visible and detract from the overall appreciation of the landscape. This differs from the approved scheme, whose set back and lower position in the landscape would make it less visually prominent.

DM15 – the development does not conserve or enhance the 'key characteristics' identified in the Oliver's Battery Village Design Statement (July 2008). This document states clearly that "Further development of this site should be resisted since it is

contrary to countryside policies and located within the Winchester-Compton Gap” (LT1, p.15). It also states that “Consideration should be given “...to the materials used for the exterior of each dwelling, which should be in keeping with that used in neighbouring dwellings” (p.19). The neighbouring dwelling in this case is a timber chalet style construction. The development does not conserve or enhance this open area of countryside on the edge of Oliver’s Battery, which contributes the special quality of the area, due to the visual intrusion caused by the proposals.

DM16 – the development does provide boundary treatments that respond positively to the local context around the site. The choice of off white/light grey render for most of the building is not out of keeping with other houses along the edge of Oliver’s Battery. However, this building is set much further into the countryside and therefore by mimicking materials of the settlement, rather than choosing materials in keeping with the neighbouring property, which are much more visually recessive, the development brings an urbanising influence into the countryside setting which results in a development that does not respond positively to the character of the local environment, and is not appropriate to the context. This urbanising influence was a consideration in the approved scheme, but given the position of the dwelling cut down into the land, and benefitting from a mature boundary of hedgerow and trees, it was considered to be acceptable. Bringing the dwelling forward would make the dwelling more visually prominent and therefore the urbanising influence would be greater.

DM23 – The proposed development would have an unacceptable effect on the rural character of the area, by means of visual intrusion. The alterations made to the approved scheme will result in the southwest elevation - south east corner and south eastern (rear) elevations being more visual intrusive than in the approved scheme, even with the proposed soft landscape scheme being implemented. This is because the most affected public viewpoints are elevated and therefore boundary vegetation will have less effect. Any changes to the land surrounding the proposed development are as important in the wider landscape as the proposed dwelling itself. This is because the land runs down the valley, and forms part of the dominant valley landscape that makes up the area’s unique character.

DM23 states that any ancillary or minor development that may occur as a result of the main proposal must be considered. As the land forms part of the overall landholding of the appellant, this land could be used for domestic purposes (ornamental gardening, ancillary structures, children’s play equipment, keeping of animals) which would radically change the nature of the valley side and be detrimental to rural character. The remodelling of the landscape changes to the unique valley landscape within which this site sits, and in addition, the potential for the introduction of ancillary elements is of particular concern, as it would drastically change the rural character of the valley. The development would detract from the enjoyment of the countryside from public rights of way as it will be more prominent in views from them as they rise up Yew Hill, than the approved scheme.

In conclusion, the proposed amended scheme may on paper appear to only propose minor changes, but due to the sensitive visual receptors and landscape within which the site sits, these 'minor' changes would have a significant impact upon the landscape. Moving the proposed dwelling further east would expose the glazed corner of the building and rendered eastern elevation to views from a number of key public viewpoints up Yew Hill (despite a well-designed soft landscape scheme). The render and glare from the glazed elements would make the dwelling even more visually prominent than it might otherwise be, and this would introduce an urbanising influence into a rural landscape of cultural and historical importance. The remodelling of the land, as well as potential future uses, would harm even further the valley sides, which are a unique element of this landscape.

Assessment

The site is located within the countryside outside the defined settlement boundary of Winchester and within the Local Gap. The replacement dwelling was originally allowed in principle under previously adopted Local Plan Review Policy CE23 and emerging policy DM3 (since replaced by LPP1 and LPP2). Permission 16/00320/FUL is extant, the policies of the adopted Local Plan now apply as listed above and the principle of the replacement was not re-examined in this application subject to this appeal. The approved permission (16/00320/FUL) was confirmed as not implemented in accordance with the approved drawings in assessing a later revised application (17/00126/FUL) and the landscaping and levels conditions were not discharged (drainage details were approved and materials (all except roof material) and archaeology (Written Scheme of Investigation only) were partially approved). This application therefore sought to regularise the works that had been undertaken on the site (siting and levels) and also to amend the internal layout of the proposed replacement dwelling to include the additional accommodation of the annex within the overall footprint which has not increased in area.

The principle contention is that these amendments will have a significant additional and harmful impact within the landscape to the detriment of the character of the area contrary to DM23 and CP20 as defined by the Landscape consultee.

The proposal is for the approved dwelling to be moved further into the site. In the original consent the proposed dwelling was positioned approximately 12 metres from the front boundary with the footings now positioned approximately 16 metres from it.

Significant alterations to the original site levels have been made on site which was surveyed from August 2017 and was proposed retrospectively in the planning application.

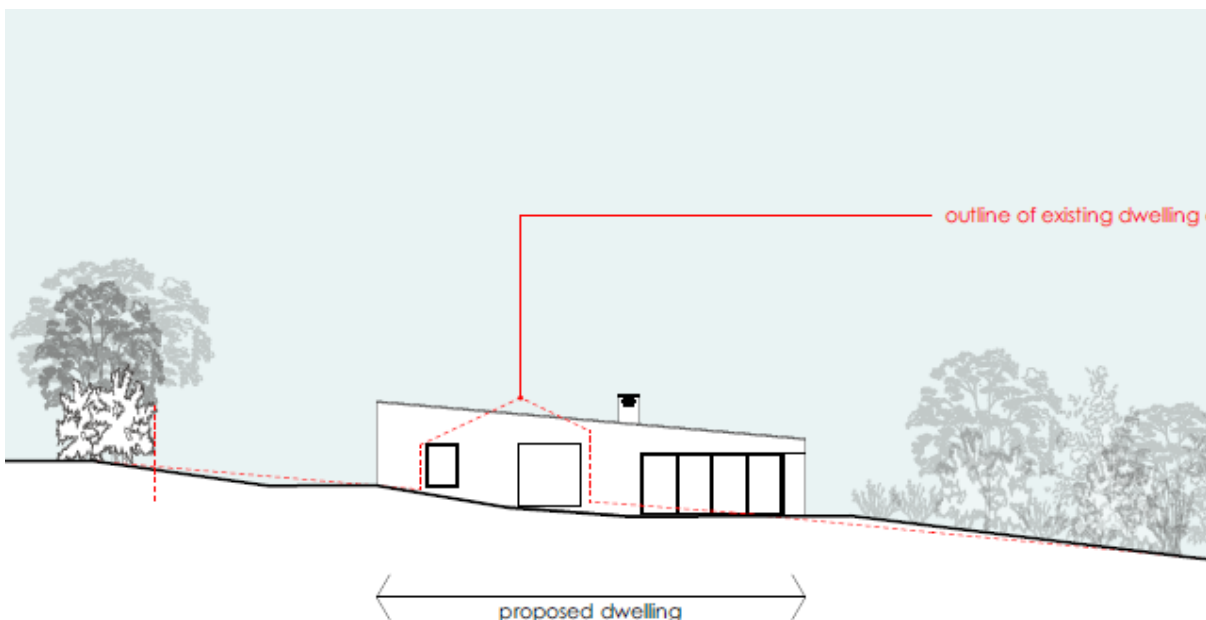
The revised floor layout to include the additional annex accommodation effectively displaced two no. integral parking spaces from the dwelling to the exterior with four

external parking spaces proposed instead of one. The re-siting to the southeast therefore allowed the space for this. Amendments were also made to the fenestration to the northeast, southeast (rear) and front elevations.

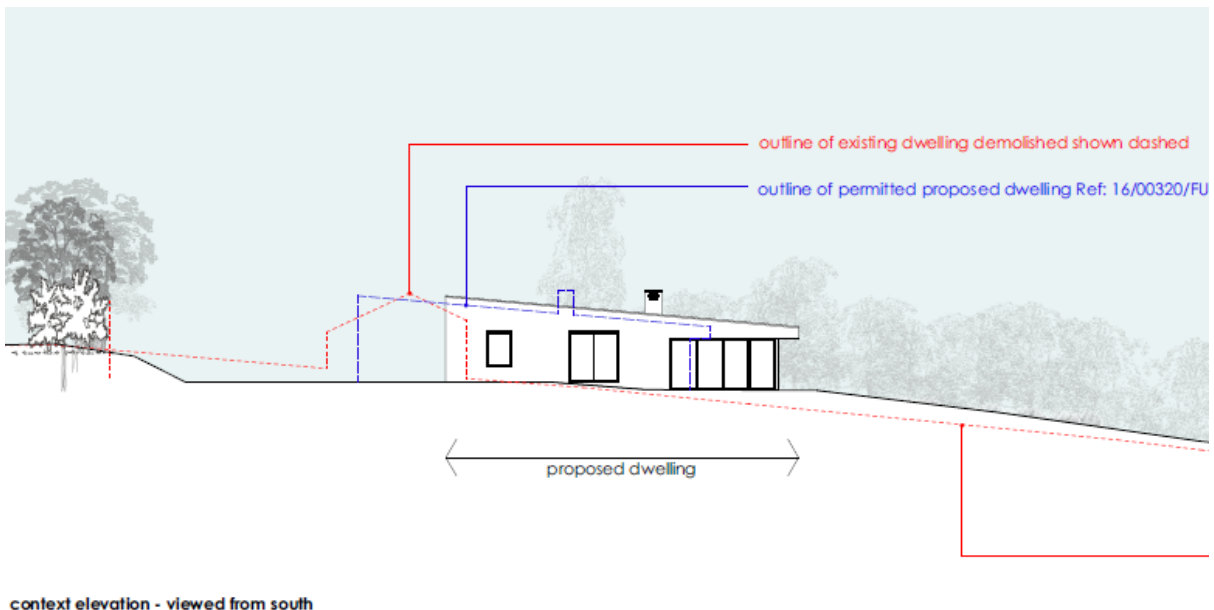
Visual impact on character of the area.

The footings and foundations that have been laid set the house further away from the front boundary than approved. The dwelling is then raised and projecting into the site. Significant cutting into the site has also been undertaken behind and down from the hedge comprising the front boundary. The elevation snapshots below show the difference of the approved (in blue) from the appeal scheme in this respect. At the eastern side (rear of the house) the site has been built up to create a flat level across the plot.

The dwelling is now set further into the site (towards the southeast) towards the open countryside and sensitive viewpoints. The further projecting elevation will also have a large section of glazing on the southwest elevation on the south eastern corner and along the south east (rear) elevation, which will be the most visually prominent parts of the development (the Landscape consultee assessment confirms where this will be viewed from southwestern viewpoints particularly on higher ground). Off white / light grey render is also proposed for these elevations. This material is light in appearance and will reflect light so the glazing and the material will further exacerbate the visual intrusion of the dwelling in the landscape.



Approved scheme 16/00320/FUL



Refused scheme subject to appeal

It was established through the planning application that the change to siting and the levels of the dwelling and also the setting of it with the remodelled landscape had a greater impact on the character of the area in the very sensitive and flowing landscape (see committee report **Appendix 5**). It is contended that this greater impact is harmful and of significant detriment to the area in a way that the approved siting and levels and surrounding curtilage (approved as being left to its natural fall (as existing)) of the dwelling were not. The Landscape consultee has analysed this also and demonstrated this through their visual analysis.

The approved scheme was designed in order to address the specific comments of the Inspector in respect to the impact of the size and significant cutting into the site against the natural topography. It resulted in a single storey unit being agreed working with the levels with minimal cut and fill and a squarer C-shaped footprint. Importantly this enabled the building to sit behind the existing vegetation on the site and as far up the slope to minimise spread into the encroaching into the countryside.

See **Appendix 3** for the appeal decision and drawings 14/00868/FUL. The snapshots below show the significant cut, size and height of the dismissed appeal scheme.



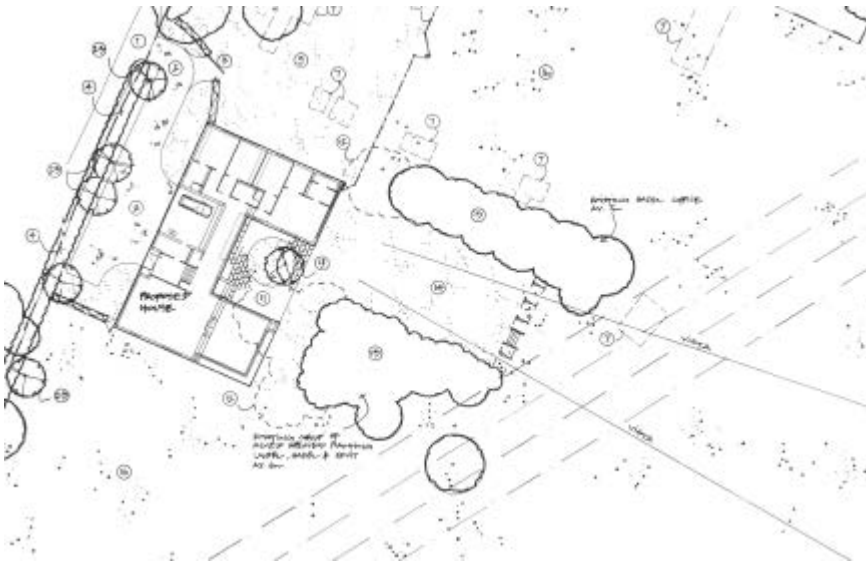
Dismissed scheme layout 14/00868/FUL



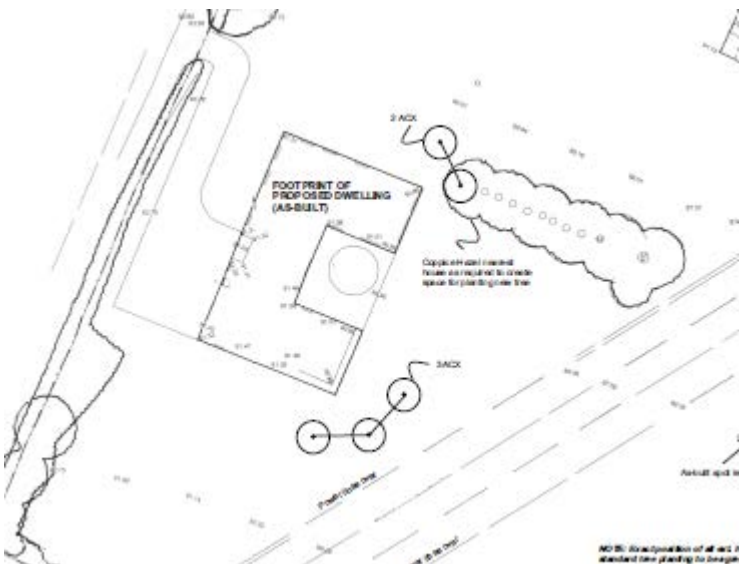
Dismissed South West Side elevation with significant height and cutting 14/00868/FUL.

The snapshots below show the re-siting of the proposed dwelling coupled with the loss of the vegetation.

The external parking proposed also results in the further domestication of the site in the countryside which would be more apparent with increasing hardstanding and parking of the appeal scheme over and above the approved scheme.



Approved scheme set behind retained vegetation 16/00320/FUL (**Appendix 4**).



Appeal scheme without vegetation set further out above slope.

The original vegetation on the site that the building was set behind has been removed which exposes the dwelling further, from that approved. The landscape plan submitted proposes some large new trees however this is not considered to mitigate the impact because the most affected public viewpoints are elevated resulting in views above the landscaped boundaries. This is demonstrated in the landscape analysis and will be apparent from a site visit to the key viewpoints.

The original indicative sections demonstrated that the approved scheme could work with the levels on the site and would be respectful to the sensitive views from the southwest so that the significant harm previously identified with the earlier schemes

would then be reduced to an acceptable level. Mitigating factors included the use of natural materials, minimised height, significant new landscaping and importantly siting and levels. The design of the house remains similar but significantly the re-siting of the house does not now respond contextually with its re-siting and the new land levels formed. The landscaping mitigation has also been undermined with its removal.

It was acknowledged in the approved scheme Committee report 16/00320/FUL (**Appendix 4**) that the original decision to approve was a finely balanced one recognising that there would be visual harm to the landscape character of the area but to an acceptable level. It was acknowledged that its size and spread was significant but because of the siting and levels proposed it was adequately demonstrated that the most sensitive views would be protected from any substantial impacts from the dwelling. It is contended that this is materially undermined by the amended proposal. The changes may not appear so substantial on plan but within the landscape, for a building of this size, the resulting effects are considered to be.

It follows that the proposal subject to the appeal was also a very finely balanced decision in making a recommendation to committee. In this case the Planning Committee Members felt that in balancing the issues against the visual and landscape harm identified, the elevated forward position and the heavily remodelled and earth bunded site fell contrary to policy and would have a significantly detrimental impact in the area due to the increased visual intrusion (see **Appendix 5** for the appeal proposal committee report and minutes).

The reasons given for increasing the accommodation within the proposed dwelling are a material consideration although are not considered an overriding factor to outweigh the relevant policy requirements and harm identified. Given the already very large footprint of the property it could comfortably contain the annex, bedrooms and living space for the applicants with integral parking spaces. Moving the building forward was not a necessary or unavoidable solution nor would it have been the only option in meeting the applicants changing requirements. In accordance with paragraphs 39-46 of the NPPF Winchester City Council (WCC) take a positive and proactive approach to development proposals at pre application and pre commencement stages focusing on solutions.

Neighbours

The refusal reason does not relate to the impact on any neighbouring properties so to clarify the proposal is not considered to have an impact in this respect, due to the isolated location of the dwelling and distance from its closest neighbour.

Conclusion

It is concluded that the revised replacement dwelling and proposals across the site will have a demonstrably more harmful impact in the countryside than the approved scheme. It is contended that the appeal scheme pays little regard to the original natural

topography of the site and countryside in its forward elevated position. It is not considered that this can be mitigated through planting; it will be seen on site that additional planting has already been implemented and is establishing). The proposal is therefore considered to fail to accord with the Development Plan policies CP13, CP18 and CP20 of the Winchester District Local Plan Part 1 – Joint Core Strategy adopted March 2013, and Winchester Local Plan Part 2 adopted April 2017 policies:

-Policy DM15 in that it fails to respect the characteristics that contribute to the distinctiveness of the local area – the natural topography and character of land that runs down the valley, and forms part of the dominant valley landscape that makes up the area's unique character.

-Policy DM16 in that it fails to respond positively to the appearance and variety of the local environment, within and surrounding the site - local materials visible in the sites context and appropriateness of palette chosen in strong landscape setting. The earth bund engineered particularly along the southern boundary does not reflect a boundary treatment that responds positively to the local context around the site.

-Policy DM17 in that it fails to have a satisfactory impact both on and off the site. The proposal does not provide for lighting that is not visually intrusive on the surrounding area.

-Policy DM23 in that it will have unacceptable effect on the rural character of the area by means of visual intrusion and by the introduction of incongruous features. The replacement dwelling is incongruous in the area and the unacceptable level of harm identified for its elevated forward position is not mitigated to an extent that would protect or enhance the key characteristics of the landscape. This is further exacerbated by the remodelling of its landscape and its context which is also taken into account.

The Council's response to specific points contained in the appellants Grounds of Appeal

This statement will address points not considered in the main statement of case by reference to the appellant's paragraph numbers.

6.1 to 6.4 The committee report identified that these circumstances were taken into account as a material consideration. They remain as such but are not considered to outweigh the planning harm identified.

6.5 Fall back position and weight to be attached to it as substantial is noted and agreed in considering the extant permission (16/00320/FUL) which has been taken into account in determining the application and the harm arising from the differences assessed in detail as the main determining elements in the refusal. In refusing the application it was a consideration that the applicants have an extant permission that

they could therefore be implemented in order to provide a replacement dwelling on site now in their ownership.

6.6 Agreed that there is no objection to changes to the internal floor plans that affect only the inside of the dwelling but the addition of parking spaces externally is a contributing factor in the harm identified but not in principle.

6.7 The main issues of contention in defending the appeal are set out in the statement of case above which notes wider issues that the two cited.

6.8 noted.

6.9 The landscape consultee sets out the status of the gap, sensitivities of the landscape and views in their appeal statement.

6.10 The change in siting and position is considered to alter how the size (scale and massing) of the building is perceived from the key viewpoints.

6.11 – 6.13 and 6.17 The visual relationship is set out and addressed in main statement of case. Loss of function of the gap is not included in the refusal reason.

6.14 Conditions recommended are below in **Appendix 6**. Additional conditions are also recommended and timings are adjusted to reflect works already carried out on site. An archaeological report was submitted with the approved permission (attached in **Appendix 4**). A watching brief is recommended given the justification from the report and consultee advice and extent of works that have already been undertaken. It is considered that the colour of the render needs to be revisited and a more significant planting scheme is required in light of the harm identified in refusing this application. The conditions are reordered in line with good practice.

6.15 Policies set out in main statement of case.

6.16 It is not contended that in itself the design is not high quality. This was noted in the committee report and no reference to the design is cited in the reason for refusal as a whole. There are some key features however that contribute to the increased impact from the re-siting including the change of position of the windows and how the materials further exacerbate the harm identified.

6.18 Satisfactory details were provided with the approved application to ensure that there would be no harm to the archaeological heritage interests of the site. However work was commenced prior to a detailed written scheme of investigation being approved with appropriate archaeological fieldwork being undertaken. A watching brief condition is therefore recommended as noted above.

6.19 and 6.20, 6.21, 6.22 Members disagreed as part of the democratic decision making process, balancing the material considerations, assessing the key requirements of adopted policy and considering the level of public interest and concern about the

proposal. This is explained in detail above and minutes of the meeting are attached in **Appendix 5**.

Points of policy are considered in the main statement of case.

Conclusion

It is concluded that the revised replacement dwelling and proposals across the site will have a demonstrably more harmful impact in the countryside than the approved scheme. It is contended that the appeal scheme pays little regard to the original natural topography of the site and countryside in its forward elevated position. It is not considered that this can be mitigated through planting. The proposal is therefore considered to fail to accord with the Development Plan policies CP13, CP18 and CP20 of the Winchester District Local Plan Part 1 – Joint Core Strategy adopted March 2013, and policies DM15, DM16, DM17 and DM23 of the Winchester Local Plan Part 2 adopted April 2017.

The Inspector is politely requested to dismiss the appeal.

GROUND (A) Planning permission should be granted for the breach of planning control alleged in the notice

It is clear when viewing the site that works have ceased since the service of the notice and as such the works that have taken place include substantial changes in ground levels and the laying of a concrete slab. This, the Council considers to be the unlawful commencement of the refused scheme before the Inspector. However the base is a slightly different shape. The Appellant does not deny this in their enforcement statement of case and gives the reason that they now wish to reconfigure the internal living accommodation to provide ancillary residential accommodation. This in itself does not justify the location of the slab as we see it now or the change in levels.

The Council accepts the principle of a replacement dwelling as discussed above. However, the fallback position (ref 16/00320/FUL) places the house 4m back towards the drive and down into the site taking account of the natural fall of the slope. Thus, respecting the hilltop situation and maintaining the external appearance of Olivers Battery as a low rise settlement with a stepped profile. The approved scheme also meets the site design guidance as set out in the Village Design Statement. The location of the slab including the hard surfacing, now on a raised platform which is further forward, introduces more built form into public views whereas the harm generated by the approved scheme is much less.

This opinion is supported by the Landscape consultee who considers that *“because the most affected public viewpoints are elevated and therefore boundary vegetation will have less effect. Any changes to the land surrounding the proposed development are as important in the wider landscape as the proposed dwelling itself. This is because the*

land runs down the valley, and forms part of the dominant valley landscape that makes up the area's unique character".

The reasons for serving the notice are therefore clearly justified and the breach of planning control is contrary to local plan policy. Thus, the appeal should fail on ground (a).

GROUND (F) The steps required to comply with the requirements are excessive, and lesser steps would overcome the objections

The Appellant claims that there is a considerable overlap between the approved and the appeal scheme, in particular where works involve the siting and extent of the footprint and external works, and suggests that the notice be varied at section 5. It is noted in comparing the application plans that there are some similarities but this stops at where it involves ground levels as the land would need to be brought up to the correct level in order to implement the approved scheme. The sections submitted for the refused scheme clearly show the differences. This would mean removing the existing footings and foundations in order to address the levels. It is therefore considered that the requirements are not excessive and the appeal should fail on ground (f).

GROUND (G) The time given to comply with the notice is too short

The Appellant has requested that the notice be varied to 6 months to allow more time to comply with step (i) and to 9 months to comply with steps (ii) – (iv) with the option to plant within 2 months of the next planting season at step (iv). It is accepted that contractors may be outside of the control of the Appellant but it would be practical while they are on site to return the site levels within the same timeframe in order to minimise the level of visual harm created through the remediation works. It is therefore suggested that steps (i) – (iii) be varied to 6 months after the notice takes effect and step (iv) be carried out within the next planting season following the completion of step (iii).

It is also requested that step (iv) be varied without any injustice to either party so that after the word "apply" it reads, "either a Mix HS1: Wildflower grass mix for light calcareous soils or a Mix EM6: Meadow Mixture for Chalk and Limestone soils". It is important that the correct grass seed is sown to ensure the visual landscape quality is maintained.

APPENDICES

APPENDIX 1 Site visit photographs of the site taken 4th October 2018

APPENDIX 2 TPO Order 2239

APPENDIX 3 1400868FUL Dismissed appeal Drawings and Appeal decision

APPENDIX 4 1600320FUL Approved Drawings

APPENDIX 5 1702190FUL Appeal proposal Minutes of Planning Committee and Committee report

APPENDIX 6 Conditions recommended

APPENDIX 6 Recommended Conditions

01 The development hereby approved shall be constructed in accordance with the following plans:

1501B_01_P1
1501B_02_P1
1501B_03_P1
1501B_04_P1
1501B_05_P1
1501B_06_P1
1501B_07_P1
1501B_08_P1
1501B_09_P1
1501B_10_P1
1501B_11_P1
1501B_12_P1
1501B_15-17_P1; VIEW 2
1501B_18-20_P1; VIEW 3
1501B_21-23_P1; VIEW 4
1501B_26_P2
1501B_29_P2
1501B_30-32_P1; VIEW 7 & KEY PLAN
1501B_34_P1-BUND SECTION
BOUNDARY PLANTING PLAN SEPT 2017 REV A
1501B_27-29_P1 VIEW 6 SUPERSEDED
1501B_24-26_P1 VIEW 5 SUPERSEDED
Revised Landscaping Plan 1516-0103 Rev 3

Reason: For the avoidance of doubt, to ensure that the proposed development is carried out in accordance with the plans and documents from which the permission relates to comply with Section 91 of the Town and Country Planning Act 1990.

Pre commencement

None as development has already been started with footings and foundations already installed.

Within one month from the date of this permission.

02 Within one month of the date of this permission details and samples of the roof, and wall render colour and texture to be used in the construction of the external surfaces of the replacement dwelling hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved plans.

Reason: To ensure that the development presents a satisfactory appearance in the interests of the visual amenities of the area in accordance with LPP2 policy DM15, DM16, DM17, DM23.

03 Within one month of the date of this permission, details and specifications for low transmittance/tinted glass which reduce light pollution from all rooflights and the windows serving the living room and bedroom (southwest and southeast elevation) are submitted to and approved in writing by the Local Planning Authority. The glazing shall be installed prior to occupation in accordance with the approved details and retained thereafter at all times.

Reason: To ensure that the development presents a satisfactory appearance in the interests of the visual amenities of the area in accordance with LPP2 policy DM15, DM16, DM17, DM23.

04 Within one month of the date of this permission, a detailed scheme for landscaping, tree and/or shrub planting shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall specify species, density, planting, size, layout and an implementation timetable. The works shall be carried out in the planting season prior to occupation or in accordance with the programme agreed with the Local Planning Authority. If within a period of five years after planting any tree or plant is removed, dies or becomes, in the opinion of the Local Planning Authority, seriously damaged, defective or diseased another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape to satisfactorily mitigate the impact of the development in the interests of the visual amenities of the area and in accordance with LPP2 policy DM15, DM16, DM17, DM23.

05 Tree protection

Within one month from the date of this permission, a scheme detailing protective measures, including fencing and ground protection for the existing trees and hedges on the site, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be installed prior to any further demolition, construction or groundwork commencing on the site and retained during construction and there shall be no deviation from these measures unless agreed in writing with the Local Planning Authority.

Inspection of fencing

The Arboricultural Officer shall be informed once protective measures have been installed so that the Construction Exclusion Zone (CEZ) can be inspected and deemed appropriate. Telephone 01962 848403.

Supervision

Within one month of this permission a person suitably qualified in arboriculture, and approved as suitable by the Local Planning Authority, shall be appointed to supervise construction activity occurring on the site. The arboricultural supervisor will be responsible for the implementation of protective measures, special surfacing and all works deemed necessary by the approved arboricultural protection measures. Where ground measures are deemed necessary to protect root protection areas, the arboricultural supervisor shall ensure that these are installed prior to any vehicle movement, earth moving or construction activity occurring on the site.

Reason: To ensure protection and long term viability of retained trees and vegetation to minimise impact of construction activity and to mitigate the impacts of the development in accordance with Local Plan policy DM23 and DM24.

06 Within one month of the date of this permission details and specifications of a hard landscape scheme shall be submitted to and approved in writing by the Local Planning Authority e.g. fences, paths, parking areas, walls. The development shall be carried out in accordance with the approved details prior to occupation.

Reason: To ensure that the development presents a satisfactory appearance in the interests of the visual amenities of the area in accordance with LPP2 policy DM15, DM16, DM17, DM23.

07 The developer shall afford access at all reasonable times to an archaeological organisation nominated by the Local Planning Authority (LPA), and shall allow them to observe the ground works and excavations undertaken and record archaeological evidence that may be uncovered as a result of the development hereby approved. Notification of the commencement date and information as to who the archaeologist should contact on site shall be given to the LPA in writing within one month from the date of this permission.

Reason: To mitigate the effect of the development upon any heritage assets and to ensure that information regarding these heritage assets is preserved by record for future generations, in compliance with policy DM26 Winchester District Local Plan Part 2.

08 Within one month from the date of this permission details of how the construction will be undertaken and a programme of works specifying hours of construction, measures for traffic management, delivery and operating hours, and measures to ensure that mud and debris is not deposited on the public highway, or other local roads shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason: To ensure that the construction of the development minimises disruption to the surrounding properties because of the narrow access track in accordance with Local Plan policy D17 and D18.

Prior to occupation

09 Prior to the occupation of the dwelling hereby approved a schedule of landscape maintenance for the lifetime of the development shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Landscape maintenance shall be carried out in accordance with the approved schedule.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape to satisfactorily mitigate the impact of the development in the interests of the visual amenities of the area and in accordance with LPP2 policy DM15, DM16, DM17, DM23.

Other conditions

10 Notwithstanding the plans hereby approved the development shall only be carried out in accordance with the following materials:

- Wall cladding - Stained or Charred Black Timber Cladding Used to soffits and to front Elevation surrounding the porch; and
- External Windows and doors - Aluminium Framed windows & External doors in RAL 7016 Matt finish.

Reason: To ensure that the development presents a satisfactory appearance in the interests of the visual amenities of the area in accordance with LPP2 policy DM15, DM16, DM17, DM23.

11 There shall be no external lighting of the site without prior written consent of the Local Planning Authority.

Reason: In the interests of protecting the visual amenities of the area which is sensitive and of high landscape value, in accordance with LPP2 policy DM15, DM16, DM17, DM23.

12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes A, B, C, E, F, G and H of Schedule 2, Part 1 of the Order; and Part Two Minor Operations Class A of the Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: Any works to the scheme need to be carefully controlled given sensitive landscape location to ensure that the development presents no additional visual impact in the interests of the visual amenities of the area in accordance with LPP2 policy DM15, DM16, DM17, DM23. Classes A, B,C,G,H will prevent additions to the main house which could add bulk and undermine the integrity of the architecture; Class E, F and Part Two Minor Operations Class A will restrict any further out buildings, hardstanding's and boundary paraphernalia in the surrounding landscaped curtilage which would have a visual impact in the area.

13 During Construction, no materials should be burnt on site. (Where allegations of statutory nuisance are substantiated by the environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.)

Reason: In the interests of the protection of the environment and residential amenities of the area in accordance with the Local Plan Part 2 policies DM17 and DM19.

Informatives:

01 In accordance with paragraphs 186 and 187 of the NPPF Winchester City Council

(WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service and,
- updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this instance the applicant was updated of any issues during the course of the application.

02 The Local Planning Authority has taken account of the following development plan policies and proposals:

Winchester Local Plan Part 1 - Joint Core Strategy
CP13, CP18, CP20.

Winchester Local Plan Part 2 - Development Management and Site Allocations
DM3, DM15, DM16, DM17, DM18, DM23, DM26.

03 All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

04 Should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne.

05 Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or private roads. Any damage to these areas should be remediated as soon as is practically possible.

> For further advice on this please refer the Construction Code of Practice

<http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>