

WINCHESTER CITY COUNCIL  
DEVELOPMENT CONTROL COMMITTEE AGENDA 16 February 2006

<b>Item No:</b>	05
<b>Address:</b>	Land Rear Of Silver Birches, Botley Road, Curdridge, Hampshire,
<b>Parish/Ward</b>	Curdridge
<b>Proposal Description:</b>	Erection of two-storey, four bedroom dwelling and detached double garage with associated access
<b>Applicants Name</b>	Wycliffe Properties Ltd
<b>Case No:</b>	05/02693/FUL
<b>W No:</b>	W05486/08
<b>Case Officer:</b>	Mr Neil Mackintosh
<b>Date Valid:</b>	30 November 2005
<b>Delegated or Committee:</b>	Committee Decision
<b>Reason for Committee:</b>	The Officers consider the application to be controversial or potentially controversial
<b>Reason for Committee:</b>	4 or more representations contrary to the Officer's recommendations have been received
<b>Site Factors:</b>	Countryside

### **Site Description**

- The application site comprises 0.07ha of land to the rear of Silver Birches, a property that fronts Botley Road.
- Vehicular access is by means of a private track from Botley Road, which also serves 'Summerlands' and 'Summerlands Cottage'.
- The site is adjacent to the latter and 'Woodlands', which has its own, separate access to the East.
- It contains four oak trees on its frontage and is bounded on the northern side by a 4m high coniferous hedge.
- The site is overgrown and there is no obvious evidence of previous development on the site.

### **Relevant Planning History**

- W05486/05 – Outline permission for dwelling and garage, permitted 1988
- W05486/06 – Details in compliance with /05, refused 1991
- W05486/07 – Details in compliance with /05. permitted 1992

### **Proposal**

- As per Proposal Description

### **Consultations**

#### Engineers:Highways:

- No highway objections.
- Outline approval was previously granted in October 1988 and detailed approval granted in May 1992 so the principle of development has already been accepted.
- It is unlikely that the proposals will cause demonstrable harm to users of the highway.

#### Landscape:

- No objections, approve with conditions
- The site is contained from wider views by existing trees and there are no landscape constraints within the site.
- The footprint of the revised dwelling extends closer to the existing trees along the SW boundary, but the two oak trees affected are not included within TPO 1405, we could however condition the trees shown on the plan to be retained.

### **Representations:**

#### Curdrige Parish Council

- No comments

Letters of objection have been received from 5 neighbours, all are from Botley Road;

- Silver Birches – question the right to build and say that work did not commence in May 1994
- The size and height of the proposal are inappropriate for the size of the plot.
- Concerns regarding the use of the access and the future of the oak trees.
- Woodside – no works were commenced in 1994, previous permission was for a semi-bungalow, there is no legal access to the land, the development would result in loss of light and overlooking with regard to Woodlands and other properties, the design is inappropriate.
- High Trees – appears to be large for the plot, will be invasive of our privacy.
- Corner Oaks – design and appearance, highway safety, affect on trees, doubts over access
- Bishopsmead – highway safety, design and appearance

**Relevant Planning Policy:**

Hampshire County Structure Plan Review:

- C1, C2, H5, UB3

Winchester District Local Plan

- C1, C2, C14, H3, EN5

Winchester District Local Plan Review Deposit and Revised Deposit:

- C1, C6, C17, H4, DP3

Supplementary Planning Guidance:

- Curdridge Village Design Statement
- Winchester District Landscape Assessment
- Guide to the Open Space Funding System
- Movement, Access, Streets and Spaces
- Parking Standards 2002

National Planning Policy Guidance/Statements:

- PPS 1 Delivering sustainable development
- PPG 3 Housing
- PPS 7 Sustainable development in rural areas
- PPG 13 Transport

**Planning Considerations**

The main considerations in respect of this application are:

- Principle of development
- Impact on the character of the area
- Detailed design
- Residential amenities
- Highways
- Public open space provision
- Comments on representations

Principle of development

- The application site is in the countryside and residential development would not normally be permitted.
- However, in 1980 the Planning Committee visited the site and considered that there would be planning gain by removing the builders yard that was there at the time and allowing residential re-development.
- They also considered that any 'backland' development issues could be overcome.
- Having established these principles the applicant continued to negotiate with the LPA and, eventually, the builders yard was moved to another site in Curdridge and permission was granted for two houses, one on the current application site and one which is now 'Woodlands'.
- The applicant maintains that development was commenced in 1994 but that it had to cease because of a dispute concerning use of the private access drive.
- This being the case he contends that his 'fall back' position is to build the dwelling originally permitted.
- However, the neighbours, some of whom were living there at the time, have stated that no development took place in 1994.
- There is no obvious evidence remaining on the ground that development was commenced, consequently there is a degree of uncertainty about the site's history and whether the original permission was implemented in 1994 and, therefore, whether the applicant could erect the dwelling granted consent in 1992.
- There is also a question regarding whether the site could be used again as a builder's yard

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without requiring a grant of planning permission, in the event that the approval for the dwelling was never actually implemented.

- Notwithstanding this, Members must consider, when deciding this application for a dwelling house, whether the planning situation has changed, materially, in the intervening years.
- The application site has always been in the countryside although the names of the appropriate planning policies and documents have changed.
- The Southern Parishes Local Plan was a material consideration when the outline application was considered, and its policies have since been replaced by the Winchester District Local Plan and will soon be superseded by the Review.
- All of these documents only allow for residential development in the countryside in exceptional circumstances.
- The Committee considered that the relocation of the builder's yard was such a circumstance and, as a consequence, policy was overridden at the time of the original outline permission.
- The builder's yard has been moved to a more appropriate location and it is understood that it is only due to protracted legal negotiations concerning the use of the private access that redevelopment of the site has been prevented from taking place.
- With regard to the renewal of planning permissions Government advice, in Circular 11/95, is that they should only be refused where there has been some material change in planning circumstances (eg. a change in planning policy, or in relevant highway considerations, or the publication of new planning policy guidance).
- In this instance, whilst there is an uncertainty about whether the site could currently be redeveloped under the previous permissions granted, in essence the policy and other issues which are currently relevant are similar to those which applied in 1988/1992 and it is considered that it would be difficult to now refuse residential development of the land.

Impact on character of area

- The erection of a house on the site is a use which is far more compatible with its setting than the historic use as a builder's yard
- The design of the proposed house is similar to one recently completed by the same developer at Wildwood, The Plantation, Curdridge.
- Your officers consider that, although it is larger than that which was originally permitted, its design concept is more appropriate for this sylvan setting and would not appear as an unduly prominent or incongruous form of development.

Detailed design

- The proposed design is rustic in appearance and incorporates barn-like features, such as weatherboarding and timber-framed openings.
- There are first floor windows in the North and East elevations that would have to be obscure glazed to prevent any overlooking.

Residential amenities

- The potential for overlooking of private gardens is the only real amenity issue, although one objector is concerned about overshadowing.
- The proposed house is only 0.9m higher than that originally proposed but it is positioned 1m further away from Westwood and there is no risk of overshadowing.
- The original design had two bedroom windows in the North elevation ie toward Woodlands.
- The proposed scheme has two windows in the corresponding elevation but they are smaller and one is to be an obscured bathroom/en suite window.
- Any risk of overlooking in the Silver Springs direction is reduced by the presence of a 4m hedge which is outside the applicant's control.
- Overlooking in the direction of Summerlands Cottage is negated by the presence of a high garage building in its grounds.
- In conclusion, therefore, whilst the dwelling would have a slight impact upon the amenities of neighbouring properties, this would be less than the previously approved scheme and it is considered that the impact would not be unacceptable.

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Highways

- The access on to Botley Road is not ideal but the Highway Engineer has no concerns about this application.

Public Open Space

- The applicant has indicated that he is willing to contribute to the Council's POS Funding System, if necessary
- The situation with regard to this payment being made in 1992 is being investigated.

Comments on representations

- The main concern of the neighbours is that the 1992 consent was not implemented and that there is no right to build a house on this site.
- However, the arguments for and against this situation have been fully explained above.
- The applicant's likely 'fall back' position is either to build the house that was approved at that time or, if this is not possible it might be possible to revert to use as a builders yard without requiring planning permission.
- Your officers consider that the size and design of the proposal are appropriate for the site.
- Other matters raised by the objectors have been addressed above.
- The Parish Council has passed no comment on these issues.

**Planning Obligations/Agreements**

In seeking the planning obligations and/or financial contributions for Public Open Space Funding 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.

**Recommendation**

**APPROVE (provided the applicant is prepared to make the appropriate provision for public open space through the open space funding system) – subject to the following condition(s):**

**Conditions/Reasons**

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

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

02 No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the house and garage 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.

02 Reason: To ensure that the development presents a satisfactory appearance in the interests of the amenities of the area.

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03 Details of the design of building foundations and the layout, with positions, dimensions and levels of service trenches, ditches, drains and other excavations on site, insofar as they affect trees and hedgerows on or adjoining the site, shall be submitted to and approved in writing by the Local Planning Authority before any works on the site are commenced.

03 Reason: To ensure the protection of trees and hedgerows to be retained and in particular to avoid unnecessary damage to their root system.

04 The existing trees shown as being retained on the approved plan shall not be lopped, topped, felled or uprooted without the prior written approval of the Local Planning Authority. These trees shall be protected during building operations by the erection of fencing at least 4 metres from the tree trunks in accordance with BS 5837(2005).

04 Reason: To retain and protect the trees which form an important part of the amenity of the area.

05 The first floor windows in the North and East elevations of the house hereby permitted shall be glazed in obscure glass and thereafter retained in that condition and, 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, other than those expressly authorised by this permission shall, at any time, be constructed in these elevations, unless otherwise agreed with the Local Planning Authority.

05 Reason: To protect the amenity and privacy of the adjoining residential property.

06 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 and E of Part One of Schedule 2 of the Order, shall be carried out without the prior written consent of the Local Planning Authority.

06 Reason: In the interests of the amenities of neighbouring properties and to maintain a good quality environment.

### **Informatives**

01. The development is not in accordance with the Policies and Proposals of the Development Plan set out below but there are other material considerations ie. the historical use of the site and previous planning permissions, which indicate that the determination should be made other than in accordance with Development Plan as set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004.

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

Hampshire County Structure Plan Review: C1, C2, H5, UB3

Winchester District Local Plan Proposals: C1, C2, C14, H3, EN5

Emerging Development Plan- WDLP Review Deposit and Revised Deposit: C1, C6, C17, H4, DP3