

Town & Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004)

The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (SI: 2000/1625) as amended.

New Forest District Council Rebuttal

This document is the rebuttal of Richard Payne Principal Environmental Design Officer NFDC dated 15 September 2023 to the following:-

Proof of Evidence Relating to Matters of Design, Character, Trees & Open Space at Orchard Gate, Noads Way, Dibden Purlieu Hythe, SO45 4PD - Prepared by Paul Harrington BA (Hons) BARCH RIBA Design Director REV C - August 2023
Application Reference 22/10813 Demolition of the existing buildings, erection of 25 dwellings with associated access, landscaping and parking.

Paragraph 2.2.3 (p. 8)

***Appellant:** The council has a flexible approach to improving the provision of public open space. It can be secured via off site provision or within well-designed on-site space (or a mixture of both).*

NFDC:

Core Strategy Policy CS7 (Open Spaces. sport and recreation)

The improvement of play, sports and other public open space provision will be implemented in the following ways:

through requiring all new residential developments to make provision for appropriately designed public open space, either through on-site provision of new open space or by financial contribution to enhance or create off-site provision and management of public open space (based on a minimum level of provision of 3.5ha per 1000 population);

The Council does have a flexible approach to the provision of public open space and this is explicit in Policy CS7 criterion b (above).

However, Policy CS7 criterion (c) is also explicit that:

all new residential developments on sites of 0.5ha or over to provide appropriately designed informal public open space on site and to include the provision of designed good quality play spaces

As such, this flexibility is caveated in the subsequent Policy criterion with a requirement for new public open space to be provided on-site on sites over and above a certain size such as the Appeal site. This is not acknowledged here.

Additionally, the Fields In Trust guidance only suggests that we can do without the play on site if residents are within 100m of an existing facility. This is not the case here with even the nearest house at least 120m and most dwellings over twice that minimum distance.

Therefore, in this instance off-site provision would not in principle be in line with both Policy CS7 and the Fields in Trust Guidance.

Paragraph 2.6.3 (p.11)

Appellant: *In my opinion, the aim of the SPD is to: respect the local character and identity but also promote higher densities by encouraging the best use of land*

NFDC:

The aims of the New Forest District Council Housing Design, Density and Character Supplementary Planning Document (April 2006) are clearly set out on page 5. They are:

- To promote good design in new residential development.
- To ensure that new residential development respects local character and identity.
- To promote the successful implementation of policies which promote higher densities in new residential development.
- To give practical advice to the designers and developers of new housing, on how to achieve successful developments that can secure planning permission.
- To highlight the links between quality of design and successful higher density development.
- To assist in the preparation of Design and Access Statements that will accompany planning applications for residential schemes.
- This document is not a design guide. The SPD is about the process that should be followed in order to achieve better designed new residential environments in our towns and villages

The aims of the SPD are inter-related and not mutually exclusive. There is no apparent need for the appellant to state their opinion of the aims of the SPD when they are clearly set out.

Paragraph 4.1.2 (p.13)

Appellant: *The site is 0.9 hectare (2.2 acre), L-shaped and broadly flat & level throughout. A detached residential property is set back from Noads Way, centrally within the site. There are also several outbuildings and stables associated with the site's existing equestrian use located to the rear of the house. The site benefits from a good level of screening from mature trees and hedgerows to most of its boundaries, with the exception of an area on the northwest boundary*

NFDC:

It is likely that winter will offer a different level of screening than is described. NB paragraph 5.2.8 refers to the more open feel of the street in winter. No mention is made of the extremely valuable character that is given to a street and landscape character more generally by the seasonal changes, this street in particular will take on dramatic changes of colour, wildlife, lighting throughout the seasons.

Additionally, the issue of screening is brought up on page 42 paragraph 6.4.4 and Image 45, where the appellant has uncoupled the issue of visual connection (visual impact) from that of landscape character. The question regarding design quality might be whether the development should be 'screened off' or whether it should be integrated with local character – national and local planning policy call for the latter.

Paragraph 4.3.4 (P.17)

Appellant:

The key characteristics of Dibden Purlieu are listed as follows:

- *Older residential development at a coarse to medium grain with a rectangular block layout.*
- *The topography is very gently rising to the north*
- *A mix of houses and bungalows set on medium-sized to large plots on a grid of roads which includes cul-de-sacs*
- *Consistent building lines, with only very minor variation throughout, dwellings set back from the road with low boundary hedges defining the road*
- *A wide variation in materials but generally red brick (some other colours are also seen such as gault brick) or painted render, with clay tile and modern concrete interlocking tiles*
- *Bungalows and two-storey houses, some use of the chalet bungalow plan with dormers to the roofspace*
- *Predominantly residential with small district centre of independent retailers and services*
- *Some mature boundaries of hedges and trees. Good trees to rear gardens*
- *Mostly off-road parking, wide roads with no grass verges or street trees Good access and connectivity due to the grid layout*

NFDC:

New Forest District Council has not referred to the Hampshire County Council (HCC) Integrated Character Assessment. It is a HCC document and has not been adopted by NFDC as design guidance. However, the appellant refers to a list of key characteristics of Dibden Purlieu, presumably from it. The size of plots, the set-back from the road, the boundary hedges and the existence of "Good trees to rear gardens" are all also key to this site's immediate context.

The key point being that the key characteristics of a settlement can greatly differ within the settlement, are often not applicable to all areas and as such a finer grained analysis is required sometimes down to individual street level.

Paragraph 4.3.5 (p.17)

Appellant: *In summary, the site sits within a residential suburb and is surrounded by relatively modern development.*

NFDC:

In summarising the list of key characteristics, the appellant ignores those listed above at 4.3.4 and simply makes an assertion that the site is surrounded by ‘relatively modern development’, for which the Council can find no basis within the published list of key characteristics.

Paragraph 4.5.1 (p. 18)

Appellant: *There is no evidence from heritage, townscape or character assessments prepared by the County Council, District Council or in the Neighbourhood Plan to suggest that Noads Way or Lime Walk possess a sufficiently distinct or coherent character to warrant a special designation or even to be specifically noted within their documents.*

NFDC:

In seeking innovation and in seeking best use of land, the Council did adopt the Housing Design, Density and Character Supplementary Planning Document (April 2006) which seeks a proper process to ensure that **ALL** areas of the district benefitted from contextual approach rather than just those few designated ones (which may have devalued other areas by default).

NFDC policy has consistently supported this approach since and indeed been improved by reference to local distinctiveness alongside national policy which has also supported this.

Section 5 Existing Pattern of Development Pages 19-26

Appellant: *see Proof of Evidence pages 19 to 26 inclusive.*

The appellant has made a belated assessment of the local context to support the few sentences in the Design and Access Statement (D&AS) that are referred to in the Council's Proof of Evidence.

The appellant calls it an objective presentation of the site context and goes on to describe but makes no objective measurement or balanced assessment, the proof does not seek to find any key defining characteristics to inform the design.

Moreover, it fails to take reasonable cognisance of the local landscape. Noads Way is very much dominated by the trees, gardens and hedgerows but the appellant clings to describing buildings without measuring or analysing what is characteristic, making random subjective assertions such as that at Paragraph 5.2.2 (below):

At the western end of the road, a subtle kink gives the street a more urban feel with the dwellings more visible

which exaggerates the impact of the slight change in road character on the local townscape.

Also paragraph 5.2.7 (below):

Many of the plots have substantial, mature trees within their front gardens. These trees present a very strong verdant and sylvan identity

where it omits reference to rear gardens where trees also contribute significantly to townscape character. This can be clearly seen in Images 12, 14 and 15 in the Appellants Proof of Evidence.

Lime Close (Section 5.5) - the Appellant has started criticising its design rather than analysing its distinctive character. All this has resulted in NO CONCLUSION as to what constitutes the contextual character and what might have informed the design. No key defining elements of character.

Image 24 (p. 27)



Image 24 – Streets and cul-de-sacs (site shown in pale yellow)

NFDC:

On the face of it, this is a very compelling diagram and might appear to justify the adherence to this way of developing saying that these form the locally distinctive character than should inform design. However, it seems from the descriptions that they are neither appropriately chosen or that they are good examples – the appellant is at pains to criticise their designs and it seems that they are not within sylvan settings or that in their introduction, they have destroyed that element of character, either at the time or over the years.

Overall, the analysis of backland developments given in image 24 is presented as rather a set of precedents for justifying the appellant's approach and while criticising each backland scheme for poor design, it then says that the proposal is consistent with these schemes.

Paragraph 6.2.4 (p. 37)

Appellant: *The layout places the majority of the mature trees into the public domain:*

- *Noads Way frontage trees as a continuation of the verdant and sylvan streetscene*
- *North east boundary trees along the site access road with a wide verge*
- *South east boundary trees (a backdrop also to the Noads Way properties)*

NFDC

The proposal removes these trees and replaces them inadequately

Paragraph 6.4.1 (p.41)

Appellant: *The character analysis within this document illustrates that the site possesses a unique character within the context of the area.*

NFDC

‘a unique character within the context of the area’ – so why does the appellant examine all those backland schemes pages 27-34 inclusive?

This illustrates the wider point that the analysis in the appellants Proof of Evidence is post-hoc.

Paragraph 6.5.6 (p.44)

Appellant: *The NFDC Strategic Land Availability Assessment (SHLAA) (October 2018) identifies the site as having potential for development. The site is identified as SHLAA_HYT004 and with an estimated capacity of 14 units (gross). We are of the view that this would comprise an underdevelopment of the site, delivering only large detached properties.*

NFDC

There is no suggestion in the NFDC SHLAA that only large detached properties were intended on the site. This is merely speculation on the part of the Appellant which does not address the Local Plan requirement for residential development to provide a suitable mix of dwellings in terms of unit size, which is different to the size of buildings.

Paragraph 6.5.7 (p.44)

Appellant: *The housing needs assessment submitted identifies a need for smaller family housing which this development provides. The figure ground diagram shows that the proposed appeal development is similar footprint to 13 modest detached/semi-detached properties*

NFDC

The figure ground diagram shows footprints that are commensurate only if one ‘borrows’ the green setting from other gardens – the grain is pushed right up closer to the edges than is contextual.

Figure ground diagrams are useful for considering urban grain.

However, they ignore much of what can make a place distinctive – in this case the figure ground is not helpful. It is blind to the make-up of the landscape, the surfaces, the opportunities for planting. It is also blind to the form, massing and heights of buildings. I have explained these in my proof and how the increase in density (whilst retaining a similar grain would necessarily lead to vastly more hard surface, less tree cover, and the design itself fails to respond to massing, form and heights.

Paragraph 7.3.2 (p. 50-51)

Appellant: *Each dwelling has:*

- *Defensible front garden spaces*
- *Sheltered external porch*
- *In-curtilage parking (two spaces)*
- *Secure rear garden with patio and store*
- *Rear access to the garden*
- *Shed/bike storage*

NFDC

The Council is of the view that the proposed dwellings have defensible front garden spaces. These are tiny open plan margins which despite the sketch at image 44 (below), do not have enclosure.

7.3.1 The site plan extract illustrates typical plots.



Image 57 – Extract from site plan showing typical arrangement of houses and gardens

Paragraph 7.3.4 (p.51)

Appellant: *There is no legislative size for private gardens (the commonly quoted standard of 10m derives from a 21m back to back relationship between terrace) but it would seem logical that they are proportionate to the dwellings.*

NFDC

This assumes that a standard 10m rear garden is derived from an overlooking standard set by some planning authorities. The Council considers that it could date back to the Essex design guide. In any case, there is no logic, as the appellant supposes, in assuming that a distance based upon overlooking can suggest that garden sizes are proportionate to dwellings.

Paragraph 7.3.5 (p. 51)

Appellant: *There is no guidance or minimum standard for garden sizes published by NFDC*

NFDC

The reason for NFDC lacking a standard minimum garden size guidance is because the Council seeks a contextual approach – and do not wish to stifle innovation and variety. The Council recognises that there are occasions where a smaller size is acceptable but equally that larger gardens are also likely to be needed for appropriate design in some locations. This is such a location. Our design guide takes the place of such prescriptive criteria.

Paragraph 7.3.9 (p. 52)

Appellant: *The BRE Guide to Good Practice: Site Layout & Planning for Daylight & Sunlight (Third Edition 2022) suggests that at least half of the amenity area (garden) should receive at least 2 hours of sunlight on 21st March (the spring equinox). The diagram (extracted from our CAD model of the layout) illustrates three timeframes during the spring equinox clearly showing areas within their gardens that have consistent sunlight and therefore comply with the guidance.*

NFDC

Not mentioned in the DAS – after the fact post-hoc introduction.

The Council would have liked to see such a diagram for the whole site as the tree and shrub shading at plots 2,3 22 and 23 could have been better understood.

It appears that plot 14 has very little sun from this diagram and that 15 has all of its sunshine landing on a part of the garden which lies under a significant tree off to one side. The tree shadows appear to be considerably smaller than those of the houses, even though they are generally taller.

Paragraph 8.1.4 (p. 55)

Appellant: *Ignored the SHLAA 14 house limit This is not a requirement – it was an assessment by the council and an estimation. The diagram within this evidence illustrates that a 13 unit layout would have a similar footprint and therefore similar visual appearance.*

NFDC

Whilst one might make a 13 unit scheme similar in terms of a footprint, there is no reasons why it should be taken as such. Moreover, there is absolutely no way that one can make the assertion that a similar footprint would mean a similar visual appearance!

Paragraph 8.6.1 (p. 57)

Appellant: Mr Whitehouse is concerned about the impact on his privacy within his dwelling and his garden. The nearest dwellings on the appeal site are units 16 and 17 and they are some 4 metres from 2 Lime Close. They are also 9 metres from the boundary. The case officer concluded that there was no concern over the loss of neighbour amenity.

NFDC

It places the houses as being 9 m from the boundary so not even the 10 m of garden depth described in paragraph 7.3.3? is there really room for trees?