

CFH – Chandlers Ford and Hittingbury Local Area Committee Wednesday 13 January 2021.

Application Number: F/20/88376
Case Officer: Clare Martin
Received Date: Thursday 30 July 2020
Site Address: 185 HURSLEY ROAD, CHANDLER'S FORD, EASTLEIGH, SO53 1JH
Applicant: Richard Geddes
Proposal: Construction of 1no. four bedroom dwelling (part retrospective)

Recommendation: REFUSE PLANNING PERMISSION

CONDITIONS AND REASONS

1. Insufficient information has been provided to demonstrate that the proposal is adequately protected from the effects of flooding without increasing the flood risk elsewhere. As such the proposal is contrary to Saved Policies 43.ES of the adopted Eastleigh Borough Local Plan 2001-2011; Draft Policy DM5 of the submitted Eastleigh Borough Local Plan 2016-2036 and the provisions of the National Planning Policy Framework.
2. The development fails to provide adequate provision for onsite car parking, which would encourage the parking of vehicles on the public highway and so interrupt the free flow of traffic and cause a hazard to road users. As such the proposal is contrary to Saved Policies 59.BE & 104.T of the Eastleigh Borough Local Plan Review [2001-2011], Draft Policy DM14 of the submitted Eastleigh Borough Local Plan 2016-2036; the provisions of the National Planning Policy Framework and The Council's Residential Parking Standards SPD.

Note to Applicant: The application was refused following the assessment of the following plans: RG01-900-1st, RG01-1002-1st, RG01-1001-1st, RG01-1000-1st. In accordance with paragraph 38 of the National Planning Policy Framework (February 2019), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

Report:

This application has been referred to Committee by Cllr Atkinson, Cllr Grajewski and Cllr. Duguid

Description of Application and Site History

1. The application is for the construction of 1 no. four bedroom dwelling, which replaces a previously demolished bungalow on the site. The dwelling is two stories at the front and three stories at the rear, with the lower ground floor covering just the rear section of the dwelling.
2. The site already has planning permission for a replacement four bedroomed detached dwelling and this is a material consideration for the current application. The previous permission is in the same position and is roughly on the same footprint as the current application, only the current dwelling is now slightly angled to the side boundary with no.187 rather than being parallel.
3. The main difference between the two schemes is the scale of the dwelling, with the current application having an additional storey at the rear of the site and as a result is up to 1.5m taller than the permitted dwelling. To accommodate the additional storey, the property's floor level has also been lowered. Under the current application, the lowest floor is now directly assessible from the rear garden rather than from a raised terraced area with steps down to the garden under the previous permission.
4. At the front the current application now includes a porch with steps up from the driveway and this provides access onto the property's upper ground floor. Another change is the removal of the single integral garage under the previous permission, which now makes way for additional living accommodation.
5. As part of the assessment process, consideration will be given to the differences between the current application and permitted dwelling and any additional impacts will be assessed against the prevailing planning policies.
6. The planning application is accompanied by a design and access statement and a flood risk assessment.

Characteristics of the Site and Locality

7. The application site is in a long-established residential use with the current application replacing a bungalow previously on the site. The Applicant had started to construct the current application and the ground floor is now in place.
8. To the front of the site is a parking area and then the ground levels falls away to a long, large garden to the rear of the property. The garden has been mostly cleared of vegetation and is enclosed by high retaining walls and fencing. Behind the dwelling is a stream, which runs north to south across the garden and connects to a larger network of waterways within the neighbouring properties and beyond.
9. The site is located within a mixed residential area, which contains a range of mostly traditional properties of varying designs and proportions. The

properties are set back from Hursley Road and sit on an established building line with parking areas to the front and gardens to the rear.

Relevant Planning History

10.F/17/81763 - Construction of 1 no. four bedroom dwelling, following demolition of existing dwelling – Permitted (May 2018).

Representations Received

11. Five letters of objection have been received in response to the planning application, which are summarised as follows:

- Out of character with the locality
- Visually intrusive, loss of light and privacy from neighbouring dwellings.
- Removal of internal garage and inadequate car parking.
- Increased flood risk to neighbouring dwellings.
- Damage to trees
- Noise and disturbance during construction works.
- Lack of supporting information (street scene, site sections, daylight test, details of downpipes etc) and plans do not reflect building constructed on the site.
- Inaccuracies in the design and access statement, as work has started on the site.
- Incorrect location plan as Applicant also owns 183 Hursley Road.
- Construction work not being carried out in accordance with approved plans and conditions not previously discharged.
- Encroachment and future maintenance of property.
- Party Wall Act maybe required.
- Damage to retaining wall could result in subsidence.
- 189 &187A Hursley Road were not notified about the planning application.

Consultation Responses

Environment Agency – Objection

Approach to Flood Risk

12. Part of the site is situated within Flood Zone 3b (functional flood plain). The applicant should justify to the satisfaction of the Local Planning Authority why other alternative lower flood risk sites are not applicable for development.

13. Any application on this site will have to pass the exception test and ensure the development will remain safe for its lifetime for both the inhabitants and nearby properties

Flood Risk Assessment

14. The submitted flood risk assessment (FRA) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance.
15. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:
- consider how people will be kept safe from the identified flood hazards
 - consider how a range of flooding events (including extreme events) will affect people and property
 - consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event
16. In addition, the FRA uses different climate change allowances to assess future flood risk than those advised in 'Flood risk assessments: climate change allowances', without adequate justification. Therefore, the flood risk mitigation measures to address flood risk for the lifetime of the development included in the design are inadequate because they will not make the development resilient to the flood levels for 2120. Consequently, the development proposes inadequate flood defenses, raised finished floor levels, resistance and resilience measures, & safe access and egress routes.

Ecology Officer:

17. The site contains a watercourse and is within 100 m of Cuckoo Bushes Lane SINC and within 100 m of wet woodland priority habitat.
18. There is a stream which runs through the back garden has not been protected during either the demolition of the old house or the construction of the new house. The photo of the rear of the house shows that the ground level slopes down towards the stream both on the paved path and on the bare soil area behind the house. There are still some plants along the bank but this is not a continuous strip, and it does not appear to be enough to filter the sediment generated by the bare soil. As long as there is bare soil and construction debris on site the stream is still under threat from sediment washing into it. A construction environmental management plan is required.
19. To protect the watercourse from pollution no material is to be stored within the flood zone or within 8 m of the stream because it is a main river. Sediment interceptors are required to prevent sediment from washing into the stream. A temporary solution is needed until a long term solution can be implemented.
20. A possible temporary solution is for a line of straw bales wrapped in Terram or a similar permeable landscape fabric to be constructed to form a

continuous berm along the edges of the stream from fence to fence, to filter sediment from the runoff.

21. The bare soil on the slope between the house and the stream should be vegetated as soon as possible. It may be too late in the season to get grass to grow there, but ground covering plants will help to trap and stabilise whatever soil is left on site and filter sediment from surface water runoff.
22. If this application is approved we will require a landscaping and management condition to include a permanent solution, and need to be clear that there will be no further development closer to the water course in any case. Permitted development rights must be restricted to prevent this in the future.

Tree Officer: No Objection

23. Having seen the current situation on site, the tree of primary concern (not statutorily protected and on neighbouring land) has been removed and, therefore, no longer poses a constraint to the development. There are no other trees that we consider to be significantly under threat from the proposal and no conditions.

Policy Context and Designations Applicable to Site

- Within Built-up Area Boundary
- Within Established Residential Area
- Within Flood Zone 2 & 3
- Within EA Main River Buffer
- Adjacent to Ordinary Water Course
- Not Within Chandler's Ford Character Area Appraisal

Eastleigh Borough Local Plan Review (2001-2011) Saved Policies:

- 25.NC (Promotion of biodiversity);
- 43.ES (Flooding)
- 44.ES (Replacement dwellings and flooding)
- 45.ES (Managing surface water)
- 59.BE (General development);
- 104.T (Off-highway parking);

Submitted Eastleigh Borough Local Plan (2016-2036)

24. The 2016-2036 Local Plan was submitted to the Planning Inspectorate on 31st October 2018 and the examination hearings concluded in January 2020. The Council received the Inspector's post-Hearing advice on 1 April 2020. The Council is progressing with modifications to the Local Plan to enable its adoption, anticipated in mid 2021. Given the status of the Emerging Plan, and the policies related to this development site, it is

considered that overall considerable weight can be attributed to it. The most relevant policies are:

- S1 (Delivering sustainable development)
- S2 (Approach to new development)
- DM1 (General development)
- DM2 (Environmentally sustainable development)
- DM5 (Managing flood risk)
- DM6 (Surface water management)
- DM11 (Natural conservation)
- DM14 (Parking)
- DM23 (Residential development in urban areas)
- DM32 (Internal space standards for new residential development)

Submitted Eastleigh Borough Local Plan 2011 - 2029, July 2014

25. The Eastleigh Borough Local Plan 2011-2029 was submitted for examination in July 2014, but the Inspector concluded that insufficient housing was being provided for in the Plan and that it was unsound. While this has not been withdrawn and remains a material consideration, it can therefore be considered to have extremely limited weight in the determination of this application.

Supplementary Planning Documents

- Quality Places (November 2011);
- Residential Parking Standards (January 2009);
- Biodiversity (December 2009);

National Planning Policy Framework

26. At national level, the National Planning Policy Framework (the 'NPPF' or the 'Framework') is a material consideration of significant weight in the determination of planning applications. The National Planning Policy Framework (the 'NPPF' or the 'Framework') states that (as required by statute) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and sets out a general presumption in favour of sustainable development unless material considerations indicate otherwise.

27. Three dimensions of sustainability are to be sought jointly: economic (supporting economy and ensuring land availability); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst local circumstances should also be taken into account, so that development responds to the different opportunities for achieving sustainable development in different areas.

National Planning Practice Guidance

28. Where material, the Planning Practice Guidance which supports the provisions and policies of the NPPF should be afforded weight in the consideration and determination of planning applications.

Assessment of Proposal: Development Plan and / or Legislative Background

29. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require a Local Planning Authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise.

Retrospective Planning Applications:

30. In relation to the current planning application, Section 73A of the Town and County Planning Act 1990 specifically provides that a granting of planning permission may relate to development that has been started before the date of the application. It should be noted that an application cannot be refused on grounds that it is retrospective and when considering the development regard has to be had to Government guidance and the policies contained within the Development Plan.

Flood Risk (and principle of development):

31. While the site is located within the urban edge, where the principle of development is acceptable (subject to detailed considerations), in this case the majority of the replacement dwelling is sited within flood zone 2, which has a medium probability of flooding. Paragraph 158 of the National Planning Policy Framework requires a sequential test to be undertaken to steer new development to reasonably available alternative sites with the lowest probability of flooding (flood zone 1).

32. Furthermore, the very back section of the house and all of the rear garden is within in flood zone 3b, which is the functional flood plain and comprises land where water has to flow or be stored in times of flooding. Usually, only water compatible uses or essential infrastructure would be allowed within flood zone 3b.

33. However, in this case the application site has an established residential use with the original bungalow being present on the site in May 2017 when the previous application was assessed. The proposed replacement dwelling will not lead to an increased number of dwellings on the site nor introduce a new use with a higher vulnerability to flooding. As such the principle of a replacement dwelling on the site is considered acceptable.

34. While the principle is acceptable, the replacement property will be at a high risk of river flooding, as well as at a high risk of surface water and potentially ground water flooding. Therefore, the proposal also needs to pass the exception test, as set out within paragraph 160 of the National Planning Policy Framework. The exception test requires the development to be safe from flooding for its lifetime taking account of the vulnerability of its users and without increasing flood risk elsewhere. The other part of the test requires the development to provide sustainability benefits that outweigh the level of the developments flood risk. Such sustainability benefits could include improvements to the fabric of the building to achieve higher energy efficiency or using bathroom fittings that lower water consumption rates compared to that of the original bungalow.
35. A flood risk assessment has been provided for the current proposal, which explains that the replacement two storey house will be better protected from flooding than the original bungalow primarily as the property is sited further back from the stream. Although this argument doesn't stack up as the floor level of the previous bungalow was raised above the garden and appears to be higher than under the current application. The FRA also confirms that the proposed parking area is to be constructed of porous materials to reduce surface water runoff.
36. The FRA has been reviewed by the Environment Agency and an objection has been raised. The FRA is considered to be inadequate as it does not recognise the need for the exception test and is not based on the latest climate change allowances or policy advice. It therefore doesn't consider detailed methods to protect the proposed dwelling from flooding for its lifetime (taking into account climate change), it doesn't consider how the development would affect flood risk elsewhere and it does not weigh up flood risk against any sustainability benefits the development would need to provide.
37. Another material consideration is that the site already has planning permission for a replacement two storey dwelling. The proposal sits on roughly the same footprint as the previous permission and also uses porous materials for the parking area. However, there are some elements of the current proposal, when compared to the previous permission, that would increase the flood risk to the property and have the potential to impact flood risk elsewhere.
38. The first concern is that the current application has a lower floor level than the previous permission, with its lower ground floor level containing a family room. It appears that the level of the lower ground floor is only slightly raised from the level of the garden, which is in a high flood risk

zone. Whereas in the previous permission, the ground floor level was set at the level of the front of the property meaning its floor level was approximately 1m higher than the level of the rear garden. As such the proposal will be at a greater risk of flooding compared to the previous permission.

39. In line with the Environment Agency standards, it would be expected that the finished floor levels of the dwelling are set at least 300mm above the level of the 1 in 100year flood event (with additional climate change allowances incorporated). According to the FRA this equates to 34.15-34.44 AOD, as set out within the conclusion section of the flood risk assessment. However, as FRA only takes into account climate change allowances until 2060, rather than 2120, than the actual finished floor level required will be higher than this.
40. Details showing the proposed dwellings finished floor levels have been requested, but these have not been provided by the Agent and the FRA has not been revised following the Environment Agencies advice. As such it is not possible to establish whether the proposal meets the required standard. However, as the topographical survey (submitted with the previous application) listed the height of the rear garden directly behind the bungalow as around 33.3 AOD, well below that of the 2060 level, then the finished floor level remains a significant concern.
41. Another issue is the impact the proposal would have on the current capacity of the site to store flood water as the dwelling would be partly sited on functional flood plan. The concern is whether the lower ground floor of the proposed dwelling has been dug into the site, which would have meant replacing the soil with a manmade impermeable structure and so reducing the ground capacity of the site to hold water. Existing and proposed sectional details were requested, but as these have not been provided by the Agent it is unclear as to whether this has occurred and if so the extent of the soil removal. Without these details the Local Planning Authority cannot be assured that the proposal doesn't reduce the sites flood storage capacity and so increasing the flood risk outside of the site.
42. For the reasons outlined, the proposal is considered to be contrary to Policy 43.ES and 44.ES in that it does not demonstrate that the site is adequately defended from flooding; the flood risk assessment does not demonstrate that measures incorporated into the scheme would prevent life being endangered or damage to property; and the development has the potential to result in an unacceptable loss of floodplain storage. The proposal would also be contrary to Draft Policy DM5 of the submitted Eastleigh Borough Local Plan 2016-2036, which contains similar updated provisions.

43. Furthermore, the proposal is contrary to the National Planning Policy Framework in that it fails both parts of the exception test. Firstly, that information has not been provided to demonstrate that the proposal is safe for the lifetime of the development without increasing flood risk elsewhere. Secondly, that the proposal does not provide wider sustainability benefits that would outweigh the flood risk.

Parking and Access

44. Saved Policy 59.BE (v.) requires that development has a satisfactory means of access and layout for vehicles, whilst Saved Policy 104.T requires that an appropriate level of car parking be provided in accordance with the Council's adopted standards. The policy provisions are considered to be consistent with the requirements of the NPPF and in particular those of paragraph 109.

45. The site contains a parking area in front of the house, which like the surrounding properties is accessed directly from Hursley Road. As Hursley Road is one of the main routes through Chandler's Ford on street parking is not considered to be acceptable in this location. Therefore, it is necessary to ensure compliance with the adopted car parking requirements in order to allow the free flow of the road and not cause a detriment to highway safety.

46. In accordance with the council's residential parking standards supplementary planning document, three on site car parking spaces are required for a dwelling of this size. Each car parking space would need to be easily accessible and measure at least 2.4m by 4.8m to be deemed a useable parking space. The previous permission met this requirement by providing one space within an integral garage and a further two spaces on the property's frontage.

47. Under the current application the integral garage has been removed and so it is necessary to provide the three spaces on the property's frontage. However, the position of the proposed porch and steps to the front door reduces the car parking area so that only two out of the three car parking spaces can be accommodated on site. Although it would be possible to redesign this element of the proposal, and revisions have been sought, no amended plans have been provided by the Agent.

48. The development therefore fails to provide adequate provision for on site car parking, which would encourage the parking of vehicles on the public highway and so interrupt the free flow of traffic and cause a hazard to road users. As such the proposal is contrary to Saved Policies 59.BE & 104.T of the Eastleigh Borough Local Plan Review [2001-2011], Draft Policy DM14

of the submitted Eastleigh Borough Local Plan 2016-2036; the provisions of the National Planning Policy Framework and The Council's Residential Parking Standards SPD.

Design and Appearance

49. Policy 59.BE of the adopted local plan requires development to take full and proper account of the context of the site including the character and appearance of the locality and be appropriate in mass, scale, materials, layout, design and siting. The policy provisions are considered to be consistent with the requirements of the NPPF and in particular those within chapter 12 - achieving well designed places.
50. The current application is for a traditionally designed house of brick and tile construction with a pitched roof and front gable end. The property is entered on the upper ground floor through a front porch with an external staircase. The design and materials of the proposed house are comparable to the approved scheme, but under the current application the height of the dwelling has been increased by up to 1.5m to accommodate the additional storey.
51. The dwelling is positioned between 183 & 187 Hursley Road, sitting along the established building line. While the Agent has not provided a street scene or levels details for the current application, the street scene for the previous permission showed that the houses to the north (nos 187 & 187a) are just over 2m taller than the house previously permitted.
52. Construction work had started on the dwelling under the current application. During the site visit it was noted that the windows on the dwelling's upper ground floor level are at a similar height to those on the houses at 187 & 187a Hursley Road. From these details, the dwellings ridge height will end up being a similar height to the two neighbouring houses to the north, which are also two storeys at the front and three storeys at the rear.
53. It is also noted that there is a marked difference in the design, scale and size of dwellings along Hursley Road. As such it is considered that the dwelling will fit within the Hursley Road street scene and will be in keeping with the established residential character of the locality.

Residential Amenity

54. Saved Policy 59.BE of the adopted Eastleigh Borough Local Plan Review 2001-2011 requires that development avoids unduly interfering, disturbing or conflicting with adjoining or nearby uses, including by way

of overlooking and loss of light or outlook. Paragraph 127 of the NPPF, amongst other things, requires that planning decisions ensure that development provides a high standard of amenity for existing and future users.

55. The current application dwelling will sit directly between the two houses at 183 & 187 Hursley Road and its position and footprint closely follows that of the previously permission. The main difference being that the eaves and ridge height of the current dwelling has been increased.
56. In terms of overlooking, the dwellings main windows are on the front and rear elevations. There is one ground floor kitchen window on the side elevation facing no.183, but this is part of an open plan living/ dining area which has sliding patio doors on the rear elevation. As such the side window could be conditioned as obscure glazed in order to prevent overlooking onto the raised decked area at the rear of no.183. The remaining first floor side windows serve a bathroom and w.c, which are not main living spaces.
57. There are no dwellings directly at the back of the site, although the house at 10 Colvin Gardens is positioned in the rear of the property one plot along. However, as there is approximately 23m between the rear windows in the application dwelling and those in no.10, and taking account of the slightly obscure angle, the proposal is not considered to unduly increase levels of overlooking into this property.
58. Another consideration is the impact the proposal will have in the amount of light received and outlook of the two immediately adjoining dwellings. In terms of no.183, there is a 4m separation distance between the proposed dwelling and neighbouring house, and taking account of the window positioning and higher floor level of no.183, the proposal is not considered to have a material impact on the light received or outlook of this dwelling.
59. Moving onto no.187, the wall of the current application dwelling is only marginally set in from the shared side boundary (approx. 25cm at the closest point) and the back of the house projects 3m further than the neighbouring house. However, the proposal will have a negligible impact on the lower ground floor windows in the rear of no.187. This is because there is a high wall/ fence along the shared side boundary that already blocks the outlook and daylight from this aspect. The boundary wall extends past the height of the ground floor window and partly encloses the neighbour's first floor balcony.
60. The proposal will have more of an impact on the nearest first floor window in the rear of no.187, and if taken in isolation this living room

window would fail the 45 degree daylighting test (as outlined in Quality Places SPD). However, this window serves an open plan living area, and is one of a series of three windows right across the rear of the property. The remaining two windows will retain a reasonable level of daylight and outlook from their own garden and from the side with no.187. As such, the proposal is not considered to have an unacceptable impact on the daylight or outlook of the neighbour's rear first floor living area.

61. An additional concern raised by the residents of no.187, is the impact the current application dwelling would have on the light received to their side kitchen facing the development. However, when considering the impact a proposal will have on the daylight of main living areas, we have to consider all of the light sources available. In this case, the side kitchen window is a small secondary obscure glazed window with the main window at the front of the property. The front window will not be impacted by the dwelling and will continue to provide a reasonable light source for the kitchen.

62. For the reasons set out above, it is not considered that the proposal will have an unacceptable impact on the outlook, light or privacy enjoyed by the residents of the neighbouring dwellings.

Ecology, Trees and Water Quality

63. Policy 25.NC of the adopted local plan and Draft Policy DM11 of the submitted local plan requires appropriate mitigation measures to be put in place to protect habitats from the impacts of development. The policy provisions are considered to be consistent with the requirements of the NPPF and in particular those within chapter 15 – conserving and enhancing the natural environment.

64. The application site has been mostly cleared of vegetation and does not contain suitable habitats for protective species. There are no significant trees on the site or any within influencing distance of the application in the neighbouring gardens. No objection has been raised by the Tree Officer and no further arboricultural information is required.

65. One key consideration is the small valley and open stream which is located about 8m behind the dwelling. This stream flows across the garden into the neighbouring properties and into the Monks Brook, which form one of the tributaries that feeds into the River Itchen. The River Itchen is an internationally important chalk river that has been designated as a Special Area of Conservation for its aquatic flora and associated fauna species under the E.U Habitats Directive.

66. The proposal does not require the path or structure of the existing stream to be altered. However, the ground level slopes downwards from the building works to the stream and to preserve water quality it is necessary to ensure that any pollutants or sediment from surface water run off is managed both during the building works and in the final development. Policies 45.ES of the adopted local plan and Draft Policy DM6 of the submitted local plan require development to incorporate measures to manage and treat surface water runoff.

67. At present, there are a few plants along the bank but this is not a continuous strip, and it does not appear to be enough to filter the sediment generated by the bare soil. As long as there is bare soil and construction debris on site then the stream is under threat from sediment washing into it.

68. The Ecology Officer has provided advice on methods to manage and treat the surface water runoff to ensure sediment and other pollutants do not enter the waterway. During the remaining construction period, this would be in the form of installing straw bales wrapped in permeable landscape fabric to catch sediment in a line along the edge of the stream from fence to fence. In the longer term these straw bales would need to be replaced with ground covering plants along the bank to trap and stabilise the soil left on the site and filter surface water runoff.

69. It is disappointing that the Applicant has started unauthorised building work on the site and that the necessary methods to treat surface water runoff have not been put in place. While the application can not be refused on these grounds (as there is viable mitigation measures that can be installed on the site), the mitigation would need to be secured via conditions with very short timescales for installation. It would also be necessary to condition the removal of PD for structures on the site. Any subsequent breach of condition would then be subject to enforcement action.

Equalities Implications:

70. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

71. When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications.

Other Matters Raised

72. Third party representations have raised the issues of property maintenance, impact on foundations & subsidence, potential damage to properties and the position of down pipes. However, these issues are not material considerations and so cannot be assessed as part of the planning application. The Party Wall Act was also raised, but this is a separate piece of legislation outside of the planning framework and independent legal advice should be sought on this issue.

73. Another issue raised is the previous unauthorised removal of the TPO tree on the site. However, this issue has been investigated by the enforcement team and has been considered under a separate tree application. The loss of the TPO does not form part of the consideration of the current application.

74. In terms of neighbour notification, the neighbouring residents directly adjoining the site were written to advising of the planning application in accordance with the Council's procedures. As no.187a & no.189 Hursley Road do not directly adjoin the site then they were not included within the neighbour notifications.

75. In terms of the location plan, as the applicant rents (rather than owns) the property at 183 Hursley Road he is not required to outline this property in blue on the location plan.

76. As raised within the third party representations, work has previously started on the site for the current proposal without receiving further planning permission for the changes or discharging the previous planning conditions. The site is being monitored as part of separate enforcement investigation that is running concurrently with the planning application. The National Planning Policy Framework advises that enforcement action is discretionary, and that Local Planning Authorities should act proportionately in responding to suspected breaches of planning control. However, the enforcement case is separate to the current planning application and any previous breaches in planning control can not be considered as part of the current planning application.

Conclusion

77. The proposal is recommended for refusal as it would be contrary to local and national planning policies in the following regards:

- Insufficient information has been submitted to demonstrate that the proposal is adequately protected from flooding for the lifetime of the development and will not increase the flood risk elsewhere

- The proposal fails to provide the required level of on site parking car and so would encourage additional parking on the highway interrupting the free flow of Hursley Road.

