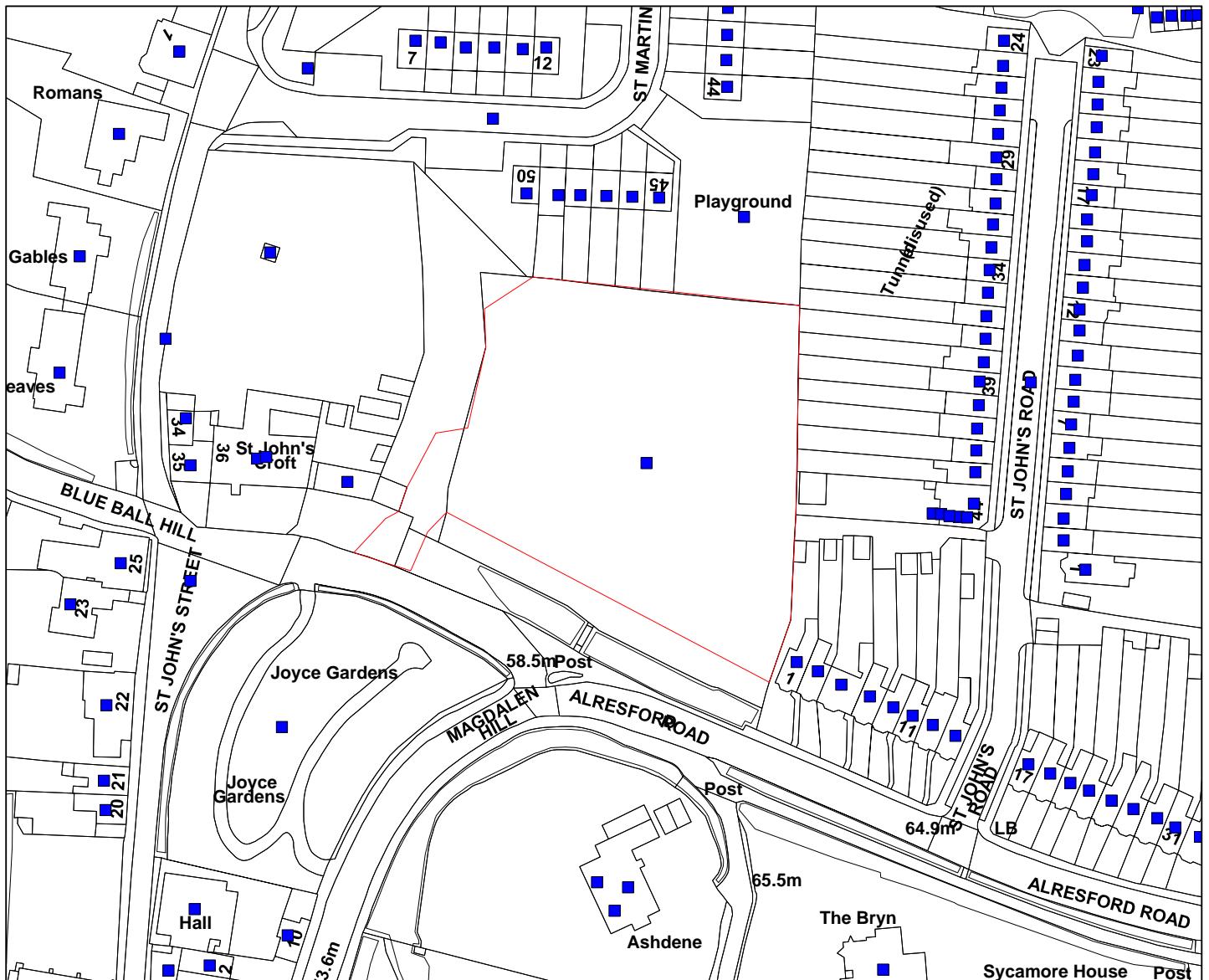


# St John's Croft, Blue Ball Hill, Winchester



**Winchester**  
City Council

09/02461/FUL



## Legend

Km 0.02 0.04 0.06 0.08 0.1

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Organisation	Winchester City Council
Department	Development Services
Comments	
Date	25 February 2010
SLA Number	00018301

Scale:

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**Item No:** 1  
**Case No:** 09/02461/FUL / W14299/08  
**Proposal Description:** 14 no. dwellings comprising of 1 no. five bedroom house, 1 no. four bedroom houses, 5 no. three bedroom houses, 2 no. two bedroom houses, 1 no. one bedroom apartment and 4 no. two-bed apartments with parking, landscape and improvements to access (resubmission).  
**Address:** Land Adjacent To St John's Croft Blue Ball Hill Winchester Hampshire  
**Parish, or Ward if within Winchester City:** St John And All Saints  
**Applicants Name:** Sarum Developments Ltd  
**Case Officer:** Lorna Hutchings  
**Date Valid:** 27 November 2009  
**Site Factors:** Winchester Conservation Area  
Adjacent Listed Buildings

**Recommendation:** Application Permitted

**General Comments**

This application is reported to Committee because of the number of objections received.

This application is a resubmission of a previous scheme (ref: 08/01657/FUL) which was reported to this Committee on 23<sup>rd</sup> October 2008, referred to a Viewing Sub-Committee held on 14<sup>th</sup> November 2008 and then refused at that Sub-Committee meeting, for reasons including the following:

- Layout, design, scale, and height being overbearing and over dominant in the context of neighbours, and loss of amenity;
- Erosion of views important to the setting of listed buildings and Conservation Area;
- Not responding sympathetically to the existing character of the area;
- Scale and mass adversely affecting the setting of listed buildings;
- Inadequate visibility splays;
- Lack of future maintenance and management of common parts; and
- No provision for Open Space, Education or Transport contributions.

The application was dismissed at appeal on 3<sup>rd</sup> September 2009. A copy of the appeal decision is attached. However, the appeal Inspector did not support most of the refusal reasons but dismissed because of the loss of privacy and overbearing impact on St Martin's Close. This application is therefore a resubmission further to the appeal decision. The main differences in the current application include:

- Houses 1 and 2 at the end of the terrace moved 1m to south further away from neighbours;
- Four bedroom dormer windows facing St Martin's Close removed;
- No second floor accommodation windows (except for house 1) facing St Martin's Close;

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- First floor bedroom windows facing St Martin's Close reduced from 7 to 2 (the 2 are in houses 1 and 2 only, which have been moved further away);
- All remaining 1st floor windows obscure glazed;
- Ridge and eaves height reduced for houses 2, 3, 4 and 5 and the corner apartment building, by between 0.6m and 1.8 metres; and
- Bin store moved 6m to east (in northeast parking court).

In addition, at the time of writing this report, a revised landscape plan has been discussed with the applicant and is awaited. This will show the repositioning further away from house 1, of a Whitebeam tree which is currently proposed to be only 1.5m away.

In addition to the condition recommended, information is also required about how it is intended to manage and maintain the open spaces, particularly the important southern tree belt. It is noted that the Inspector identified the site's mature trees, particularly the southern tree belt and views of it, as the site's principal contribution to the character and appearance of the Conservation Area.

A plan is to be submitted to clarify the boundary treatment details of the northern boundary in respect of the impact on the neighbours at St Martin's Close. This will show the existing and proposed levels through the houses, patio areas, grassed areas, gardens, retained and proposed trees/planting, and finally the position, level and height of the proposed boundary wall, in relation to the neighbours' gardens.

## **Site Description**

The application site comprises a small field of 0.41 hectares which lies within the Conservation Area, adjacent to the Grade II\* listed building at St. John's Croft. It fronts Blue Ball Hill, opposite the small public open space area of Joyce Gardens, which lies on the west side of Magdalen Hill at the point where it turns to become Alresford Road.

The land is part of the large curtilage of St John's Croft and is characterised by a prominent tree belt adjacent to its southern boundary with Blue Ball Hill, which is visible both locally and from locations further away. Topographically, the land rises to a high point in its north east corner, where it adjoins the play area in St. Martin's Close on its northern side and the rear gardens of properties in St John's Road on its eastern side. Additionally, on the northern side, the site adjoins the back gardens of a terrace of 6 houses in St. Martin's Close and there are a group of trees along the northern boundary.

The western boundary of the site is defined by an old garden wall, which divides the site from the remaining curtilage of St. John's Croft and, again, there are trees adjacent to the boundary, which contribute to the overall character of the area.

There is an existing field gate access to the site in the south west corner adjacent to St John's Croft, and it is the intention to upgrade this access to a road to serve the development.

The character of the area is very much defined by its topography and vegetation, being part of the north western lower slopes of St. Giles Hill. It is within a relatively open area where large trees have been able to become established and relate to the important open space of Joyce Gardens. Development within this area, in St John's Street and Blue Ball

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Hill, largely comprises a mix of Victorian terraces and larger individual houses, including listed buildings. These reflect its historic context, and the housing on the west side of the application site is all at a lower level, reflecting the falling topography, with its steep slope down to the Itchen Valley. By contrast, to the east, the houses are at a higher level as the slope extends more gently on the northern side of St. Giles Hill down to the Winnall valley area, and Victorian terraced housing fronts Alresford Road and St John's Road.

## **Proposal**

The proposal is for an 'L' shaped terrace sited towards the north east corner of the site and comprising 14 dwellings, with the two sides of the 'L' being aligned to the northern and eastern boundaries, respectively. The area contained between the two sides of the development forms a central courtyard and turning space, around which are five groups of parking bays totalling 17 spaces. Within the right angled corner of the two sides of the development is a vehicular access through the building to a further parking court area and bin store in the site's north east corner, which is adjacent to the existing children's play area in St Martin's Close. This parking court area provides an additional 7 parking spaces, which are interspersed with two replacement trees, and includes a pitched roof brick bin store building in the north west corner, facing the vehicular access into the courtyard.

Access from Blue Ball Hill rises from the existing field gate position in the south east corner of the site, along the walled boundary with St John's Croft, and swings into the central courtyard.

The terraced development comprises 1 no. one bed apartment, 4 no. two bed apartments, 2 no. two bed houses, 5 no. three bed houses, 1 no. four bed house and 1 no. five bed house (previous application: 1 x one bed apartment, 4 x two bed apartments, 2 x two bed houses, 3 x three bed houses and 4 x four bed houses). The houses are arranged mostly in two storey form, but with houses 1, 6, 7, 8 and 9 having second floor accommodation within their roofs, served by dormer windows (houses 3 and 4 previously had second floor accommodation).

Rear garden depths are between 15m and 13.9m (previously 14 and 13.9 metres) to the northern boundary with properties in St. Martin's Close and from 10m to 20m (largely unchanged from before) between the eastern arm of the terrace and properties in St. John's Road. The density of the development remains at 34.14dph.

## **Relevant Planning History**

**08/01657/FUL - W14299/07:** 14 no. dwellings comprising of 1 no. five bedroom house, 3 no. four bedroom houses, 3 no. three bedroom houses, 2 no. two bedroom houses, 4 no. two bedroom flats, 1 no. one bedroom flat with parking, landscape and improvements to access – Refused - 28/11/2008 - Appeal dismissed - 03/09/2009.

All other previous planning history relates to St Johns Croft itself, and applications to undertake work to trees protected by a preservation order.

## **Consultations**

Engineers: Drainage:

Foul water must go to the public sewer and the applicant must contact Southern Water to

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agree a suitable connection point. Storm water must be dealt with in a sustainable way. The plan indicates that there is a fall in levels from the parking area to Blue Ball Hill and, as no drainage details have been submitted, any water from the development must be directed to a suitable soakage system, with no water from the development flowing onto Blue Ball Hill. Storm water from roofs will also go to a suitable soakage system. Before the commencement of the development, the applicant must submit a detailed drainage layout for the site showing foul water going to the main sewer and storm water to a sustainable drainage system, all in compliance with building regulations (Condition 14).

Engineers: Highways:

Nothing has materially changed in terms of highways since the previous application. No highway objections, subject to the implementation of a Traffic Regulation Order (TRO), to remove a number of on-street car parking spaces in order to achieve adequate visibility at the proposed site access junction. A Grampian type condition is recommended to ensure that no work will take place on site until such time as the TRO has been implemented. Other standard conditions are also recommended (Conditions 3, 4, 5, 6 & 7, and Informative 5).

Environmental Protection Team (Contamination):

No potentially contaminative land uses are located on or within the immediate vicinity of the development site. However, standard contamination condition(s) should be attached. (Conditions 15, 16 & 17).

Landscape Team:

No objection. The site is well concealed from most public viewpoints. There are significant belts of mature trees on all sides, most of which are retained *in situ*. The proposed layout and configuration of the built form respects these tree belts and appears to be a logical response to the site's contextual constraints and opportunities. An initial concern was the proposed removal of mature trees from within these belts, both in the north east corner of the site and at the entrance to the site, but the Council's Arboricultural Officer is now satisfied that these trees are not suitable for retention and would be better replaced or compensated for with new trees, in order to maintain tree cover and containment of the site in these areas. Minor points of detail have now been addressed. A condition in respect of lighting is recommended (Conditions 8 & 9).

Landscape Team: Open Space Officer:

No objection. The application is for 14 dwellings, which is 1 unit short of the trigger number for the provision of on-site recreational open space. There will therefore be no requirement for on-site recreational open space and the applicant will need to make provision by way of a financial contribution instead. Other sums will be payable for open space setting-out supervision and inspection and this will generate a sum equal to an "Area of open space" x 0.45m<sup>2</sup>. Similarly, a bond to cover the laying out of open space will be required. This equals "Area of open space" x £21.69. Adequate amenity open space, a requirement of Policy DP.5, is provided by virtue of the retained tree belts to the south and west of the site and the additional space to the right hand side of the entrance. A landscape management condition is recommended (Condition 10).

Landscape Team: Arboricultural Officer:

No objection. More detailed survey information of tree health is required. Conditions are recommended to ensure tree protection and a landscape establishment plan (Conditions 22 & 28).

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Strategic Housing:

The application is for 14 units and measures below 0.5 hectares in area and, therefore, there is no requirement for affordable housing on this site.

Archaeological Officer:

Archaeological evaluation has been satisfactorily undertaken, which has established that the eastern Roman cemetery does not extend into the application site. The application site does contain archaeological remains, relating to medieval settlement activity, but the presence of these archaeological remains does not comprise an overriding constraint to the development of this site. However, further archaeological work will be required in mitigation of the impact of the proposed development on these remains, therefore a standard condition is recommended (Condition 11).

Historic Environment Team (Conservation):

The general layout, design and degree of visibility from the Conservation Area of the current proposals, are similar to the previous scheme. No objection was previously raised to the form and design of the built development, as it was considered that the new buildings would be relatively well screened from view, and the proposed buildings and their materials and details would be compatible with the local character. As regards proposed planning conditions, suggests that the following matters should be controlled by condition:

1. Quality of materials; and
2. Removal of permitted development rights to avoid otherwise uncontrolled and potentially inappropriate development on the site (Conditions 2 & 19).

Environment Agency:

No objection in principle. All precautions must be taken to avoid discharges and spills to the ground, both during and after construction (Informative 6).

Southern Water:

Initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer. Conditions are recommended (Conditions 12 & 13, Informative 3).

HCC Education:

The area is served by Winnall Primary School with 132 pupils. The nominal capacity is 140 but a 5% leeway of unfilled spaces is considered reasonable for variations in number. Therefore, the school's available capacity is 1 place. The development would generate demand for 4 primary school places. Based on Local Education Authority costs, the appropriate financial contribution is £47,910.00. This would be used for internal alterations.

English Heritage:

The application should be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.

HCC Ecology:

A revised Ecological Report (Richard Collingridge, January 2010) was received further to my initial response. It provides some additional information about the current nature of the site, although it does not provide an updated reptile survey due to the time of year it

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was undertaken. The report maintains that the site is unsuitable for reptiles and that it will not have been colonised since the surveys were carried out. However, it remains possible that reptiles could use the site, even if in low numbers, or from surrounding habitats. It is therefore important that the recommendations of the Ecological Report, including those regarding maintaining the site as suitable for reptiles, are implemented. I would suggest that, in any consent granted, a condition requires that the works will be carried out in accordance with the measures set out in section 10 of the Ecological Report (Richard Collingridge, January 2010). It is important that the trees and boundary habitats are fenced off and protected from encroachment by materials or machinery during the works. In this development of 14 dwellings, ecological enhancements should form part of the plans, although I do not think that any details regarding ecological enhancements have been provided in line with the requirements of PPS9 (Condition 21, Informative 4).

## **Representations**

### City of Winchester Trust:

Whilst welcoming the reduced height of the houses adjacent to St Martin's Close, the Trust continues to find this proposal inappropriate for the site and disagrees with the opinions of the Inspector and the Conservation Officer that the development would be acceptable. In particular, it is still considered that the height and mass of the terraces would be out of scale and uncharacteristic of the neighbourhood, as the large expanse of hard standing and parked cars in the courtyard area would also be. It is also felt most strongly that a more porous material than resin bound gravel should be used on this sloping site. The small size of the tree shaded rear gardens of the terrace to the east still gives cause for concern. It is very much hoped that adequate arrangements will be set in place to oversee the management of the sit, e.g. dustbin collection and tending the areas of common ownership. The Trust still considers that a development with fewer dwellings and underground parking would be more appropriate here and therefore continues to OBJECT to this application as constituting over development of the site.

### 39 objections received, for the following reasons:

#### Visual impact, landscape, design and neighbour amenity

- Overbearing in height, mass and bulk;
- Dominating the skyline due to high levels on site;
- Detrimental to neighbouring properties;
- Loss of sunlight and daylight to housing on St Martin's Close;
- Overlooking onto St Martin's Close and loss of privacy;
- Design and layout unattractive;
- Detrimental impact on Joyce Gardens and Winchester;
- Loss of trees and hedgerows;
- Inadequate planting and trees not maintained in the long term;
- Not well screened;
- Loss of green amenity space;
- Fixing windows shut and obscure glazing is not a satisfactory solution;
- Overdevelopment;
- Nothing done to reduce impact on Alresford Rd residents;
- Minimal changes made to address the Inspectors criticisms;
- In general, the proposals do not go far enough to address the concerns of the Committee and the Planning Inspector.

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Highways and Infrastructure

- Extra traffic cannot be accommodated;
- Insufficient parking, resulting in extra demand on St John's Road and Blue Ball Hill and doesn't meet Supplementary Planning Document standard;
- Unallocated parking is not appropriate;
- Contractors parking on St John's Road;
- Loss of on-street parking provision to create access;
- Road safety: poor access is from Blue Ball Hill at its narrowest point, with steep roads joining it;
- Danger to Old Blue Boar from increased site and road traffic;
- Danger to pedestrians, cyclists and vehicles;
- TRO not filed, decision shouldn't be made until this is agreed, lots of objection to it last time;
- Strain on local services and infrastructure;
- Oversubscribed schools;
- Noise and pollution;
- Sewage system will be overloaded;
- No pedestrian route to the school.

Conservation

- Development will destroy 'village-like' character of the area and rural lanes;
- Detrimental to view from listed buildings;
- Detrimental effect on the Conservation Area;
- Fails to enhance the Conservation Area;
- Precedent for development in Conservation Area and development not in accordance with Winchester City Council conservation advice;
- Design, scale, layout, bulk are out of keeping with the area;
- Detrimental impact upon listed buildings in vicinity;
- Will destroy semi-rural atmosphere;
- Loss of wildlife;
- New trees proposed will not effectively mitigate;
- Previous applications from neighbouring properties for dormer windows have been refused on the grounds of impact on the Conservation Area;
- Contrary to Listed Buildings Act (1990) in that it fails to preserve or enhance the Conservation Area;
- Infilling destroys cohesion and character;
- Urbanising effect;
- Planning Inspectorate decision is flawed and is just one opinion.

Reasons aside not material to planning and therefore not addressed in this report

- Damaging to tourism if the Conservation Area is eroded.

17 letters of support received, for the following reasons.

- Site is well screened;
- Development is sustainable;
- Will enhance area adding valuable housing stock much needed in Winchester;
- Unobtrusive and sympathetic to the environment;
- High demand for quality housing in the district;
- Recent and continuing road improvements can cater for increased traffic;



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- Care has been taken to minimise the effect on neighbouring properties;
- Architectural style is in keeping with the area;
- Gardens are well landscaped;
- Previous reasons for refusal are addressed;
- Will improve road safety and visibility;
- On-street parking, as existing, is not fully utilised.

**Relevant Planning Policy**

South East Plan:

CC1, H5, T4, NRM5, BE1, BE6.

Winchester District Local Plan Review

DP.1, DP.3, DP.4, DP. 5, DP.9, CE.10, HE.1, HE.4, HE.5, HE.6, H.3, H.7, RT.4, T4,T.5, W.1,

National Planning Policy Guidance/Statements:

PPS 1 Delivering Sustainable Development

PPS 3 Housing

PPS 9 Biodiversity and Geological Conservation

PPS12 Local Development Framework

PPG 13 Transport

PPG 15 Planning and the Historic Environment

PPG 16 Archaeology and Planning

PPG 17 Planning for Open Space, Sport and Recreation

Supplementary Planning Guidance

Winchester Conservation Area Project

Winchester District Landscape Character Assessment

Winchester – St Giles Hill Village Design Statement

Other Planning Guidance

Guide to the Open Space Funding System

Hampshire Biodiversity Action Plan

Hampshire Historic Landscape Assessment

Housing Monitoring Report

Movement, Access, Streets and Spaces

Technical Paper: Open Space Provision and Funding

The Future of Winchester Study

Winchester City and its Setting

Winchester District Landscape Assessment

Winchester Sites and Monument Record

**Planning Considerations**

Principle of development

The site lies within the settlement boundary of Winchester, as shown in the Winchester District Local Plan Review, and is therefore appropriate for development, subject to satisfying other relevant policy provisions. The site was formally designated as an important amenity area under Policy RT.1 of the emerging Local Plan (Review). However, whilst the site is an undeveloped green space within the Conservation Area, it is no

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longer protected under this policy. These designations were deleted by the Local Plan Inspector in 2005.

The proposal density of 34.14 dph is within Local Plan (Policy H.7) and PPS3 guidelines.

The Inspector's decision for the previously dismissed scheme is a material consideration of significant weight. However, officers have considered the representations received and the grounds of the objections. All matters have been reconsidered, and not just neighbour amenity, as detailed below.

Design/layout

The form and design of the scheme has arisen from the need to respond to the constraints of the site and have regard to the terraced character of this predominantly residential area. In this respect, the existing site access has been used as the basis for the new access to minimise the impact on the existing landscape and to take advantage of the topographical characteristics to reduce the need for excavation. However, the site levels are such that the access drive and main parking / turning area will still involve considerable excavation in order to minimise the gradient. This will necessitate retaining walls to the access and parking bays that adjoin the dwellings.

The proposed development has also taken due account of the need to minimise the development's impact in terms of not compromising the setting of the existing Grade II\* listed building at St John's Croft. Similarly, it has considered other neighbouring properties and the character of the Conservation Area in general, with particular regard to the importance of retaining the important tree belt on the southern boundary of the site.

The design of the dwellings is of a traditional style to reflect the architecture found in the surrounding area, and has been detailed as a series of subtle hierarchical elements to help articulate the buildings. This is further expressed in the differing roof heights, which step up and down, and the strong chimney features that reinforce the undulating roofline. The materials are of traditional handmade bricks in Flemish bond, with plain clay tiled roofs and painted timber casement and sash framed windows. The elevations are also detailed to give identity to the differing house types, with changes to the fenestration style and detailing and use of different coloured bricks and tiles.

The dwellings are sited on the higher part of the site to the north west side and step up from the excavated parking / turning area, which on the eastern side is a rise of as much as 2 metres. The heights of the dwellings vary and step up consistently with the rising ground level. The proposals continue to attract criticism in terms of their height, bulk and design, and it is noted that the largest dwellings are higher than the neighbouring properties in St Martin's Close and St John's Road. However, it is not considered that such impact will appear inappropriate, given that the topography of the area falls to the west, north and north east. There is a wide range of building sizes and heights within the area and, in longer views, it is unlikely that the proposals will be particularly prominent, as long as the existing boundary tree cover is maintained and new planting undertaken.

Impact on character of Conservation Area

The sites contribution to the character of the Conservation Area is essentially in respect of the trees and not the open space itself. The findings of the Local Plan Inspector are

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reiterated by the appeal Inspector in the recent appeal decision. The proposed development retains the important tree belt to the southern boundary, although some significant trees are to be removed at its southern end, which would open up a gap at this point, particularly when viewed from local vantage points. However, it is considered that the loss of the trees is acceptable and would not detract from the character and appearance of the Conservation Area, because of the classification of the trees and the fact that they have a lower crown spread than adjacent beech trees. The remainder of the mature trees on the southern boundary are to be retained and a further 38 trees will be planted, with a considerable number of these behind the southern boundary to reinforce it. In addition, the proposed buildings are set well back from the trees to avoid pressure upon them, and adequate tree protection methods are proposed.

The built form that is proposed is substantial, on the high part of the site and of a single mass, albeit relieved by the irregularity of the roofline. Direct views of the mass of the building from outside the site are unlikely, as they will be filtered by the trees or will be largely obstructed by other buildings in the foreground. There will be some longer distance views of the rooftops of the development above the tree canopy. The Inspector noted that this is normal in the area and contributes to the character of the Conservation Area. Most views of the development will be from private properties that surround the site. In this respect, it is unlikely to be any more intrusive than the existing terraces in St Martin's Close, St John's Road and Alresford Road, especially as the scale of the building is relieved by the stepping of the elevations and roof. The proposal will alter the rural aspect and openness of the site, but these are not fundamental characteristics of this part of the Conservation Area.

The Conservation Officer has considered the proposal with regard to relevant conservation policies in the Local Plan and the advice of PPG 15 and considers that the new buildings would have relatively little effect on the listed buildings or public views from nearby within the Conservation Area. The dwellings would be set back from St John's Croft and separated from it by a brick wall. The impact of the proposed development on the character of the Conservation Area and the setting of listed buildings has been reconsidered and the officers concur with the findings of the Inspector that it would not have a harmful impact due to the loss of trees, design or access arrangements.

Landscape/Trees/Open Space.

As discussed above, the site's contribution to the character of the Conservation Area is particularly attributable to its tree cover. Accordingly, in recognition of the need to preserve and enhance this character, a detailed arboricultural impact appraisal and method statement, together with a detailed landscaping scheme, have been produced to support the application. The Landscape and Arboricultural Officers have carefully considered these reports and agree with their conclusions.

The proposal involves the loss of 12 trees but this is compensated for by new planting proposals, which provide for 38 new trees. The proposed tree losses concern some trees adjacent to the rear boundary with the play area in St Martin's Close, many of which trees have significant basal decay. The most significant losses are 3 sycamores adjacent to the site entrance, which need to be removed in connection with the construction of the access drive. The removal of a mixed group of 6 small trees on the western boundary is also proposed, for the same reason. These trees have been categorised as C grade in accordance with the British Standard 5837 2005, indicating

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that they are of low quality and value and would not normally be retained where they would impose a significant constraint on development.

The proposed landscaping scheme provides for replacement trees to mitigate the loss of trees that need to be removed, as well as for additional planting adjacent to the proposed access drive. It also reinforces existing tree planting on the northern boundary, helping to maintain a screen between the terrace in St Martin's Close and the new building. Additional planting is also proposed to the rear of the existing tree belt on the southern boundary, which is retained, as are the 4 large sycamores adjacent to the eastern boundary. Yew hedge planting is proposed within planter enclosures around the parking courtyard, which will be in keeping with the Conservation Area and which is to be surfaced in resin bound gravel. This is considered acceptable as it is durable and is visually appealing compared to blacktop surfacing.

Adequate amenity open space is provided by virtue of the retained tree belts to the south and west of the site and the additional space to the right hand side of the entrance. Information is to be submitted of how it is intended to manage and maintain the open spaces, including the important southern tree belt, so that this can be considered prior to granting permission. A landscape management condition is recommended and a unilateral undertaking is nearing completion for the provision of the financial contribution for Public Open Space and for the setting up of a company intended to carry out the maintenance and management of the common parts, in accordance with the common parts management plan.

Although there is considerable local concern about the impact of the proposals on the landscape, the principal tree elements are retained, with only trees in poorer health being lost, or those which are a significant constraint to development. The new planting, as proposed, will ensure that the scheme maintains and enhances the landscape character of the area and the tree belt feature important to the character of the Conservation Area.

There is no on-site open space provision, as the development is only for 14 dwellings, but a financial contribution of £29,964.00 is being made towards off-site provision for sport (£14,982.00) and play (£14,982.00), and the existing retained tree belt provides sufficient amenity open space.

Impact on amenity of neighbours.

As explained earlier in the report, the impact of the development will be most noticeable from neighbouring properties. Whether such impact is materially injurious to the amenities of the occupiers of such properties has been considered at length in terms of whether there will now be a loss of privacy or whether the development will have an overbearing impact and result in overshadowing and loss of light.

As noted above, the Inspector dismissed the previous application on the grounds of the loss of privacy and overbearing impact on St Martin's Close. It was noted that there was a distance of 27m between rear elevations, with proposed gardens of 13m to 14m in length, which would normally be satisfactory to ensure the privacy of neighbours. However, the Inspector found that, because the proposed dwellings would be situated at a higher level, and despite the fact that several of the first floor rear facing windows would be fitted with obscured glazing, there would still be a considerable number that would overlook the rear elevations and gardens of properties in St Martin's Close, in

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addition to several dormer windows set within roofs that would also overlook these properties. The screening in between and boundary treatment would not prevent this. He also considered that the previously proposed dwellings would appear overbearing to the occupiers of these properties.

The general comments section above outlines the changes made to this application specifically to address the material harm identified by the Inspector in respect of overlooking and overbearing. A full site appraisal has been undertaken, including impact to St Martin's Close, to consider the different eaves and ridge heights pegged out on site. It is now considered that the repositioning of houses 1 and 2, removal of the dormers and second floor accommodation windows, reduction in first floor bedroom windows and ridge and eaves height reduced for houses 2, 3, 4 and 5 and the corner apartment building, by between 0.6m and 1.8m, will satisfactorily mitigate the material harm previously identified. A number of cross sections have been produced to demonstrate the reduced impact. A plan is to be submitted to ensure successful boundary planting treatments and levels in between the proposed and existing dwellings and a condition is recommended to ensure that the remaining limited windows will be obscure glazed and no further windows can be inserted (Conditions 20 & 30).

A Daylight and Sunlight report, submitted with the application, concludes that there would be no significant loss of daylight or sunlight to the dwellings in St Martin's Close. This was the conclusion of the appeal Inspector for the previous scheme and has been reviewed for the current planning application. It is not considered that this proposal, with reduced height and partially increased distance, would result in any significant loss of daylight or sunlight to the dwellings in St Martin's Close, such as would warrant a reason for refusal.

#### Highways/Parking

The development can be satisfactorily served by the proposed access arrangements but the access road will remain private and not be adopted as a public highway. This is a normal arrangement for many residential schemes and the future maintenance of the access road, parking and turning areas is secured by way of a requirement for the establishment of a management company, under the provisions of the legal agreement.

Although many representations cite traffic and parking concerns, the Highway Engineer advises that the highway network can accommodate the traffic that the development will generate. Car and cycle parking provision is adequate for the development and the on-site turning space is adequate for large service vehicles.

A particularly contentious consequence of the scheme is the need for a number of existing on-street parking spaces to be removed in order to achieve a suitable means of access with adequate visibility splays and this will require a Traffic Regulation Order (TRO). An existing TRO will lapse in March. However, a condition is recommended to ensure that no development takes place until the new TRO is satisfactorily concluded (Condition 3).

The development, if permitted, should also make appropriate contributions to the adopted Highways Contributions Policy (£54,089.00). At the time of writing, a unilateral undertaking between the developer and HCC to secure this, is nearing completion.

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Education Contributions

The County Council has requested that this application contribute to the provision of education facilities, in view of the fact that the catchment primary school that would serve the site is full and would require additional facilities to meet any additional demand arising from this development. The school's nominal capacity is 140 but it is reasonable to have a leeway of 5% unfilled places to allow for variations in the number in each year group. The effective maximum capacity of the school is therefore 133, and, on this basis, the school's available capacity is 1 place.

Under the County Council policy (July 2008) for the provision of children's services, the School Places Plan requires that new developments contribute to the provision of educational facilities where there is an identified need. Applying the usual planning factor of 0.3 primary school children per additional dwelling, the development would generate a demand for 4 primary school places. The Local Education Authority estimates that the cost of an additional primary school place is £15,970.00, so the appropriate contribution (satisfying tests in Circular 05/2005) is 3 (net) places = £47,910.00.

The Winchester District Local Plan Review presently only identifies the need for education contributions in respect of development within the major development areas (paragraph 12.36) and the Council has not adopted the HCC policy referred to above. Nevertheless, the provisions of Circular 5/05 (paragraph B3) state that a planning obligation can be used to mitigate a development's impact and make acceptable a development which would otherwise be unacceptable in planning terms. Furthermore, paragraph B9 states that developers may reasonably be expected to pay or contribute to the cost of all of, or that part of, additional infrastructure provision which would not have been necessary but for their development.

It is considered that the required contribution to the provision of education facilities is appropriate within the terms of Circular 5/05 and the developer has offered through a unilateral undertaking to make such a contribution to Hampshire County Council, as a relevant and necessary requirement of the development proposed. This is nearing completion.

In Winchester, the existing school places provision is oversubscribed or at capacity in a number of cases. Prior to a Cabinet report explaining the County Council policy and seeking its formal adoption by the City Council, it is appropriate (as in this case), where the effect of a development will result in a need for the provision of further school places, such need should be met on a case by case basis under the provisions of Circular 5/05.

Planning Obligations/Agreements

In seeking the planning obligation(s) and/or financial contributions for public open space, Transport, Education and a Management Company for the maintenance of common areas the Local Planning Authority has had regard to the tests laid down in Circular 05/2005 which requires the obligations to be necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

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**Recommendation**

**Application Permitted, subject to:**

- (i) The securing by appropriate legal agreement (the terms of which to be approved by the Council's Head of Legal Services) of the detailed provisions under Section 106 of the Town and Country Planning Act, and any other relevant provisions as set out below:
  - 1. Public Open Space contribution of £29,964.00 (£14,982.00 for the play and £14,982.00 for the sports components)
  - 2. HCC Transport contribution of £54,089.00.
  - 3. HCC Education contribution of £47,910.00
  - 4. The setting up of a Management Company to secure the future management of all common areas that do not form parts of private curtilages and comprising, access roads, footpaths, parking areas, retaining walls, bin storage, hard and soft landscaping and the retained trees.

**(Note: If the Legal Agreement is not completed within 6 months then the application may be refused without further reference to Committee);**

and

- (ii) The following conditions:

**Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2. No development shall take place until details and samples of the materials to be used for the construction of the external surfaces of the development hereby permitted 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: To ensure that the development presents a satisfactory appearance, in the interests of the amenities of the area.

3. No development shall commence until such time as the applicant/developer has obtained a confirmed Traffic Regulation Order with regard to the proposed removal of existing parking provisions in Blue Ball Hill, which are necessary in connection with the provision of a satisfactory access arrangement to serve the development.

Reason: In the interests of highway safety, as the access visibility splays would be unacceptably compromised by the retention of the existing on-street parking arrangements.

4. Details of measures to be taken to prevent mud from vehicles leaving the site during construction works being deposited on the public highway shall be submitted to and approved in writing by the Local Planning Authority, and fully implemented before

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development commences. Such measures shall be retained for the duration of the construction period. No lorry shall leave the site unless its wheels have been cleaned sufficiently to prevent mud being carried onto the highway.

Reason: In the interests of highway safety.

5. Details of provisions to be made for the parking and turning on site of operative and construction vehicles during the period of development shall be submitted to and approved in writing by the Local Planning Authority, and fully implemented before development commences. Such measures shall be retained for the construction period.

Reason: In the interests of highway safety.

6. Prior to the completion of development, a cut off drain shall be provided, to prevent the egress of surface water onto the public highway.

Reason: In the interests of highway safety.

7. The garages / parking spaces, hereby approved, shall not be used for any other purpose than the parking of cars.

Reason: To ensure the provision and retention of the garages / parking spaces, in the interests of local amenity and highway safety.

8. No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include the following, as relevant:

- (a) existing and proposed finished levels or contours;
- (b) means of enclosure, including any retaining structures;
- (c) other vehicle and pedestrian access and circulation areas;
- (d) hard surfacing materials;
- (e) minor artefacts and structures (e.g. street furniture, refuse or other storage units, signs, lighting, utility apparatus etc.);
- (f) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc., including lines, manholes, supports etc.);

Soft landscape details shall include the following, as relevant:

- (g) planting plans;
- (h) written specifications (including cultivation and other operations associated with plant and grass establishment);
- (i) schedules of plants, noting species, planting sizes and proposed numbers/densities, where appropriate;
- (j) retained areas of grassland cover, scrub, hedgerow, trees and woodland;
- (k) manner and treatment of banks;
- (l) implementation programme.

Reason: To improve the appearance of the site, in the interests of visual amenity.



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9. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner, 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 in accordance with the approved designs.

10. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority, prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out in accordance with the details hereby approved.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by landscape features of communal, public, nature conservation and historic significance.

11. No development, or site preparation prior to operations which has any effect on disturbing or altering the level of composition of the land, shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation to be submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological interest of the site is properly safeguarded and recorded.

12. Development shall not commence on site until such time as a scheme for the provision of satisfactory wastewater treatment, demonstrating that adequate wastewater treatment and infrastructure capacity is available to adequately service the development, has been submitted to and approved in writing by the Local Planning Authority. The dwellings hereby approved shall not be occupied until any necessary works as submitted and approved in writing have commenced.

Reason: Since, without improvements to the sewerage infrastructure being first provided to ensure adequate capacity of foul sewage disposal, a negative impact on existing services is likely and must be prevented.

13. Construction of the development shall not commence until details of the proposed means of foul sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be undertaken in accordance with the approved details.

Reason: To ensure that adequate foul sewerage disposal provision is available to serve the development.

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14. Detailed proposals for the disposal of foul and surface water, including any surface water Sustainable Drainage System (SUDS), shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The approved details shall be fully implemented before the development is occupied.

Reason: To ensure the satisfactory provision of foul and surface water drainage

15. Prior to the commencement of the development hereby permitted (or within such extended period as may be agreed with the Local Planning Authority), a scheme to deal with contamination shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall conform to current guidance and best practice, as set out in BS10175:2001 Investigation of potentially contaminated sites – code of practice and Contaminated Land Reports 7 to 11, or other supplementary guidance, and include the following phases, unless identified as unnecessary by the preceding stage and agreed in writing by the Local Planning Authority:

- a) A desk top study and conceptual model documenting all the previous and existing land uses of the site and adjacent land;
- b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study;
- c) A remedial strategy detailing the measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a suitably qualified person to oversee the implementation of the works.

Reason: In order to secure satisfactory development and in the interests of the safety and amenity of the future occupants

16. Prior to the occupation of the development hereby permitted, written verification produced by the suitably qualified person approved under the provision of Condition 15 c) shall be submitted to and approved in writing by the Local Planning Authority. The report must demonstrate that the remedial strategy approved under the provisions of Condition 15c has been implemented fully, unless varied with the written agreement of the Local Planning Authority in advance.

Reason: In order to secure satisfactory development and in the interests of the safety and amenity of future occupants

17. Development shall cease on site if, during any stage of the works, potential contamination is encountered which has not been previously identified, unless otherwise agreed in writing by the Local Planning Authority. Works shall not recommence before an assessment of the potential contamination has been undertaken and details of the findings, along with details of any remedial action required (including timing provision for implementation), have been submitted to and approved in writing by the Local Planning Authority. The development shall not be completed other than in accordance with the approved details.

Reason: In order to secure satisfactory development and in the interests of the safety and amenity of future occupants.

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18. No development shall take place until a Construction Method Statement and Construction Code of Practice, for limiting the emission of noise and dust from all the demolition and construction activities on the site, has been submitted to and approved in writing by the Local Planning Authority. Development shall not commence until the measures approved in the scheme have been fully implemented and they shall be adhered to throughout the construction period.

Reason: To protect the amenities of the occupiers of nearby properties.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes A, B C, D, E, of Parts 1 of Schedule 2 of the Order, and Class A of Part 2 Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To protect amenity and privacy, both between occupiers of properties within the development and of those occupying properties adjoining the development.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order, with or without modification), no windows, doors, dormer windows or roof lights other than those expressly authorised by this permission shall, at any time, be constructed in any of the elevation(s) of the dwelling houses, hereby permitted.

Reason: To protect amenity and privacy, both between occupiers of properties within the development and of those occupying properties adjoining the development.

21. The development, hereby permitted, shall be carried out in accordance with the measures set out in section 10 of the Ecological Report (Richard Collingridge, January 2010). In addition, prior to the commencement of development, an ecological enhancement scheme shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall demonstrate that habitat, connectivity and the site have been enhanced for biodiversity in line with PPS9 and include features such as bird and bat boxes, native planting, provision of wildflower areas, or even bat features built in to the houses. Any site clearance of trees or scrub should be undertaken outside of the bird breeding season. The approval in writing of the Local Planning Authority shall be obtained before any work is commenced and the approved details shall be fully implemented, as approved, before the dwellings are occupied.

Reason: To ensure that any ecological interest on the site is properly dealt with

22. Protective measures, including fencing and ground protection, in accordance with the Arboricultural Impact Appraisal and Method Statement ref: 6138-Let1-MW.docx written by Mark Wadey of Barrell Tree and submitted to the Local Planning Authority, shall be installed prior to any demolition, construction or groundwork commencing on the site.

Reason: To ensure protection and long term viability of the retained trees and to minimise the impact of construction activity

23. Inspection of fencing:

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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 and in accordance with 6138-Let1-MW.docx.

Reason: To ensure the protection and long term viability of the retained trees and to minimise the impact of construction activity

24. Construction of special engineering under tree canopies:

The Arboricultural Officer shall be informed prior to the commencement of construction of special surfacing under tree canopies so that a pre-commencement site visit can be carried out.

Reason: To ensure the protection and long term viability of the retained trees and to minimise the impact of construction activity

25. Limit of arboricultural work:

No arboricultural works shall be carried out to trees, other than those specified, and in accordance with Method Statement 6138-Let1-MW.docx .

Reason: To ensure the protection and long term viability of the retained trees and to minimise the impact of construction activity

26. No deviation from agreed Method Statement:

Any deviation from works prescribed or methods agreed in accordance with Method Statement 6138-Let1-MW.docx, shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure the protection and long term viability of the retained trees and to minimise the impact of construction activity

27. Arboricultural supervision:

No development, or site preparation prior to operations which has any effect on compacting, disturbing or altering the levels of the site, shall take place until a person suitably qualified in arboriculture, and approved as suitable by the Local Planning Authority, has been 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 method statement. 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 and that all such measures to protect trees are inspected by the Local Planning Authority Arboricultural Officer prior to the commencement of development work.

The applicant will inform the Council's Arboricultural Officer of the appointed arboricultural consultants details.

Reason: To ensure the protection and long term viability of the retained trees and to minimise the impact of construction activity

28. Prior to the commencement of development, a Landscape Plan and an Establishment Plan shall be submitted to and approved in writing by the Local Planning Authority.

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In addition to the details of the approved Arboricultural Impact Assessment and Method Statement, areas that are designated for new tree planting and landscaping will be fenced off to avoid compaction of the soil before any works start on site.

A 20 year management plan for the G1 group of trees, adjacent to Blue Ball Hill, shall also be submitted, with a more detailed tree survey undertaken to ascertain the health of these trees.

The fencing that separates the development from the G1 area shall be more substantial, to prevent access and fly tipping in the shelter belt. Details of this shall be submitted to the Local Planning Authority.

There will no dumping of wood chip in the G1 area.

There will be a pre -commencement works meeting and post-works meeting, as per the document 6138-Let1-MW.docx.

The applicant will inform the Council's Arboricultural Officer tree officer of the appointed arboricultural consultants' details.

All of the above details and works are to be submitted to and approved in writing by the Local Planning Authority, and then completed on site, prior to the commencement of development, and retained during development.

Reason: To ensure the protection and long term viability of the retained trees and to minimise the impact of construction activity

30. The first floor window(s) in the southern elevation of the houses nos. 1, 2 and 5, hereby permitted, shall be glazed with obscure glass which achieves an obscuration level at least equivalent to Pilkington Obscure Glass Privacy Level 4, unless otherwise agreed in writing by the Local Planning Authority, and the glazing shall thereafter be retained in this condition at all times.

Reason: To protect the amenity and privacy of the adjoining residential properties

31. No development shall commence until large scale 1:10 fully detailed and annotated drawings of elevations and typical sections through the elevations of the fenestration of each building, have been submitted to and approved by the Local Planning Authority in writing. Each building shall be constructed in accordance with the approved details before it is occupied, and the external works shall be implemented in accordance with the approved details before the last unit is occupied.

Reason: In the interests of the amenities of the Conservation Area.

## **Informatives**

1. This permission is granted for the following reason:

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The development is in accordance with the policies and proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following Development Plan policies and proposals:

South East Plan: CC1, H5, T4, NRM5, BE1, BE6.

Winchester District Local Plan Review: DP.1, DP.3, DP.4, DP. 5, DP.9, CE.10, HE.1, HE.4, HE.5, HE.6, H.3, H.7, RT.4, T4, T.5, W.1.

3. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Ltd Anglo St James House 39a Southgate Street, Winchester, SO23 9EH (tel 01962 858688) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

4. The applicants attention is drawn to the fact that it is an offence to undertake works that affect the habitat of protected species without first undertaking appropriate surveys and providing a mitigation strategy and first obtaining and complying with the terms and conditions of any licences required, as described in Part IV B of Circular 06/2005. The applicant should accordingly contact Natural England to ensure that the provisions of the following legislation are satisfied before any work is commenced on site pursuant to the permission hereby granted: Parts IV and Annexe A of circular 06/2005 'Biodiversity and Geological Conservation'; Section 40(1) of the Natural Environment and Rural Communities Act 2006 and Regulation 3(4) of the Conservation (Natural Habitats & c ) Regulations 1994 and section 74 of the Countryside and Rights of Way Act 2000.

5. The applicant is advised that a licence will be required to carry out highway works. Please contact: Hampshire Highways, Central Depot, Bar End Road, Winchester, SO23 9NP. (Telephone: 01962 892850).

6. All precautions must be taken to avoid discharges and spills to the ground, both during and after construction. For advice on pollution prevention measures, the applicant should refer to EA guidance 'PPG1 – General guide to the prevention of pollution', which is available on the website at [environment-agency.gov.uk](http://environment-agency.gov.uk).

7. 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.

8. 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.



# Appeal Decision

Site visit made on 16 July 2009

**by John Wilde C.Eng M.I.C.E.**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

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**Decision date:  
3 September 2009**

**Appeal Ref: APP/L1765/A/09/2095092**

**Land adjacent St. John's Croft, Blue Ball Hill, Winchester, Hampshire, SO23 0HF**

- 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 Sarum Developments Ltd against the decision of Winchester City Council.
- The application Ref 08/01657/FUL, dated 2 July 2008, was refused by notice dated 28 November 2008.
- The development proposed is the erection of 14 dwellings (9 houses and 5 flats) with parking, landscape and improvements to access.

## Decision

1. I dismiss the appeal.

## Main issues

2. The main issues are:-
3. The effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy and whether the proposed development would appear overbearing.
4. Whether the proposed development would preserve or enhance the character or appearance of the Winchester City Conservation Area.
5. The effect of the proposed development on highway safety.
6. Whether the proposed development makes adequate provision for public recreation open space, and whether contributions towards transport improvements and education facilities are a reasonable and necessary requirement, and whether such provision has been made.

## Reasons

### *Living conditions*

7. The proposed housing would be situated to the north and east of the site. The rear elevation of the proposed houses to the north would be 14m from the existing rear boundary of dwellings in St Martin's Close, and a minimum of a further 13m to the rear elevation of these properties. There are no minimum standards for such spacing within the Winchester District Local Plan Review (WDLPR) and a distance of about 27m would normally be considered satisfactory to ensure the privacy of neighbouring dwellings. However, the

proposed dwellings would be situated at a higher level than the properties in St Martin's Close, and although several of the first floor rear facing windows would be fitted with obscured glazing, there would still be a considerable number that would overlook the rear elevations and gardens of properties in St Martin's Close. In addition to these, there would also be several dormer windows set within the roofs that would also overlook these properties.

8. I have been provided with a Daylight and Sunlight Report prepared by Savills dated 14 January 2009. This report is comprehensive and has been compiled in light of guidance contained within the Building Research Establishment Guidance Note 209. The report concludes that there would be no significant loss of daylight or sunlight to the dwellings in St Martin's Close, and I accept that finding.
9. However, while some of the dwellings in St Martin's Close benefit from existing screening in the form of mature trees, there are several that do not. A 2m high wall would be built at the boundary of the two sets of dwellings and further planting would also be undertaken. Given the difference in levels, this would not be sufficient to prevent overlooking of the rear of the dwellings and gardens in St Martin's Close, which would lead, in my view, to a significant loss of privacy to the occupiers of these dwellings. I also consider that the proposed dwellings would appear overbearing to the occupiers of the properties in St Martin's Close. In these respects, therefore, the proposed development would conflict with policy DP.3 of the WDLPR, which seeks, amongst other things, to ensure that development does not have an adverse impact on adjoining land, uses or property.
10. The dwellings proposed to the east of the site would be somewhat lower than 1 Alresford Road, would be slightly offset and have their rear elevations facing the side elevation of No 1. Although some overlooking of the garden of No 1 would be possible, there is reasonable screening in existence and more would be provided. Given the orientation, distance, levels and screening, I consider that the impact upon the occupiers of No 1 would not be significant.

#### *Character or appearance*

11. The site's principal contribution to the character and appearance of the Conservation Area derives from the presence of the mature trees, particularly those on the southern boundary, and the views of these both locally and from locations further away. The most significant trees to be removed would be the three sycamores at the entrance to the site. The crowns of these are lower than the canopies of the adjacent beech trees and they are classified as category C trees. The remainder of the mature trees on the southern boundary of the site would be retained and overall a further 38 trees would be planted, a considerable number of these behind, and therefore reinforcing, these southern boundary trees.
12. In the short term, therefore, there would be a gap evident at the end of the southern boundary, particularly when viewed from local viewpoints, particularly from the direction of the Old Blue Boar. However, given the classification of these trees, their asymmetrical crowns and the potential for further planting that will prolong the character and appearance of the southern boundary trees in the longer term, I consider, that, on balance, the loss of these trees would



- be acceptable. The gap resulting from the removal of these trees would be far less noticeable when viewed from more distant locations, and would not, in my view, detract from the character or appearance of the Conservation Area.
13. The proposed dwellings would be set back from the southern boundary of the site in order to protect the boundary trees. The dwellings to the north of the site would be orientated to face the road and would therefore be in keeping with the local street pattern in this respect. Views of the development from the public realm would generally be filtered through the boundary trees although from some more distant viewpoints the roofs of the development would be glimpsed beyond and slightly above the canopy of trees on the southern boundary. This is however, normal within the area and is one of the elements that contribute to its character and appearance. Furthermore, the roofline would be stepped, so that when seen from a distance, the development would not be seen as one mass of built form. The design of the dwellings would reflect the character of the houses in the surrounding area in terms of the materials used and in the use of architectural details. These details would also differ between the different sized dwellings on the development. Overall, I consider that the proposed development would not have a harmful impact on the Conservation Area due to its built form.
14. The existing field gate at the access to the site would be removed and the access would be widened. This would, to a certain extent, change the rural aspect of this small part of the Conservation Area. Such an aspect is not, however, a fundamental characteristic of the Conservation Area as a whole, and the new access would be surfaced in resin bound gravel and be bounded by brick or brick/flint walls which are features of the Conservation Area. The dwellings of the proposed development would be set back from St John's Croft and separated from it by a brick wall. Given this set back, the existing and additional planting, and the sympathetic design of the proposed dwellings, I consider that there would be no harmful impact to the setting of St John's Croft or other listed buildings in the immediate locality due to the presence of the proposed dwellings, and given the materials to be used in the new entrance, I also consider that there would not be a harmful impact due to the proposed access.
15. On the second main issue, I conclude that the proposed development would not have a harmful impact on the character or appearance of the Conservation Area, or the setting of listed buildings due to either the loss of trees, the design of the development itself or because of the proposed access arrangements. The proposed development would not, therefore, conflict with policies in the WDLPR designed to protect the character and appearance of an area or with other policies designed to preserve or enhance the character or appearance of a Conservation Area.

#### *Highway safety*

16. The Council's primary concern about highway safety relates to the provision of suitable visibility splays at the entrance to the proposed development. To provide these several parking spaces would need to be removed in Blue Ball Hill. I note that a Traffic Regulation Order (TRO) has been submitted but that determination has been deferred to await the outcome of this appeal. Had I been minded to allow the appeal I would have imposed a condition that would

have prevented any development taking place until the submitted TRO had been determined, and works required by this order implemented.

17. I have been made aware of several other concerns regarding highway safety. I have been provided with a Transport Statement, dated 7 July 2008 and compiled by i-Transport LLP. This concludes that the proposed development would generate a maximum of 5 vehicles per hour during peak periods, that the junction with Magdalen Hill/Alresford Road would have sufficient visibility to prevent safety concerns and that the parking provided within the development would be sufficient. Bearing in mind that the highway authority have no over riding objections to the development, that there is no history of highway accidents in the immediate area, and in the absence of any compelling contrary evidence, I conclude that the proposed development would not be prejudicial to highway safety, provided that the visibility splays could be provided as discussed above.

#### *Contributions-open space*

18. Policy RT.4 of the WDLPR indicates that in areas where public recreational open space and facilities are deficient, residential development that accords with other relevant policies will only be permitted where appropriate amounts of space and facilities are provided for children's play, sports grounds and general use. In the Winchester District Open Space Strategy (WDOSS), Winchester is identified as having a shortfall of land for play and sports. Within the WDOSS several sites within the City are identified to be improved within a five year plan. On open space provision, I would conclude, therefore, that the required contribution would be in accordance with the principles outlined in circular 05/2005, and I note that a Unilateral Undertaking has been entered into to facilitate this contribution. I also acknowledge that this Unilateral Undertaking includes provision for the future maintenance of common open space within the proposed development.

#### *Contributions-transport*

19. The Council have also requested a contribution, under policy T5 of the WDLPR towards off site transportation improvements. I have not, however, been provided with any information to show what these improvements would be and how they would relate to the proposed development. In light of this I conclude that such a contribution would not be in accordance with the principles outlined in circular 05/2005, and would, therefore, be unreasonable.

#### *Contributions-education*

20. Similarly, although the Council have requested an education contribution on the grounds that Winnall Junior School is oversubscribed, I have been provided with no compelling evidence regarding either the mechanism for requiring this contribution, or the details of any potential projects upon which the contribution would be spent. Consequently I conclude that, in line with my previous reasoning, such a contribution would be unreasonable.

#### *Overall conclusion*

21. I consider that the harm that I have identified in respect of the main issue of living conditions outweighs the lack of harm from the other main issues. In

coming to this view I have also taken into account that the site is relatively sustainable but this does not, however, in my view, overcome the harm that I have identified. Having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Wilde*

Inspector