

**OFFICER REPORT FOR COMMITTEE**

**DATE: 16 December 2020**

**P/19/0697/VC  
AMBERLEY HOMES SOUTHERN LTD**

**FAREHAM NORTH  
AGENT: ROBERT TUTTON TOWN  
PLANNING CONSULTANTS LTD**

**VARIATION OF CONDITION 2 OF P/18/0511/FP; ERECTION OF TWO  
ADDITIONAL DETACHED 2-BED BUNGALOWS; ALTERNATIVE SCHEME FOR  
PLOT 5 INCLUDING RAISED FLOOR LEVEL TO REAR, ADDITION OF WINDOW  
TO REAR ELEVATION, REDUCED DOOR OPENING TO ACCESS STEPS &  
ADDITION OF PRIVACY SCREEN, ALTERATIONS TO FENESTRATION ON  
EAST ELEVATION AND INCREASE HEIGHT OF BOUNDARY FENCE**

**PLOT 5 AMBERLEY GARDENS, FORMERLY 90 GUDGE HEATH LANE,  
FAREHAM, PO15 5AY**

***Report By***

Susannah Emery – direct dial 01329 824526

**1.0 *Introduction***

- 1.1 The application is reported to planning committee as six third party letters of representations have been received.
- 1.2 A residential development consisting of five detached dwellings at 90 Gudge Heath Lane, now referred to as Amberley Gardens, is largely complete and several of the properties are now occupied.
- 1.3 Members may recall that a full planning application for the retention of the dwelling constructed on Plot 1 was reported to Planning Committee in December 2019. The application was required to regularise significant departures from the approved plans which were identified by Officers following receipt and investigation of a number of complaints. The departures included a raised floor level and ridge height of approx. 1m. Members resolved to permit the application having secured specific measures to address privacy and surface water drainage issues.
- 1.4 At this time the floor level of Plot 5 was also identified as being raised at the rear of the dwelling by approx. 0.6m. The applicant was invited to submit an application for minor-material amendments to the permitted dwelling to retain the dwelling as built. This application encompasses the increased floor level and changes to fenestration, to ensure that the privacy of neighbouring

properties would not be significantly compromised by the raised floor level. The determination of this application for Plot 5 has been delayed as the applicant has been required to secure nitrates mitigation.

## **2.0 Site Description**

2.1 The application site is located to the west of Gudge Heath Lane within the urban area. Planning permission was granted for the demolition of No.90 Gudge Heath Lane and the erection of three detached dwellings (Plots 1-3) within the residential curtilage of No.90 Gudge Heath Lane in 2017. The developer then acquired additional land to the rear of this plot, which was formerly scrub land, and planning permission was granted for two further detached dwellings (Plots 4 & 5) in 2018.

## **3.0 Description of Proposal**

3.1 This application seeks to regularise the raised floor level of Plot 5 and incorporates a number of amendments sought to address any potential privacy issues arising as a consequence of the raised floor level to the rear of the dwelling. The application includes the following;

- Raise floor level to rear of dwelling by approx. 0.6m above ground level
- The addition of a small window to the rear elevation and subsequent reduction in width of the rear facing bi-fold doors;
- Access steps up to the bi-fold doors on the rear elevation with a 1.7m privacy screen to the east side;
- Replacing two clear glazed windows with two obscure glazed windows in the east elevation which would be fixed shut to 1.7m above internal floor level;
- The installation of obscure glass within the utility room door within the east elevation;
- Raising the height of the boundary fence on the eastern boundary by approx. 0.3m to 2.1m alongside the rear gardens of Plot 1 & No.88 Gudge Heath Lane

## **4.0 Policies**

4.1 The following policies apply to this application:

### **Adopted Fareham Borough Core Strategy**

CS2: Housing Provision

CS4: Green Infrastructure, Biodiversity and Geological Conservation

CS5: Transport Strategy and Infrastructure

CS6: The Development Strategy

CS7: Development in Fareham

CS15: Sustainable Development & Climate Change

CS17: High Quality Design

CS20: Infrastructure & Development Contributions

### **Adopted Development Sites and Policies**

DSP1: Sustainable Development  
DSP2: Environmental Impact  
DSP3: Impact on Living Conditions  
DSP13: Nature Conservation  
DSP15: Recreational Disturbance on the Solent Special Protection Areas

**Other Documents:**

Fareham Borough Design Guidance: Supplementary Planning Document (excluding Welborne) December 2015  
Residential Car Parking Standards 2009

**5.0 Relevant Planning History**

The following planning history is relevant:

- 5.1 P/19/0759/FP Erection of Detached 2-Bed Dwelling (Alternative to P/16/1357/OA & P/17/0707/RM to Regularise Alterations to Plot 1)  
Permission 18 December 2019
- 5.2 P/18/0511/FP Erection of Two Additional Detached 2-Bed Bungalows & Double Car Port and Alteration to Previously Approved Access and Carport (P/17/0707/RM)  
Permission 16 October 2018
- 5.3 P/17/0707/RM Reserved Matters in Relation to Outline Application P/16/1357/OA (Appearance, Landscaping & Scale) for Erection of Two Bungalows & One Chalet Bungalow  
Permission 20 July 2017
- 5.4 P/16/1357/OA Demolition of Existing Dwelling and Erection of Three Dwellings including Two 2-Bed Bungalows & One 3-Bed Chalet Bungalow (Outline Application for Access & Layout)  
Permission 25 January 2017

**6.0 Representations**

- 6.1 Six representations have been received raising the following concerns;
- The development was permitted in two stages which seems misleading and orchestrated to reduce objections
  - Loss of privacy and views
  - The buildings are eyesores
  - The dwellings are too high and close to neighbouring properties
  - Increased ground levels
  - Increased surface water run-off on to adjacent land

- Windows could be changed to clear glazing later
- The approved plans should be enforced, and the developer should not be able to submit amended plans

## **7.0 Consultations**

### EXTERNAL

#### **Natural England**

- 7.1 Without appropriate mitigation the application would have a significant effect on Solent and Southampton Water SPA & Ramsar and Portsmouth Harbour SPA & Ramsar, Solent Maritime SAC and the Solent and Dorset Coast SPA .
- 7.2 In order to mitigate these adverse effects and make the development acceptable, mitigation measures are required to ensure there is no adverse impacts to water quality (nutrients) and to address the impact of recreational disturbance.
- 7.3 The nutrient budget calculation has been carried out in accordance with the latest Natural England guidance on Solent nutrients, and outlines the development will result in a nitrogen surplus of TN 1.3 kg/yr. The supporting appropriate assessment outlines that Land at Little Duxmore Farm will be used as mitigation land to offset the development's nutrient burden. Provided that you as competent authority are satisfied that the appropriate level of mitigation can be ascertained and will be delivered and secured in perpetuity prior to first occupation, Natural England would raise no further concerns over this aspect of the proposals.
- 7.4 This application is within 5.6km of Solent and Southampton Water SPA and will lead to a net increase in residential accommodation. Natural England is aware that Fareham Borough Council has adopted planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP). Provided that the applicant complies with the policy and the Bird Aware Definitive Strategy, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and would have no objection to this aspect of the application.

## **8.0 Planning Considerations**

- 8.1 The development of two bungalows has previously been permitted and therefore the principle of development and impact on the character and appearance has previously been considered and found to be acceptable. The key issues to be considered in the determination of this application comprise:
- a) Impact on Living Conditions of Neighbouring Residential Properties
  - b) Impact on European Protected Sites

### **a) Impact on Living Conditions of Neighbouring Residential Properties**

- 8.2 As a result of the natural slope of the development site, which rises from south to north, the floor level of Plot 5 sits higher at the rear than at the front of the dwelling. This was not indicated on the approved plans. Due to the raised floor height at the rear of the dwelling it has been necessary to install a short flight of narrow access steps to the rear facing bi-fold doors which were also not indicated on the approved plans. As any raised platform has the potential to overlook adjacent private garden areas a 1.7m privacy screen has been fitted to the eastern end to prevent overlooking into the rear garden of No.88 Gudge Heath Lane. The steps are not of sufficient depth to form a balcony and therefore it is not considered that this feature would result in a detrimental loss of privacy from prolonged use. The privacy screen would be subject to a planning condition to ensure its retention.
- 8.3 The openings within the side (east) elevation of Plot 5 are currently partially visible above the adjacent boundary fence and this has raised concerns regarding loss of privacy. The secondary kitchen and bathroom window have therefore been fitted with obscure glass and would be fixed shut to 1.7m above internal finished floor level to prevent overlooking of the rear garden of Plot 1 and No.88 Gudge Heath Lane. In addition, the utility room door within this elevation has also been fitted with obscure glass and the boundary fence would be raised by approx. 0.3m to 2.1m in height alongside the dwelling. It is not considered that alterations to the fenestration on the rear of Plot 5 would have any significant implications and their retention in this form would be secured by planning condition.
- 8.4 A small number of complaints were received over the Winter 2018/19 concerning increased surface water run-off from the site. A drainage appraisal was undertaken which identified that the soakaways installed on the site would be ineffective for the disposal of surface water run-off due to the nature of the soil. The soakaways have been made redundant and the access road has been constructed as a tanked permeable paving structure. All rainwater pipes and other drainage infrastructure is routed to outfall to the sub-base layers of the paving structure which feeds into the public sewer. It is considered that this would address the issues of increased surface water run-off that have been reported by local residents during the build.

### **b) Impact on European Protected Sites**

- 8.5 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive European sites and mitigation impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation value, protected and priority species populations and associated habitats

are protected and where appropriate enhanced.

- 8.6 The Solent is internationally important for its wildlife. Each winter, it hosts over 90,000 waders and wildfowl including 10 per cent of the global population of Brent geese. These birds come from as far as Siberia to feed and roost before returning to their summer habitats to breed. There are also plants, habitats and other animals within the Solent which are of both national and international importance.
- 8.7 In light of their importance, areas within the Solent have been specially designated under UK/ European law. Amongst the most significant designations are Special Protection Areas (SPA) and Special Areas of Conservation (SAC). These are often referred to as 'European Protected Sites' (EPS).
- 8.8 Regulation 63 of the Habitats and Species Regulations 2017 provides that planning permission can only be granted by a 'competent authority' if it can be shown that the proposed development will either not have a likely significant effect on designated European sites or, if it will have a likely significant effect, that effect can be mitigated so that it will not result in an adverse effect on the integrity of the designated European sites. This is done following a process known as an Appropriate Assessment. The competent authority (the LPA in this instance) is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations.
- 8.9 The Council has completed an Appropriate Assessment to assess the likely significant effects of the development on the EPS. The key considerations for the assessment of the likely significant effects are set out below.
- 8.10 Firstly, in respect of Recreational Disturbance, the development is within 5.6km of the Solent SPAs and is therefore considered to contribute towards an impact on the integrity of the Solent SPAs as a result of increased recreational disturbance in combination with other development in the Solent area. The applicants have made the appropriate financial contribution towards the Solent Recreational Mitigation Partnership Strategy (SRMP) and therefore, the Appropriate Assessment concludes that the proposals would not have an adverse effect on the integrity of the EPS as a result of recreational disturbance in combination with other plans or projects.
- 8.11 Secondly in respect of the impact of the development on water quality as a result of surface water and foul water drainage, Natural England has highlighted that there is existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering the Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the EPS.

- 8.12 A nitrogen budget has been calculated in accordance with Natural England's *'Advice on Achieving Nutrient Neutrality for New Development in the Solent Region'* (June 2020) which confirms that the development will generate 1.3 kg/TN/year (with precautionary 20% budget). Due to the uncertainty of the effect of the nitrogen from the development on the EPS, adopting a precautionary approach, and having regard to NE advice, the Council will need to be certain that the output will be effectively mitigated to ensure at least nitrogen neutrality before it can grant planning permission.
- 8.13 The applicant has entered into a contract to purchase 1.5 kg of nitrate mitigation 'credits' from the Hampshire and Isle of Wight Wildlife Trust (HIWWT). Through the operation of a legal agreement between the HIWWT, Isle of Wight Council and Fareham Borough Council dated 30 September 2020, the purchase of the credits will result in a corresponding parcel of agricultural land at Little Duxmore Farm on the Isle of Wight being removed from intensive agricultural use, and therefore providing a corresponding reduction in nitrogen entering the Solent marine environment. A condition will be imposed to ensure that the development does not commence on site until confirmation of the purchase of the credits from the HIWWT has been received by the Council.
- 8.14 The Council has carried out an Appropriate Assessment and concluded that the proposed mitigation and planning condition will ensure no adverse effects on the integrity of the EPS either alone or in combination with other plans or projects. The difference between the credits and the output will result in a small annual net reduction of nitrogen entering the Solent. Natural England has been consulted and has agreed with the Council's findings. It is considered that the development would accord with the Habitat Regulations and complies with Policies CS4 and DSP13 and DSP15 of the adopted Local Plan.

### **Summary**

- 8.15 Officers do not consider that the amended proposal would have any significant adverse implications on the living conditions of the occupants of neighbouring residential properties subject to the imposition of appropriate planning conditions. Furthermore it is not considered that the proposal would have adverse effect on the integrity of the EPS either alone or in combination with other plans or projects.
- 8.16 The proposal accords with Policies CS4 and CS17 of the adopted Fareham Borough Core Strategy and Policies DSP2, DSP3, DSP13 and DSP15 of the adopted Fareham Local Plan Part 2: Development Sites and Policies and is considered acceptable.

## **8.0 Recommendation**

### **9.1 GRANT PLANNING PERMISSION**

Subject to;

- i) receipt of comments from Natural England in relation to the Council's Appropriate Assessment concurring with the Council's findings
- ii) the following conditions

1. The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:

- i) Site Location Plan – drwg No. L05 Rev C
- ii) Site Plan – drwg No. 1734 101 Rev O
- iii) Site Section Plot 5 – drwg No. 1734-57F
- iv) Floor Plan Plot 4 – drwg No. 1734-51b
- v) Proposed Floor Plans Plot 5 – drwg No. 1734 – 53f
- vi) Plot 4 Elevations – drwg No. 1734-52b
- vii) Proposed Elevations Plot 5 – drwg No. 1734 -54d
- viii) Double Car Port – drwg No. 1734 17
- ix) Landscape Plan – drwg No. 0877-19-NJT Rev B (27/11/2019)
- x) Drainage Maintenance & Management Schedule (RGP Design) 26 June 2019
- xi) Drainage Appraisal (RGP 20 August 2019)
- xii) Landscaping Planting Method Statement
- xiii) Specification for Marshalls Tegula Piora Permeable Paving
- xiv) Ecological Assessment (ECOSA August 2018) & the Technical Note 'Reptile Receptor Area' (Ecosa 21 September 2018)

REASON: To avoid any doubt over what has been permitted.

2. None of the development hereby approved shall be occupied until the approved boundary treatment has been fully implemented (drwg No.101 Rev O). It shall thereafter be retained at all times unless otherwise agreed in writing with the Local Planning Authority.

REASON: To protect the privacy of the occupiers of the neighbouring property, to prevent overlooking, and to ensure that the development harmonises well with its surroundings.

3. Prior to occupation of the dwelling (Plot 5) the ground floor (bathroom and kitchen) windows proposed to be inserted into the east (side) elevation(s) of the dwelling shall be:

- a) Obscure-glazed; and
- b) Of a non-opening design and construction to a height of 1.7 metres above internal finished floor level;

and shall thereafter be retained in that condition at all times.



REASON: To prevent overlooking and to protect the privacy of the occupiers of the adjacent properties.

4. Prior to occupation of the dwelling (Plot 5) the ground floor utility room door proposed to be inserted into the east (side) elevation(s) of the dwelling shall be obscure-glazed and shall thereafter be retained in that condition at all times.

REASON: To prevent overlooking and to protect the privacy of the occupiers of the adjacent properties.

5. The dwelling hereby approved on Plot 5 shall not be brought into use until the 1.7 metre high privacy screen indicated on the on the approved plans (drwg No. 101 rev O) on the eastern side of the rear access steps has been erected. The screening shall subsequently be retained at all times.

REASON: To protect the privacy of the occupiers of the neighbouring property and to prevent overlooking.

6. The approved landscaping scheme (drwg No. 0877-19-NJT Rev B) shall be implemented and completed within the first planting season following the commencement of the development or as otherwise agreed in writing with the Local Planning Authority and shall be maintained in accordance with the agreed schedule. Any trees or plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To ensure the provision, establishment and maintenance of a standard of landscaping.

7. No dwelling shall be occupied until the means of vehicular access has been constructed in accordance with the approved plans. The visibility splays at the junction of the access with Gudge Heath Lane as shown on the approved site plan (drwg No. 1734 101 Rev O) shall be kept clear of obstruction (nothing over 0.6m in height) at all times.

REASON: In the interests of highway safety.

8. The development shall be carried out in accordance with the approved Drainage Appraisal (RGP 20 August 2019) unless otherwise agreed in writing with the Local Planning Authority in writing. The approved remedial measures should thereafter be maintained at all times in accordance with the Drainage Maintenance and Management Schedule (RPG Design 26 June 2019).

REASON: In order to ensure satisfactory disposal of surface water.

9. No dwelling, hereby approved, shall be first occupied until the approved parking and turning areas (where appropriate) for that property have been constructed in accordance with the approved details and made available for use. These areas shall thereafter be kept available for the parking and

turning of vehicles at all times unless otherwise agreed in writing by the Local Planning Authority following the submission of a planning application for that purpose.

REASON: In the interests of highway safety.

10. The dwelling shall be occupied until the cycle stores and bin collection point have been made available in accordance with the approved plans. These designated stores shall thereafter be kept available and retained at all times for the purpose of bin and cycle storage.

REASON: In the interests of visual amenity; in order to facilitate modes of transport alternative to the motorcar; in accordance with Policies CS15 and CS17 of the Fareham Borough Core Strategy.

11. Development shall proceed in accordance with the measures set out in Section 5.0 (Mitigation/Compensation/Enhancement Measures) of the Ecological Assessment (ECOSA August 2018) & the Technical Note 'Reptile Receptor Area' (Ecosa 21 September 2018) unless otherwise agreed in writing with the Local Planning Authority.

REASON: to protect and conserve biodiversity in accordance with Policy DSP13 of the Fareham Local Plan Part 2.

12. Notwithstanding the provisions of Classes A, B and C of Schedule 2, Article 3, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extensions or roof alterations (including the insertion of rooflight/dormer windows) shall be carried out unless first agreed in writing with the local planning authority following the submission of a planning application.

REASON: To ensure the provision of adequate private amenity space; to protect the living conditions of the occupants of neighbouring residential properties; to ensure adequate car parking provision; in accordance with Policies CS5 and CS17 of the Adopted Fareham Borough Core Strategy and Policy DSP3 of the Fareham Borough Local Plan Part 2: Development Sites & Policies.

13. Notwithstanding the provisions of Class E of Schedule 2, Article 3, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no outbuildings (with the exception of the cycle store indicated on drwg No. 101 Rev O) shall be erected within the curtilage of the dwellings unless first agreed in writing with the local planning authority.

REASON: To ensure the provision of adequate private amenity space; to protect the living conditions of the occupants of neighbouring residential properties; in accordance with Policy CS17 of the Adopted Fareham Borough Core Strategy and Policy DSP3 of the Fareham Borough Local Plan Part 2: Development Sites & Policies.

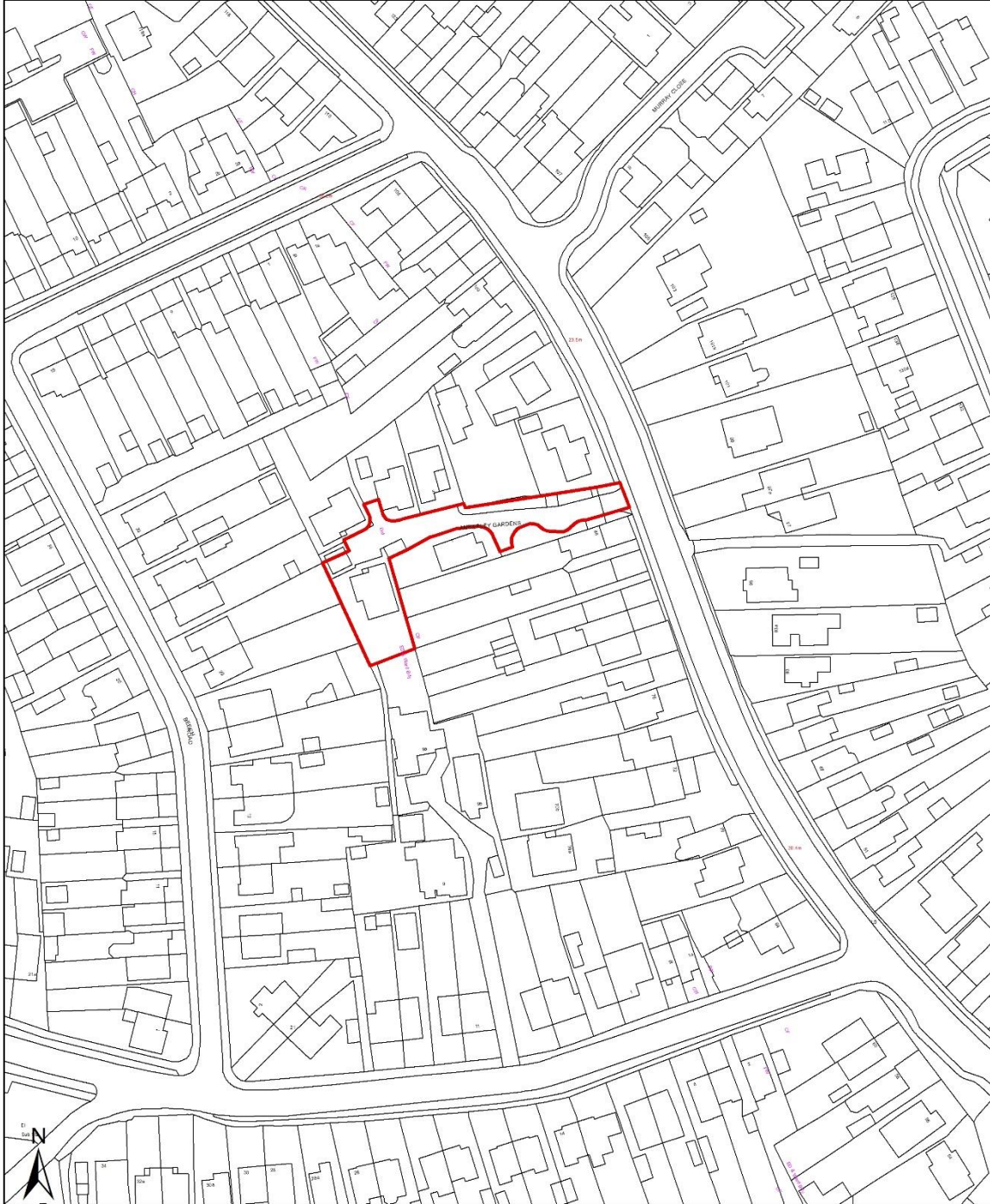
14. The double car port hereby approved shall be constructed in accordance with the approved plan. Thereafter, the car port shall be retained, without doors, at all times so it is available for its designated purpose.  
REASON: To ensure adequate car parking provision; in accordance with Policy CS17 of the Fareham Borough Core Strategy.
15. The dwelling hereby permitted on Plot 5 shall not be occupied until details of water efficiency measures have been submitted to and approved in writing by the Local Planning Authority. These water efficiency measures should be designed to ensure potable water consumption does not exceed an average of 110l per person per day. The development shall be carried out in accordance with the approved details.  
REASON: In the interests of preserving water quality and resources
16. The dwelling hereby permitted on Plot 5 shall not be occupied until the Council has received the Notice of Purchase in accordance with the legal agreement between FBC, IWC and HIWWT dated 30 September 2020 in respect of the Credits Linked Land identified in the Nitrates Mitigation Proposals Pack.  
REASON: To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on European protected sites.
17. No work relating to the construction of any of the development hereby permitted (Including works of demolition or preparation prior to operations) shall take place before the hours of 0800 or after 1800 Monday to Friday, before the hours of 0800 or after 1300 Saturdays or at all on Sundays or recognised public holidays, unless otherwise first agreed in writing with the local planning authority.  
REASON: To protect the living conditions of the occupiers of nearby residential properties.

### **11.0 Background Papers**

P/19/0697/VC; P/18/0511/FP

# FAREHAM

BOROUGH COUNCIL



90 Gudge Heath Lane

Scale 1:1,250

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