

ELAC – Eastleigh Local Area Committee Tuesday 15 November 2022.

**Application Number:** F/22/92348  
**Case Officer:** Clare Martin  
**Received Date:** Friday 28 January 2022  
**Site Address:** Land to the South of Nightingale Avenue, Eastleigh  
**Applicant:** Vivid Homes  
**Proposal:** Erection of two and a half storey building consisting of 2no. one-bedroom and 3no. two-bedroom apartments with associated car parking, bin/ cycle store, landscaping and access off rear service road.

**Recommendation:** **Subject to:**

i) **Securing contributions towards the Solent Recreation Mitigation Strategy and New Forest Recreational Strategy.**

**To Delegate back to the Executive Head of Planning and Economy in conjunction with The Chair and Vice Chair to GRANT PLANNING PERMISSION with the following conditions:**

**CONDITIONS AND REASONS:**

- 1 The development hereby permitted shall be implemented in accordance with the following plans referenced: 21.048.001 Rev B, 21.048.003 Rev A, 21.048.010 Rev D, 21.048.020 Rev D, 21.048.030 Rev B, 21.048.031 Rev B, 21.048.032 Rev C, 21.048.033 Rev B, 21.048.034 Rev B, 21.048.035 Rev B, 21.048.040 Rev B & DD550L02 Rev A.  
Reason: For the avoidance of doubt and in the interests of proper planning.
- 2 The development hereby permitted shall start no later than three years from the date of this decision.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- 3 The development must accord with the arboricultural report reference J256.04. No excavation, demolition or development related works shall commence until the approved tree protection measures have been installed as per the tree protection plan contained within the report. Once installed, no access by vehicles or placement of goods, chemicals, fuels, soil or other materials shall take place within the protected area. Tree protection measures shall be retained in their approved form for the duration of the work and may only be modified subject to written agreement from the Local Planning Authority.  
Reason: To retain and protect the existing trees which form an important part of the amenity of the locality.
- 4 No demolition or construction works shall start until a Method Statement has been submitted to, and approved in writing by, the Local Planning Authority.

Demolition and construction work shall only take place in accordance with the approved method statement which shall include:

- a) location of temporary site buildings, compounds, construction material and plant storage areas used during demolition and construction;
- b) The arrangements for deliveries associated with all construction works;
- c) the parking of vehicles of site operatives and visitors;
- d) Details of the methodology for ensuring mud and dirt is not transferred onto the highway from the site (i.e. wheel washers), and onwards mitigation should this fail, such as the employment of mechanical road sweepers, and the subsequent refresh of street lining (as and when required) should this be damaged during the process.
- e) a scheme for controlling noise from demolition and construction activities ;
- f) provision for storage, collection, and disposal of rubbish from the development during construction period;

Reason: To limit the impact the development has on the amenity of the locality

- 5 Notwithstanding the submitted details, no construction work shall start on site until the following has been submitted to, and approved in writing by the Local Planning Authority:
- a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk study in accordance with BS10175:2001+A2:2017, and, unless otherwise agreed with the Local Planning Authority;
  - b) A detailed scheme for remedial works and measures to be undertaken to avoid the risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works. Site investigations are to be undertaken by a competent person and in accordance with best practice as outlined in BS10175:2011+A2:2017 and LCRM. Any gas monitoring deemed appropriate is to be in accordance with best practice as outlined in such documents as BS8576:2013, BS 8485:2015+A1:2019, Claire RB17 and CIRIA C665.
- Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors
- 6 The development hereby permitted shall not be commenced for a period of at least 21 days from the date of the decision
- Reason: To comply with Section 28I(6) of the Wildlife and Countryside Act 1981 (as amended) as this permission is being granted otherwise than in accordance with the advice of Natural England.
- 7 No development above dpc level shall start until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- Reason: To ensure a satisfactory visual appearance in the interest of the

amenities of the area.

- 8 Notwithstanding the submitted details, no development above dpc level shall start until a revised ecological enhancement plan has been submitted to and approved in writing by the Local Planning Authority. The development shall then accord with the approved details and unless otherwise stated all measures shall be in place before the end of the first planting season following occupation of the development.  
Reason: In the interests of biodiversity.
- 9 Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence above dpc level until evidence that the dwelling meets all of the following standards has been submitted to and approved in writing by the Local Planning Authority:
  - a) at least 80% of the dwellings meet Part M4(2) standard for accessible and adaptable dwellings of the current building regulations
  - b) 100% of the dwellings meet Part M4(1) standard for visitable dwellings of the current building regulations
  - c) A predicted mains water consumption of no more than 110 litres/person/day.Reason: To provide adaptable and sustainable dwellings.
- 10 No part of the development shall be occupied until a land contamination verification report (for the work approved under condition 5) demonstrating the effectiveness of the remediation works carried out and a remediation completion certificate confirming that the approved remediation scheme has been implemented in full have been submitted to and approved in writing by the Local Planning Authority. The verification report and remediation completion certificate shall be submitted in accordance with the approved scheme and undertaken by a competent person in accordance with Defra and the Environment Agency's LCRM.  
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors
- 11 No part of the development shall be occupied until external lighting details has been submitted to and approved in writing by the Local Planning Authority and installed on the site. The scheme shall include lighting on the northern elevation to provide a safe access to the site after dark.  
Reason: In the interests of security and ecological protection.
- 12 The development shall be carried out in accordance with the approved drainage strategy technical note, by Odyssey, dated January 2022. No part of the development shall be occupied until management and maintenance details for the drainage system have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To provide a sustainable drainage system.
- 13 No part of the development shall be occupied until evidence showing

that mitigation is in place to offset the impact of increased nitrates and phosphates from the development on the River Itchen SPA has been submitted to and approved in writing by the Local Planning Authority. A vesting certificate is acceptable evidence for the Eastleigh Borough Council nitrate and phosphates mitigation schemes.

Reason: To accord with the Conservation of Habitats and Species Regulations 2017 (as amended).

- 14 Notwithstanding the submitted details, the development hereby approved shall not be occupied until the following details have been submitted to and approved in writing by the Local Planning Authority:
- a) a landscaping strategy plan (including hard & soft landscaping, tree planting, boundary treatment and seating in the south western corner);
  - b) full soft landscaping specifications;
  - c) planting details and
  - d) and a schedule of landscape management and maintenance.
- The approved hard landscaping and boundary treatments shall be installed before the development is occupied. The approved soft landscaping and tree planting shall be provided by the end of the first planting season following completion of the development. The works shall be carried out in accordance with the approved plans and to the appropriate British Standard.
- Reason: In the interests of the visual and residential amenity.
- 15 For a period of no less than 5 years after planting, any trees or plants which are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of the same species, size and number as originally approved in the landscaping scheme.
- Reason: In the interests of the visual amenities of the locality.
- 16 The development hereby permitted shall not be occupied until the bin/ cycle store, site access and car parking spaces have been provided in accordance with the approved plans and thereafter retained. The car parking spaces shall only be used for the purpose of accommodating private motor vehicles incidental to the enjoyment of the residential development.
- Reason: To make provision for off street parking for the purpose of highway safety.
- 17 The second floor lounge/ living room and bathroom windows on the eastern elevation shall be obscure glazed to Pilkingtons level 3 or equivalent and shall be top-hung opening only. Once installed the windows shall be permanently maintained in that condition.
- Reason: To protect the amenity and privacy of the adjoining residential properties.
- 18 No construction, demolition or deliveries to the site shall take place during the construction period except between the hours of 0800 to 1800 Mondays to Fridays or 0900 to 1300 on Saturdays and not at all on Sundays or Bank Holidays.
- Reason: To protect the amenities of the occupiers of nearby dwellings.

Note to Applicant: In accordance with paragraph 38 of the National Planning Policy Framework (July 2021), 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.

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### **Report:**

This application has been referred to Committee as Eastleigh Borough Council owns the application site.

### **Description of Application**

1. The planning application is for the erection of a two and a half storey building consisting of 2no. one-bedroom and 3no. two-bedroom apartments. The site is accessed off the rear service road, which runs behind the properties on Falcon Square and Magpie Lane.
2. The building is positioned on the eastern half of the site with a smaller single storey section on the northern side, which accommodates bin and cycle storage. The development has one car parking space in front of the building (on the eastern side) and the remaining seven spaces are located within a rear car parking area (on the western side). The proposal also includes three electric car charging points.
3. The application is accompanied by the following reports and technical assessments:
  - Planning statement
  - Design and access statement
  - Transport statement
  - Drainage strategy
  - Phase 1 ecological survey
  - Site investigation report into contaminated land
  - Landscape plan
  - Tree report

### **Site Characteristics and Character of the Locality**

4. The site is a rectangular piece of land, of approximately 615m<sup>2</sup>, which sits on the north-eastern corner of the rear service alley connecting Nightingale Avenue, Wren Road and Falcon Square. It is a level site that is mostly enclosed by a mixture of fencing and is covered in overgrown scrub. There are a handful of trees within the site and surrounding properties, which are not covered by Tree Preservation Orders.
5. The site is nestled between the two storey semi detached dwellings at 13 and 15 Falcon Square. While the area is predominantly characterised by

two storey semi detached interwar housing, there are examples of three storey buildings within the vicinity including the shopping parade along Nightingale Avenue to the north and Nightingale Court to the west.

### **Relevant Planning History**

6. None

### **Representations Received**

7. Fifteen letters of objection and one comment letter have been received, which raise the following points:

8. Amount of Development

- Overdevelopment of housing in the locality.
- Two or three bed houses would be more appropriate for the site and there are longer waiting lists for these types of properties than smaller flats.
- Proposal squeezes a flat into the roof space, which would have poor daylight and cramped accommodation.
- Development has no amenity space.

9. Character and Appearance

- The two and a half storey flatted development is out of keeping with other family houses in the locality.
- Bin store and blank side of the building do not create a sense of arrival from Nightingale Avenue.
- Proposed block of flats is taller than family dwellings in the locality.

10. Access and Car Parking

- Insufficient on-site car parking, which will exacerbate existing parking problems in the locality.
- The one visitor car parking space at the front of the building will encourage more traffic along this section of the service alley and could end up being used by other properties. All visitor parking needs to be incorporated into main car parking area.
- Car parking area should incorporate electric car charging points.
- Site is accessed off a single lane rear service alley, which is difficult for delivery or construction vehicles to get to.
- Refuse lorries cannot service the development so wheely bins will end up blocking the access road behind the Nightingale Avenue shops.

11. Residential Amenity

- Overlooking (especially from proposed balconies).
- Building would be overbearing, visually intrusive and restrict light into neighbouring gardens.
- Loss of a view
- Noise and dirt during construction period.

- Noise, fumes and accidental damaged caused by vehicles using the parking area next to the garden of 13 Falcon Square. Recommend car parking area is set in from boundary and the existing fence is replaced with a wall.

#### 12. Infrastructure

- Development will result in increased demand at local schools, dentists and doctors.
- Impact on sewerage system, which has existing problems.
- Potential flooding from proposed soakaways.

#### 13. Other

- Loss of on-site habitat for wildlife.
- Recommend that the development includes multiple Swift bricks, which will provide much-needed breeding spaces for declining species of birds.
- Car park construction could harm neighbouring trees.
- Developer should contribute to improving the condition of the access road.
- Low level lighting needs to be incorporated into the development.

### **Response to Representations Received**

14. The material considerations raised will be considered in the assessment section. However, the council would like to respond to the following points raised:

- The car parking area has been amended to include electric charging points (as shown on the proposed site plan).
- Amended plans have been received, removing the full balconies and replacing these with juliet balconies.
- Loss of a private view is not a material planning consideration and so cannot be assessed as part of the application.
- A construction environmental management plan can be conditioned to limit the impact on neighbouring residents during the building process.
- Unfortunately, it is not possible to have a wall alongside the car park boundary with the garden of 13 Falcon Square as its footings would be in the root protection area of the neighbours trees.
- The five unit residential development will have a negligible impact on local services and is below the limit required to contribute towards education and health services.

### **Consultation Responses**

#### **Hampshire Highways - Comment**

##### Vehicular Access

15. Access to the site is via a rear service road from Nightingale Avenue that currently accommodates various rear parking for the flats above the shops,

Falcon Square and Magpie Lane. This is acceptable, with the increase in trip rates from the additional five units not anticipated to cause significant impact.

16. A Minor Works S278 agreement will be required for the proposed site access and front visitor parking space off the rear service alley.

#### Pedestrian Access

17. Footways are provided for most of the route between the junction with Nightingale Avenue and the site and there are no known existing issues. vehicle speeds relatively low at this point and pedestrian safety is acceptable.

#### Parking

18. Eight parking spaces are proposed for the 5 flats, and the layout is acceptable with access gained via an undercroft. However, the number of car parking spaces needs to accord with the 'minimum' standards, given the historical parking issues within the local area. Any shortfall in parking is likely to exacerbate the issue, with overflow likely.
19. Historical restricting of parking numbers within the borough, in the hope that it restricts parking numbers has had limited success, and results in obstructive parking and post-development conversion of green spaces.

#### Servicing

20. Servicing of the site is achievable via the rear service roads as existing, and it is noted that the Council's Direct Services Team have raised no concerns.

#### **Urban Design Officer - Comment**

21. Various schemes have been put forward to redevelop this site over the years, with this general layout proving to be the most suitable given the access constraints and trying to minimise adverse impact upon the amenity of existing neighbouring properties in terms of loss of light, outlook and privacy.
22. In terms of materials, the use of red brick is supported, and the roof materials have been amended so that it is finished with plain clay tiles, rather than slate, to reflect surrounding development.
23. The scheme is dominated by the parking area, which should be reduced to provide one parking space per flat. This will enable additional soft landscape to create a more attractive courtyard within the development. Likewise, the visitor space at the front of the site is a significant element in the public realm that erodes soft landscape. It would be preferable for this



space to be replaced with soft landscape and private amenity areas expanded.

24. The development needs to provide a safe route to the site and the pedestrian access from Nightingale Avenue should be well-lit after dark.

25. Advice provided on incorporating sustainability measures into scheme.

### **Ecology Officer – No Objection**

#### Protected Species

26. There are records of at least three species of bats, hedgehogs, swifts, slow worms and common toads near this site. The recommendations in the Protected Species Walkover Survey report and the Ecological Enhancement Plan report are sound and can be conditioned. These include precautionary clearance methods for breeding birds, hedgehogs and reptiles, which are further expanded upon within the Ecology Officer's response.

#### Biodiversity Net Gain

27. Biodiversity enhancement is required and shown as part of the Ecological Enhancement Plan. The Ecology Officer's response provides advice on how improve upon this further by using a long flowering mix of plants for pollinators and having continuous corridors of vegetation along the western boundary. Further enhancements could include climbing flowering plants on the bin and cycle store, swift and bat bricks and hedgehog gaps in fencing. The final biodiversity enhancements should be conditioned.

28. Bat bricks should be installed within the development, but kept away from areas illuminated by exterior lights. Lighting should follow the guidance given on the Bat Conservation Trust website and a lighting plan should be conditioned.

#### Surface Water Drainage

29. The surface water drainage proposal is acceptable, and a drainage maintenance plan should be conditioned.

### **Tree Officer – No objection**

30. There are no significant trees within the site and none of these trees are subject to Tree Preservation Orders. However, there are several trees on the neighbouring site, with their stems immediately adjacent to the site boundary. The proposal includes an arboricultural report and tree protection plan, which are acceptable. The approved tree protection measures will need to be installed on site before work begins.

## **Southern Water - Comment**

### Foul Sewage

31. Our 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 foul sewer to be made by the applicant or developer.
32. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

### Drainage

33. Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities.

## **Environmental Health (contamination) - Comment**

34. The preliminary risk assessment identified a number of potential onsite sources of contamination, possible asbestos within the existing buildings, Made Ground, vehicles storage and areas of ash and clinker. As such conditions to deal with ground contamination (including asbestos) and verification of remedial works will be required.

## **Direct Services – No objection**

## **Natural England – Objection**

35. Natural England consider that the proposal will have adverse effect on the integrity of the River Itchen Special Area of Conservation (SAC) and the New Forest SAC, Special Protection Area (SPA) and Ramsar site, in terms of recreational disturbance and water quality.

## **Policy Context and Designations Applicable to Site**

- Within Built-up Area Boundary
- Within Established Residential Area
- Within Aviary Estate Special Policy Area

## **Development Plan**

## **Eastleigh Borough Local Plan 2016-2036**

### **36. Strategic Policies**

- S1 (Sustainable Development);
- S2 (Promotion of New Development);
- S3 (Housing Locations).

### **37. Development Management Policies**

- DM1 (General Development Criteria);
- DM2 (Environmentally Sustainable Development);
- DM3 (Adapting to Climate Change);
- DM6 (Sustainable Surface Water Management and Watercourse Management);
- DM8 (Pollution);
- DM10 (Water and Waste Water);
- DM11 (Nature Conservation);
- DM13 (Transport);
- DM14 (Car Parking);
- DM23 (Residential Development in Urban Areas);
- DM29 (Dwellings with Higher Access Standards);
- DM30 (Internal Space Standards).

### **38. Area Specific Policies**

- E10 (Aviary Estate)

## **Supplementary Planning Documents**

- Trees and Development (April 2022)
- Quality Places (November 2011);
- Residential Parking Standards (January 2009);
- Environmentally Sustainable Development (March 2009);
- Biodiversity (December 2009);

## **National Planning Policy Framework**

39. 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. A deliverable 5 year supply of housing within each local authority area is required, and if this is not demonstrated a tilted balance in favour of the development applies.

40. 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**

41. 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**

42. 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. The Development Plan comprises the Eastleigh Borough Local Plan 2016-2036 and the Hampshire Minerals and Waste Plan 2013 (which is not applicable in this case). The NPPF and the Planning Practice Guidance constitute material considerations of significant weight.

### **Principle of development:**

43. The site is within the urban edge, located behind a collection of existing residential properties within the Aviary Estate. The site comprises an overgrown and neglected parcel of land, which due to its condition detracts from the appearance of its immediate surroundings. As such the principle of new residential development on the site is acceptable and a well designed scheme has the potential to improve the quality of the built environment.
44. Policy DM1 requires development to make efficient use of sites, with Policy DM23 looking for residential developments to achieve a minimum density of 40 dwellings per hectare, unless site constraints or local character justify a lower density. The policy goes on to state that in areas with good access to public transport and other services and amenities, higher densities should be sought.
45. The proposal is for 5 no. one and two bed flats which the Applicant has indicated would be provided as affordable housing. The development has a residential density of 81 dwellings per hectare, which as a two and a half storey apartment block would be naturally higher than the surrounding predominantly two storey semi-detached houses that characterise the Aviary Estate.

46. However, there are some examples of three storey buildings close to the site including the mixed commercial/ residential building at 6-16 Nightingale Avenue to the north; the residential development at 1 to 34 Nightingale Court (on the corner of Magpie Lane and Nightingale Avenue); and a smaller housing development on the corner of Nightingale Avenue and Wren Road. On this basis the density and scale of the development is not considered to be out of keeping with the locality.
47. Furthermore, the site is within a sustainable location close to local facilities, leisure activities, recreational spaces and within walking distance of Eastleigh Town Centre. As such the site is within an area where higher densities are encouraged, unless material considerations indicate otherwise.

### **Character and Appearance**

48. Policy E10 looks to protect the special character of the Aviary Estate by requiring new development to closely reflect the size, scale, architectural style, materials and detailing of the locality.
49. In terms of size, the two and a half storey building is approximately 2.5m higher than the neighbouring two storey houses, but is comparable to the three storey commercial/ residential terraced building to the north. The bulk of the proposed building's roofline has been minimised using a fully pitched roofline and, given the surrounding development, the size of the building is considered acceptable.
50. The apartment building is of a pleasant design with a fully pitched roofline and all the buildings windows line up and are in proportion to each other. The building also has an active frontage on its northern elevation where it is accessed from Nightingale Avenue. The buildings northern elevation has two rows of windows which allow natural surveillance. The pitched roof single storey bin/ cycle provides further visual interest on the buildings approach while hiding away the rear parking area.
51. The building's design contains some elements of the surrounding houses, such as its external materials, and overall its design is considered acceptable. Particularly as the site is tucked away along the rear service alley where the building is not prominently viewed from the main residential roads. The only visibility being from the corner of Falcon Square and even then the building is positioned at the far side of the site.

52. While the external space around the building is limited, the landscaping includes three new ornamental trees in the small green space in front of the building and an additional tree in the corner of the car park. The proposal also includes a low hedgerow around the patio areas to the front of the building (eastern side), which provide some privacy for the ground floor flats. Although the size of the landscaped areas is relatively modest, they still provide a setting for the building and rear parking courtyard.
53. In conclusion, the proposed two and a half storey building is considered to be an appropriate development which reflects the character of the locality and would be a visual improvement over the current neglected site.

### **Living Accommodation**

54. Policy DM30 requires all new dwellings to meet the Nationally Described Space Standards, including a minimum gross internal floor space of at least 50m<sup>2</sup> for one bed two person dwellings, 61m<sup>2</sup> for two bed three person dwellings, and 70m<sup>2</sup> for two bed four person dwellings. The dwellings should also be designed with a minimum ceiling height of 2.3m for at least 75% of the floor space.
55. The proposed five flats are able to meet the required internal floor space standards, with the ground and first floor of the building accommodating 2no. one bed apartments of 50m<sup>2</sup> each and 2no. two bed three-person apartments each around 70m<sup>2</sup>.
56. While the space available within the second-floor apartment is restricted by the roof slope, the apartment has been redesigned to accommodate three rather than four people. The second-floor apartment is able to meet the internal space standards providing a floor area of 64m<sup>2</sup> and a head height of 2.3m for 82% of its floor space.
57. In terms of outdoor amenity space, all flats should have access to either a communal garden of at least 25m<sup>2</sup> per flat or a private amenity space of 3m<sup>2</sup> per flat or 2m<sup>2</sup> per bedroom (as set out within the Council's Quality Places Supplementary Planning Document).
58. The application site does not have sufficient space to accommodate a communal garden without losing car parking, although it might be possible to create a small siting out area in the landscaping section at the corner of the car park.

59. The proposal includes private external amenity spaces for the two ground floor flats in the form of small patios enclosed by dwarf hedges. However, there is not an option to provide private external space for the first and second floor flats in the form of full balconies as these would result in significant levels of overlooking into the neighbouring gardens. Instead, juliet balconies have been provided for the first floor flats.

60. While the scheme is not able to meet the Council's external amenity space standards, the site benefits from being within easy walking distance of a large recreational ground (sited 120m to the north). On balance it is considered that the presence of this park, along with the creation of a small seating area in the corner of the parking area, can go some way to meeting the outdoor space needs of the new residents.

### **Residential Amenity**

61. Policy DM1 requires new development to not have an unacceptable impact upon the amenity of existing residents and further guidance is provided within the Council's Quality Places Supplementary Planning Document.

62. While the proposed two and a half storey building would be positioned closest to the house at 15 Falcon Square, the proposal it is not considered to be unacceptably obtrusive given the relationship between the properties and the proposed building having its shorter elevation on the southern side. The building is also located to the north of no.15 and so this property should continue to receive a reasonable level of light and outlook from its main rear windows and garden, although there will be some impact on their first floor bedroom window and the other secondary windows along this elevation. No facing windows are proposed on the building's southern elevation.

63. The building is 15m away from the property at 13 Falcon Square with the proposed car parking area positioned next to their garden boundary. While this will inevitably create a degree of additional disturbance (through car noise and fumes), the number of vehicle movements will be limited given it is a seven space car park and these types of arrangements do exist within residential areas. It is also noted that some screening is provided by the existing high close boarded fencing along the western boundary and trees within the garden of no.13.

64. In terms of overlooking, the buildings main windows are on the front (east), side (north) and rear (west) elevations. However, the proposed first floor windows are at least 22m away from the facing first floor windows in the rear of 38 & 40 Magpie Lane and 4 Nightingale Avenue,

thus accord with the separation distance standards set out within Quality Places SPD. Furthermore, the original full balconies on the front elevation have been replaced by Juliet balconies, which has significantly reduced the level of overlooking into neighbouring properties.

65. For second floor windows, Quality Places SPD recommends separation distances be increased to 27m. However, in this case only 24m to 25m separation distance is provided between the three dormer windows in the eastern elevation of the new building and the existing rear bedroom windows in 38 & 40 Magpie Lane. In order to reduce overlooking it would be reasonable to obscure glaze two of the three dormer windows. This would be the bathroom window (middle dormer) and the main living area (southern most dormer) as the main living area is dual aspect and its corresponding western dormer would continue to provide an outlook over the car parking area with a more distant view over the row of gardens at 9-13 Falcon Square.

66. One compromise is the northern most dormer, which it is recommended stays clear glazed as this is the only window to the bedroom. However, as bedrooms are typically not used as much during the day as main living areas there is likely to be less opportunity for overlooking.

67. In conclusion, the proposal is for five new dwellings, which would make the most efficient use of the existing sustainable urban site. However, being within an existing residential area the proposal will have an impact on the amenity of existing residents, most notably 13 & 15 Falcon Square and 38 & 40 Magpie Lane. As such a reasonable balance needs to be found between maximising development within this sustainable location while not materially impacting the amenity of neighbouring residents. The reduced private amenity space and slight compromise to overlooking distances at second floor level are considered acceptable in this instance when weighting up the positive benefits associated with the use and redevelopment of the land.

### **Access and Car Parking**

68. Policy DM13 requires a safe and convenient access to be provided for the development. In this case, vehicular access is provided via the existing 40m long single lane service alley that connects directly to Nightingale Avenue. The proposal is accompanied by vehicle tracking information, which demonstrates that it is possible for a refuse vehicle to use the service alley and collect rubbish directly from the bin store on the northern side of the site. The information has been reviewed by the Council's Direct Services Team and no objection has been raised.

69. Furthermore, a condition requiring external lighting to be installed on the building's northern elevation could be imposed to ensure a safe pedestrian access for the development is provided at night.



70. The development should also provide twelve on site car parking (two for each flat and a further 20 percent uplift for visitor parking) in order to meet the requirements of Policy DM14 and the Council's Residential Parking Standards Supplementary Planning Document.
71. However, the site only has enough room to provide eight on site car parking space, seven spaces within the main car park and an additional space at the front of the building. The car parking spaces have been set out with one space allocated to each property and three shared visitor spaces, which allows some flexibility. Alternatively, the car parking area could be fully allocated with two spaces for the two bed dwellings and one space for the one bed dwellings, although this would result in no visitor parking. Either way the on site car parking spaces would be less than that usually required under the Council's planning policies.
72. The site is accessed via a single lane service alley and any overflow parking along the alley could block access for other residents who use the lane to access car parking spaces behind their houses. Alternatively, vehicles may spill onto surrounding resident roads which appear to already have a significant level of on road car parking. An issue that has been raised by the Council's Highway Officer as well as local residents.
73. However, the site is within a sustainable location, close to several bus stops providing a regular bus service. The site is also within cycling distance of Eastleigh Town Centre and includes provision for ten cycles within a dedicated lockable bike store. Due to the sustainable location, section 8.1 of the Council's residential parking standards allows for some flexibility in the amount of on site car parking provision for Eastleigh Town Centre and the surrounding area, and indeed this approach has been taken for other developments within Eastleigh.
74. Furthermore, an access statement has been provided which includes national statistics on car ownership data. This data shows that an average household within this type of area has 1.03 vehicles compared to 1.47 vehicles within Eastleigh Borough as a whole. Also flatted developments tend to have a lower number of cars than houses, with average flatted developments having 0.77 vehicles per flat compared to 1.05 for the average 1 to 3 bedroomed house. While the number of cars owned by the new residents cannot be controlled, there is evidence that most residents may only require one space and any additional cars could be accommodated for within the three shared spaces.
75. Given the sustainable location, and lower car ownership data, a reasonable argument can be made to accept a lower parking standard for the proposed flatted development within this area.

## **Ecology**

76. A protected species walkover survey has been submitted, which identified a negligible potential for bats, although there is potential for nesting birds, hedgehogs and other mammals due to the dense scrub and small trees present on the site. The report went on to provide precautionary measures for protecting these species from the development, such as checking for nesting birds and carrying out site clearance outside of the bird nesting period (March to August).
77. The development is also accompanied by an ecological enhancement plan and this could be further improved by using a long flowering mix of plants for pollinators within some of the landscaping area on the south western corner and providing bat and swift boxes. On this basis no objection has been raised by the ecology officer.

## **Trees**

78. There are no significant trees within the application site, although there is a row of trees within the garden of 13 Falcon Square alongside the car park boundary. In order to prevent damage to these trees a cellular confinement system would be used to support the weight of the adjacent car park. A full arboricultural impact assessment has been provided with the planning application, which has been reviewed by the tree officer and no objection has been raised subject to conditions.

## **Drainage**

79. Policy DM6 requires new housing development to incorporate a sustainable drainage system. A surface water drainage strategy has been submitted for the development, which confirms that the ground conditions are not suitable for infiltration and there is no water course close to the site for drainage. Instead, the surface water will be drained into two buried cellular storage tanks, which have been designed to accommodate 1 in 100 year storm plus 40% rainfall to account for climate change. As these storage tanks fill up they would slowly be discharged into the existing surface water sewer at two separate points.
80. In terms of foul sewage, no objection has been raised by Southern Water to the residential development. Southern Water has a duty to improve its network to cater for proposed developments, which is funded via their own charges to developers for connecting to the network. This duty falls outside

of the planning system and any offsite improvement works would need to be undertaken by Southern Water.

## **Impact on the Special Policy Area**

### Nitrates

81. Natural England have advised that the increase in wastewater from new housing developments within the borough is having a detrimental effect on the quality of water entering the Itchen and Solent catchment area through nitrification. As such all development for additional housing are required to reach nutrient neutrality (ensuring that development does not add to existing nutrient burdens), in order to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).
82. The application site will use the Chickenhall Lane waste water treatment works, which discharges into the River Itchen. As such the proposed development is required to achieve nutrient neutrality for both nitrogen and phosphorus. To mitigate for the increase in nutrients The developer intends to purchase credits from the Eastleigh Borough Council scheme, which takes land out of agricultural uses and creates recreational spaces thus reducing the nutrient output of the land. The developer will need to provide evidence of this mitigation via a pre-occupation condition.

### Recreational Disturbance

83. The site is within both the 5.6km catchment area for the Solent Special Protection Area and Ramsar Site and the 13.8km catchment area for the New Forest Special Protection Area. It is recognised that new housing developments within these catchment areas are likely to result in additional visitors to these protected sites. In order to mitigation for this impact the developer has agreed to pay a contribution towards the Solent Recreation Mitigation Strategy (which manages visitors to the coastline) and the Council's New Forest Mitigation Strategy (which provides Suitable Alternative Natural Green Spaces within the borough). No contribution have been received to date, and these will need to be paid upfront if the Council intends to permit the development.
84. A habitat regulations assessment has been undertaken by the Local Planning Authority for the proposed development, which outlines the likely impacts on the special protection areas and proposed mitigation. This has been reviewed by Natural England and an objection raised as Natural England have not approved the Council's phosphorus or New Forest Mitigation Strategies. A dialog is continuing between the two organisations, however the Local Planning Authority, as competent authority, consider that these schemes provide sufficient mitigation.

85. Should the application be approved, with Natural England's objection, then the Council will need to advise Natural England of its decision and a 21-day notification period given before development starts on the site, as required by Section 28(6) of the Wildlife and Countryside Act (1981).

### **The Council's Five-Year Housing Land Supply:**

86. Also of note is the latest position on the Government- required 5 year housing land supply. The published figure for August 2022 confirms that the Council currently has a 5.1 year supply. The addition of urban windfall sites, such as the proposal, makes a small but important contribution to the to the council's housing land supply.

### **Other material considerations**

#### **Sustainability Measures and Climate Change:**

87. In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

88. The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy.

89. The NPPF aims for the need for housing to be met, and policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use.

90. When considering the impact of climate change, the proposed development would be expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use. For the proposed development, a location on top of the bin/ cycle store roof has been

identified for photovoltaic panels to provide a renewable energy source. Electric car charging points would be available within the main car park and cycle storage is provided to encourage the use of sustainable transport methods.

### **Equalities Implications:**

91. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-
- a. 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.
92. 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.

### **Conclusion**

93. The application site lies inside the urban edge in an accessible and sustainable location not far from Eastleigh town centre. The site consists of an under used parcel of land within an existing residential area and therefore is considered suitable for residential development.
94. In terms of the scheme's specifics, a balance has to be struck between delivering a viable housing development that makes the most efficient use of urban land and conforming to the various planning requirements.
95. The proposed development is for a two and a half storey building containing five flats. The scale and design of the proposal is considered to be in keeping with other developments within the residential area and the scheme has been amended to reduce the buildings impact on the amenities of the neighbouring dwellings.
96. The proposed one and two bed flats are able to provide reasonable living accommodation, which meets the Nationally Described Internal Space Standards. However, due to the limited size of the site the proposal is only able to provide eight out of the required twelve car parking spaces and just the ground floor flats have access to their own outdoor private amenity spaces.
97. However, there is a case for accepting lower parking and outdoor amenity space provision in this instance, as the site is well served by sustainable transport and within easy walking distance of a large park, shops and local

services. Therefore, on balance, the proposed development is recommended for permission.

