

The information, recommendations and advice contained in this report are correct as at the date of preparation, which is more than two weeks in advance of the Committee meeting. Because of these time constraints some reports may have been prepared in advance of the final date given for consultee responses or neighbour comment. Any changes or necessary updates to the report will be made orally at the Committee meeting.

Case Officer	Katie Ingram
Application No.	23/00602/FULPP
Date Valid	15th August 2023
Expiry date of consultations	19th September 2023
Proposal	Erection of two x 3-bed dwellinghouses and associated parking on garden land to side of existing dwelling, and two-storey rear extension
Address	<b>7 Avon Close Farnborough Hampshire GU14 9LN</b>
Ward	West Heath
Applicant	Mr Ragan Jain
Agent	Mr Michael Simpson
Recommendation	<b>Refuse</b>

### Description

The application site is occupied by a three-bedroom detached dwelling on the west side of Avon Close. It is at the end of the cul de sac in a corner position and the front north east boundary is adjoined by the side boundary of No. 8 Avon Close. The dwelling faces towards the north east. The site entrance is a dropped kerb 3.5m wide 9m forward of the dwelling and gives access to a single garage 18m from the dropped kerb via a driveway along the north east boundary. The plot has a 13m wide area of private amenity space to the north side of the dwelling. The site is mostly level and is in Flood Zone 1.

The north west side boundary is abutted by the M3 which is at a raised level from the application site and also comprises a vegetated buffer of mature trees against the property boundary. The south east boundary is adjoined by No. 6 Avon Close, and the rear south west boundary is adjoined by No. 18 Medway Drive. The north east boundary is adjoined by 8 Avon Close.

The application is seeking planning permission for the erection of two dwellings in the side amenity space and a two-storey rear extension on existing dwelling.

The new dwellings (Plots 1 and 2) would be semidetached. They would be set back from the front elevation of the host dwelling by 1m, and 9.2m back from the north east boundary and

there would be a side gap between the existing and proposed dwellings of 3.9m to 1.2m. They would have dual pitched roofs and an eaves height of 5.2m and a ridge height to 7.6m, and a footprint each of 10m x 5m. They would face to the north east. External materials would be facing brick and concrete roof tiles to match existing. Parking and the turning area would be on 'grasscrete' in front the dwellings, following demolition of the existing garage, using existing site entrance, unmodified.

The two-storey rear extension would be 2.7m deep and the width of the house, 6m, with an eaves height of 5.2m and a ridge height of 6.7m.

The application is accompanied by an Acoustic Report and Arboricultural Impact Statement.

## Consultee Responses

Environmental Health	No objection subject to condition requiring confirmation of glazing and ventilation system and restricting hours of construction
HCC Highways Development Planning	The proposal does not include any amendments to the existing access and the amount of parking is a matter for the LPA. Ideally the drives to the individual dwellings should have small corner radii where they meet the proposed shared drive to assist manoeuvring of vehicles. The access is at the end of Avon Close so there is no passing traffic to interfere with when entering or leaving. I confirm the Highway Authority have no objection and this matter is of such a scale that HCC's Standing Advice would cover the Highway implications.
Ecologist Officer	Raises no objection subject to submission of a landscape and ecological enhancement plan
Thames Water	No comments received
Parks Development Officer	Provides advice on Public Open Space projects to which a POS contribution is required
Arboricultural Officer	Objection – the proposed site layout brings the dwellings much further into the root protection area than shown on the Tree Protection Plan. The incursion is likely to require less intrusive foundations than trench laying, as recommended

## Neighbours notified

A site notice was erected and 19 letters were sent to adjoining and nearby properties.

## Neighbour comments

12 representations have been received from Nos. 3, 4 (twice), 5, 6 (twice), 8 (twice), 9, 10 (twice) and 11 Avon Close raising the following objections:

### Parking and highway safety

- a) There is insufficient turning space on the site making it hard for people to exit the site without reversing. It would be dangerous to drive in reverse out and could damage private property (fences, cars) on our drive , and would be hard in cold weather conditions
- b) Site entrance too narrow/angled to fit 3 family sized dwellings
- c) Parking spaces are not numbered and in-line spaces not accessible all the time and if future occupants park on the road, people wouldn't be able to turn at the end of the cul de sac, as parking already oversubscribed in the street or other drives would be obstructed
- d) On collection day, the bins would block site entrance as no where else to put them
- e) Garage can't be demolished without damaging my garage (No.8). Where will the contents of the garage like tools be kept during proposed modification in order to become a stand alone single garage and how will costs incurred be paid?  
[Officer note: This is a private property matter that cannot be a consideration in the determination of a planning application. The developer will have to have regard to The Party Wall Act that would address these issues].
- f) Some residents in the street require 24 access to their properties without being blocked in, for medical reasons
- g) The Design and Access Statement street photographs do not reflect the actual parking conditions of the street
- h) No visitor parking is proposed
- i) Children play on the verge and proposal is unsafe

### Issues during construction

- j) The plans for the development have been based upon the driveway to No. 8 being used to get into the site during construction which is unacceptable and I have not been consulted
- k) Site entrance is too narrow. It is Impossible to develop the site without construction vehicles blocking site entrances of neighbouring properties. Developer's vehicles have already started on site and block driveways.
- l) Construction vehicles will damage cars on adjoining properties.
- m) Heavy vehicles will be a danger to children playing in the Close and requires close consideration
- n) Scale of development would result in prolonged noise pollution and deterioration of air quality
- o) Disturbing for those who work night shifts / work from home
- p) Works have already begun and hoarding erected is of questionable standard with exposed screws pointing towards neighbouring driveway
- q) Construction has already started and workers not working safety (e.g. no harnesses on high roofs)

### Impact on neighbouring and visual amenity

- r) Development would block out all natural light to side of No. 8
- s) It is an overdevelopment of the site/site too small for 3 family houses
- t) Overdevelopment will effect the liveability of the street

### Trees and ecology

- u) Unsuitable foundations are proposed that would damage roots of the trees, including large oaks, adjacent to the M3 and these act as a sound break so would have adverse acoustic impact

- v) Badgers have been seen on the site/there is a badger sett on or near the site

#### Drainage

- w) The plots struggle with drainage in periods of heavy rain. Drainage must be carefully addressed and mitigated as part of the planning process

#### Other issues

- x) Plans are inaccurate – lines drawn are too thick and obscure how hard it will be to fit the proposed development into the site; the scale of the plans changes and it is hard to see how development will fit.
- y) The plans are a tick box exercise and reality will be hard to implement as the scales are incorrect
- z) Litter from bins in back path would attract vermin/who will be responsible for ensuring it is kept clean?
- aa) Development should be proposing heat pumps and solar panels and there is no space for heat pumps shown

### **Policy and determining issues**

The site is located in the settlement boundary of Farnborough. Rushmoor Local Plan Policies SS1(Presumption in Favour of Sustainable Development), SS2 (Spatial Strategy), IN2 (Transport), IN3 (Telecommunications), DE1 (Design in the Built Environment), DE2 (Residential Internal Space Standards), DE3 (Residential Amenity Space Standards), DE4 (Sustainable Water Use), DE6 (Open Space, Sport and Recreation), DE10 (Pollution), DE11 (Development on Residential Gardens), NE1(Thames Basin Heaths Special Protection Area), NE2 (Green Infrastructure), NE4 (Biodiversity) and NE8 (Sustainable Drainage Systems) are therefore considered to be relevant to determination of the application.

The Rushmoor Car and Cycle Parking Standards SPD (2017) and Thames Basin Heaths Special Protection Area Avoidance and Mitigation Strategy (AMS) as updated in May 2023 are also relevant. The National Planning Policy Framework (NPPF) is also a material consideration.

The proposal has been assessed against the policy framework outlined above and all other relevant material considerations. The main determining issues in the assessment of this application are:

- 1) The Principle of development
- 2) Impact on appearance and character of the site and surrounding area
- 3) Impact on neighbouring amenities
- 4) The living environment created
- 5) Highways and parking considerations
- 6) Flooding and drainage,
- 7) Public open space, and
- 8) Nature conservation

### **Commentary**

#### **1. The Principle of the proposed development**

Government policy in the National Planning Policy Framework (NPPF) (last updated 2023) advises that planning authorities should consider housing applications in the context of the

presumption in favour of sustainable development (paragraphs 2 and 10), and to deliver a wide choice of high-quality homes and widen opportunities for home ownership (Chapter 5).

The application site is within the settlement boundary of Farnborough and is not in a Conservation Area or in the curtilage of a Listed Building. The principle of new residential development is acceptable, subject to satisfactory compliance with development control criteria, including Policy DE11 (Development on Residential Gardens).

## **2. The impact on the appearance and character of the site and surrounding area**

Policy DE11 (Development on Residential Gardens) states that development will only be acceptable where, with regards to visual impact, the development is not harmful to the character of the area in terms of relationships and integration with existing buildings, impact on the street scene, provision of appropriate hard and soft landscaping, and compatibility with the established pattern of development, general building height, materials and elevational details. Policy DE1 (Design in the Built Environment) requires a high standard of design that respects the character of the area.

Avon Close is characterised by detached and semi-detached dwellings with open front gardens. The new dwellings by way of design, external materials and architectural details would match the character of surrounding built form. Oriel windows on the front elevation at first floor level would have an acceptable visual impact. The ridge heights would be 0.4m higher than the host dwelling but this is acceptable given the set back from street and the difference is considered to be minor. The new dwellings would not cause a terracing impact with the host dwelling given the side separation gap of approximately 2.5 to 3m between the two buildings. The plots of 6 and 8 Avon Close are approximately 60sqm larger than the proposed plots, at 400sqm each, but this is not something that would warrant a reason for refusal, given the plots would be set back from the public highway, and rear private amenity space provided on the site for each dwelling is sufficient. Parking in front of the dwellings would be on a mixture of 'grasscrete' and hardstanding and some soft landscaping would be in front of the existing dwelling. The 'grasscrete' is a hard surface that is designed to enable parking of vehicles, whilst also allowing some grass growing through. It reduces the amount of hardsurface in the front amenity area.

The two-storey rear extension is proportionate to the existing dwelling and an appropriate design.

An objection has been raised that the plans are incorrect in scale. It is standard to have plans of different scales depending on the level of detail required for each drawing, and the plans have been cross checked and the differently scaled plans correspond accurately in measurements.

It is considered that the proposed development, by way of its scale, design and siting would have an acceptable impact on the appearance and character of the site and surrounding area, the application complies with Policies DE1 and DE11 of the Rushmoor Local Plan (2014-2032), in this regard.

## **3. The impact on neighbouring amenities**

The proposed dwellings would be set back 9.2m from the northeast boundary with views from the first floor bedroom windows into the rear garden of No. 9 Avon Close. The first-floor bedroom windows of Plots 1 and 2 would be angled oriel windows, with the northern panes

obscure glazed and south eastern facing window openings providing light and outlook. This would result in views on to the side amenity space of No. 8 and it is considered that this would mitigate the impact of overlooking to a satisfactory degree. There is a side window in the south side elevation of No. 8 that serves a staircase, that would be 13m from the front elevation of Plot 1. As this is not a habitable room, it is considered any loss of privacy to that window would be acceptable.

An objection has been received that the dwellings would block natural day light to the windows and rear garden of No. 8 Avon Close. Given the distance from No.8 and the heights of the dwellings, it is considered they would not block light or be overbearing to No. 8, to a degree that would have an undue material impact on residential amenity. There would be some overshadowing and blocking of direct sunlight in the late afternoon, but it is considered that this would not be materially harmful to neighbours. It is true that views across the open garden would be removed however, it is not the role of the Planning system to defend neighbours against the loss of any private views from their properties where these views are derived from over adjoining land not in their ownership.

The rear gardens would have a depth of approximately 10m and first floor views from rear rooms to the rear garden of 18 Medway Drive would not cause undue overlooking that would be harmful.

Policy DE11 (Development on Residential Gardens) states that new residential development on garden land will only be acceptable where *'there is no adverse impact on the amenity of neighbours in terms of noise or disturbance from vehicular access or car parking'*.

The turning and parking area is located adjacent to the rear garden of No. 8 and given the difficulties described in the 'Highways considerations' section below, it is considered that the extent of vehicle manoeuvring that would arise associated with all three dwellings at the application site would have an adverse impact on the amenity of the occupants of No. 8 by way of movement of vehicles.

The impact of noise during construction is not a matter for planning legislation but Health and Safety legislation, and Environmental legislation. Construction hours can be however restricted to weekdays / Saturday mornings in the event of approval.

The impact on neighbouring amenity by way of loss of privacy, daylight, sunlight and outlook is considered to be acceptable. However it is considered that the impact on amenity of occupants of No. 8 Avon Close by way of noise and disturbance from vehicles access and car parking on the application site would be harmful, contrary to Policy DE11 of the Rushmoor Local Plan (2014-2032).

#### **4. Highways and parking considerations.**

Policy DE11 (Development on Residential Gardens) states that residential development on garden land will only be acceptable where, amongst other things, *"the application site provides a site of adequate size and dimensions to accommodate the development proposed, in terms of the setting and spacing around buildings, amenity space, landscaping, and space for access roads and parking"*, and where *'there is no adverse impact on the amenity of neighbours in terms of loss of privacy, or noise or disturbance from vehicular access or car parking.'*

Policy IN2 (Transport) of the Rushmoor Local Plan states that development should, among other things, *"provide safe, suitable and convenient access for all potential users"* and *'provide*

*appropriate parking provision, in terms of amount, design and layout, in accordance with the adopted Car and Cycle Parking Standards supplementary planning document”.*

The proposed vehicular access to serve the proposed new development, together with the existing house to be retained, is the existing access situated in the north-west corner of the Avon Close cul-de-sac. This is considered of satisfactory standard to serve the proposed development provided that cars entering the site are able to leave the site again in a forward gear. The Highway Authority, Hampshire County Council raises no objections to this aspect of the proposed development on this basis

The Rushmoor Car and Cycle Parking Standards SPD requires provision of 2 off-road parking spaces for a 3-bedroom dwelling. Six on-site spaces, all measuring 2.5 metres wide by 4.8 metre long, are proposed with the proposed development, thereby numerically complying with the required parking standards. However, the distribution of these spaces within the proposed site layout is considered unsatisfactory and unacceptable. Three of the proposed parking spaces would be located in a line against the north boundary of the site in front of the proposed Plot 2 house and abutting the side boundary of the neighbouring property at No.8 Avon Close. A further two spaces are proposed in a tandem arrangement in between the Plot 1 house and the existing house to be retained (No.7); and the final space is shown to be situated immediately in front of the existing dwelling to be retained, No.7, also. The net result is that it is considered that the proposed spaces are not arranged and distributed in a satisfactory manner such that, in practice, the proposed parking would, one way or the other, be poorly related to the dwellings that is intended to serve and this is considered to be a symptom of over-development; i.e. that there is insufficient space available on-site to provide parking in an acceptable manner.

The submitted site layout plan does not indicate how the Applicants envisage that the proposed parking spaces are to be allocated between the proposed new houses and the existing house to be retained at the site. The pair of tandem spaces would have to be allocated to one of the dwellings since the rear space cannot be used independently of the front space. Logically these two spaces would therefore need to be allocated to be used by occupiers of either the proposed Plot 1 house or the existing house (No.7), since these are the houses situated to either side. However, these tandem spaces cannot be allocated to the proposed Plot 1 house because this would leave the existing house provided with just a single space to the front. Yet the single space to the front of No.7 is both somewhat distant from either of the proposed houses and situated immediately abutting the front of No.7 such that it would not be acceptable for this space to be allocated for the use of occupier of one or other of the proposed new houses. As a consequence, it is considered that the proposed layout is laid out in such a way that No.7 is, in practice, provided with three on-plot spaces; and the proposed new houses are, in practice, provided with just three spaces, one short of the required parking standard for the pair.

The possible re-design the proposed site layout to re-arrange the parking provision for the proposed new houses in order to create an additional parking space has been considered. This could, for example, be achieved, by arranging the parking for the proposed houses as two pairs of tandem spaces. However, it is considered that this alternative arrangement, whilst successfully finding space for the provision of the necessary quantum of parking spaces could only be achieved at the expense of the loss of on-site turning space, thereby resulting in the need for all cars from the proposed and existing houses to reverse back out of the vehicular access into Avon Close, which is an unsatisfactory and potentially dangerous arrangement. In addition to the conflicting reversing movements that would be likely to arise, the fact that this problem arises seeking to resolve the inadequacy in the proposed parking layout in terms of

the quantum and distribution of parking spaces is considered to be a further symptom of the proposals being unacceptable over-development.

A further potential solution to the quantum and distribution of parking issue would be to provide the two spaces required for the retained No.7 both to the front of this house. However, this would result in there being no satisfactory pedestrian access to the front door of the house. Another potential solution to the site layout problem would be for No.7 to retain the single parking space to the front, but be allocated its second space as one of the three spaces proposed to the front of the Plot 2 house; thereby leaving the tandem spaces between No.7 and the Plot 1 house to the Plot 1 house. However, this arrangement would also be unsatisfactory because one of the spaces for No.7 would be situated to the front of the proposed Plot 2 house some distance away and in a position that would be unneighbourly to the occupiers of the Plot 2 house. The inability to find other solutions to the parking layout problem without generating other consequential problems are further demonstration of the proposals being unacceptable overdevelopment.

Another potential solution to the shortfall in parking provision for the proposed new houses would be to set back the proposed houses further towards the west side of the application site to enable a row of 4 parking spaces to be accommodated along the north boundary of the site to the front of the Plot 2 house. However this is also considered to be unsatisfactory since it would serve to reduce the rear garden areas for the new houses and also compromise the relationship of the new houses with neighbours, including with No.7.

The design of the proposed site layout is further confused and clearly unresolved when vehicle manoeuvring arrangements within the layout are also considered. Although not submitted with the application, the applicant provided tracking diagrams at the pre-application stage for both the proposed Plots 1 & 2 houses and also for the retained No.7 seeking to demonstrate that, technically, the proposed site layout as submitted allows vehicles to leave the site in a forward gear from all parking spaces. Examination of these tracking diagrams indicates that a further different, and unacceptable, distribution of parking between the houses to be envisaged by the Applicants : the Plot 1 house would be allocated the tandem spaces; the Plot 2 house all three of the adjoining parking spaces to the front; and No.7 would be provided with just one parking space, one short of what is required.

Although the tracking diagrams show that, technically, the turning area can enable leaving the site in a forward gear from all six parking spaces shown to be provided, it is considered that the parking layout for the proposed scheme is poorly contrived in terms of the combinations of parking allocation, such that it would have an adverse impact on the amenities of occupiers of the proposed and existing dwellings on site. It is considered that this is clearly indicative of overdevelopment of the site.

Concerns have been raised that bins would obstruct site entrance on collection day however there is sufficient space in the street to leave bins in front of kerbs, or on the front amenity area of the existing house.

Concerns have been raised that the site entrance is not big enough to accommodate construction vehicles without agreement from the owner(s) of the adjoining property No. 8 Avon Close; and that the Close, where children play on the wide green verges, would be unsafe for children during construction. However, whilst these concerns are understood, it is long-standing Government guidance that the various impacts of the construction period of a development cannot be taken into material account in the determination of planning applications. Additionally, the access and ownership matter is not an issue that is a material planning consideration and is a private matter that could only be resolved by agreement



between the developer and the owner(s) of No.8.

In the event of an approval, it is considered that it would be appropriate to impose a planning condition to require the preparation and pre-commencement submission of a Construction Management Plan seeking to address some of these concerns. However, in the light of the clear symptoms of overdevelopment displayed by the poorly contrived proposed on-site parking and turning arrangements, it is considered that proposed development exhibits unacceptably poor design and is an overdevelopment site by reason of being of inadequate size to accommodate the proposed development in a satisfactory manner contrary to the provisions of adopted Local Plan Policies DE1 and DE11; such that the refusal of planning permission is to be recommended.

## **5. The living environment created**

The proposed dwellings are 3-bedroom five person houses with each a gross internal floor area of 94sqm, which exceeds the minimum floor area required for a dwelling of that size, by 1sqm. Minimum private amenity space standards of 30sqm are achieved with the rear gardens of each dwelling measuring respectively 55sqm and 49sqm.

The site is impacted by motorway noise. There is an acoustic fence along the north west boundary that has a height of 2m. The Council's Environmental Health Officer has reviewed the applicant's Acoustic Report and commented as follows-

*The Submitted Acoustic Assessment report has investigated the existing noise environment at the development site and makes recommendations for the minimum level of acoustic performance for any glazing to habitable rooms. In order to achieve a satisfactory internal noise environment as per BS 8233, glazing for all living rooms and bedrooms should provide a minimum sound reduction of 35Rw dB. The Acoustic Consultant recommends a double-glazing system of 6/16/6.4. An alternative means of ventilation is also required and the consultants again make some recommendations depending on whether acoustic trickle ventilation is installed or mechanical ventilation is proposed. Environmental Health accept the recommendations made but will require confirmation of what glazing performance and alternative means of ventilation will be installed that can be achieved by condition.*

Subject to condition the internal noise environment would be acceptable.

With regards to the external living environment, British Standards 8223 Code of Practice on the Control of Noise states that:

*'for traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50dB(A)eq,T, with an upper guidelines value of 55dB..however it is also recognised that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited'.*

Noise levels within the proposed garden spaces are predicted to be some 6dB above the upper guideline value (Acoustic Report, page 12). The proposed garden area is already used as

private amenity space and given the B.S. 8223 advice it would seem unreasonable to raise an objection to the proposed development in terms of adverse impact on amenity of future occupants by way of noise in gardens, although different view may be taken if the amenity space was new. The acoustic report recommends a second acoustic barrier of 2.5m high with a minimum mass of 25kg/m<sup>3</sup>, to provide further acoustic protection, that could be conditioned in the event of approval.

With regards air quality, the Council's Environmental Health Officer has commented:

*Development proposals at other sites a similar distance from the M3 continually demonstrate that air quality standards and objectives are complied with. It is therefore not considered necessary for an air quality assessment to be submitted for this proposal.'*

The dwellings would have an acceptable acoustic environment subject to condition, and would comply with the internal and external residential space standards required by Policies DE2 and DE3.

## **6. Impact on trees**

The footprint of dwelling 2 would encroach some 3m into the Root Protection Area of three Category B trees (Field Maples) in the M3 landscape buffer adjoining the north west site boundary. The trees are not the subject of Tree Protection Orders, and are on Highways England land but Policy NE3 (Trees and Landscaping) still applies. This states that the Council will not permit development which would affect adversely existing trees worthy of retention.

The submitted Tree Protection Plan (reference 2022064/TCP001) is incorrect and shows a different site layout to the one proposed. The Arboricultural Impact Assessment states at section 4.10 that '*the foundation for the northern most dwelling will be of a traditional strip type due to the RPA incursion being very small*'. The Council's Arboricultural Officer has stated that less intrusive foundations will have to be used in order to avoid harm to the health and vitality of the trees.

There is therefore insufficient information submitted with the application to ensure that there will be no undue harm to the health and vitality of the trees adjoining the site worthy of retention and the application does not comply with Policy NE3 of the Local Plan (2014-2032).

## **7. Flooding and Drainage**

Policy NE8 (Sustainable Drainage Systems: SuDS) requires '*the implementation of integrated and maintainable SuDS in all flood zones for both brownfield and greenfield sites*'. For brownfield developments, the peak run-off rate/volume from the development to any drain, sewer or surface water body for the 1-in-1 year and 1-in-100 year rainfall event must not exceed the greenfield run-off rate for the same event. The site is located on land at lowest risk of fluvial flooding (Flood Zone 1), and an appropriately-worded condition in the event of approval would meet the requirements of Policy NE8.

## **8. Public Open Space.**

The Rushmoor Local Plan seeks to ensure that adequate public open space (POS) provision is made to cater for future residents in connection with new residential development. Policy DE6 allows provision to be made towards upgrading POS facilities nearby through a contribution secured by a S106 Obligation. The Parks Development Officer has identified a

project upgrading playground infrastructure in either Sunnybank Road or Dar Road/Meon Close of £5,331,36. The applicant is in the process of completing such an Obligation, however, such an agreement has not been received complete and therefore, the proposed development fails to provide the required public open space provision contrary to the requirements of Policy DE6.

## **9. Nature Conservation**

### *Protect Species*

The Council's Ecology Officer has stated that the garage and dwelling have low suitability for active bat roosting and a bat survey is not required.

A neighbour representation reports that badgers have used the garden and there could be a set on or near the site. No set has been observed by Planning Officers. Badgers are protected from persecution and their setts are protected when in use by the Protection of Badgers Act 1992 and the Wildlife and Countryside Act (1981 as amended). The Council's Ecology Officer has stated that it is not uncommon for motorway corridors to be used by badgers and foxes and badgers like to forage on lawns. However, as any potential sett would be located on Highways England land it would be very difficult to get access to do a survey for safety reasons. A rule of thumb is that development within 20m of a badger sett should not take place. The best practice in this situation therefore is to advise the developer to take a precautionary approach during work. As such in the event of approval it is recommended that the following be imposed by way of informatives: close-boarded fencing should have holes included in the base of 20xm x 20xm to allow foxes and badgers to move freely through the site; the applicant should ensure that construction activities on site have regard to the potential presence of terrestrial mammals to ensure that these species do not become trapped in trenches, culverts or pipes and trenches left open overnight should include a means of escape for any animals that may fall in and if badger activity is detected, works should cease and advice from a suitably experienced ecologist sought to prevent harm to this species.

### *Biodiversity Net Gain*

The Environment Act 2021 introduces a statutory footing for securing measurable net gains for biodiversity, requiring a 10% minimum uplift post-development. This will become mandatory for small sites in 2024. Paragraph 179 of the National Planning Policy Framework requires the promotion of "the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity". Securing no net loss of biodiversity is now an essential part of development applications.

This development offers opportunities to restore or enhance biodiversity and in the event of approval, a suitably detailed landscaping plan with ecological enhancement can be conditioned to be agreed, prior to commencement of the development.

### *Thames Basin Heaths Special Protection Area*

The European Court of Justice judgement in 'People Over Wind, Peter Sweetman v Coillte Teoranta C-323/12' in April 2018 established the legal principle that a full appropriate assessment (AA) must be carried out for all planning applications involving a net gain in residential units in areas affected by the Thames Basin Heaths SPA, and that this process cannot take into account any proposed measures to mitigate any likely impact at the

assessment stage. This process, culminating in the Council's Appropriate Assessment of the proposals, is overall described as Habitats Regulation Assessment (HRA).

Undertaking the HRA process is the responsibility of the decision maker (in this case, Rushmoor Borough Council) as the 'Competent Authority' for the purposes of the Habitats Regulations. The following paragraphs comprise the Council's HRA in this case:-

**HRA Screening Assessment under Regulation 63(1)(a) of the Habitats Regulations** : The Thames Basin Heaths SPA is designated under the E.C Birds Directive for its lowland heathland bird populations. The site supports important breeding bird populations, especially Nightjar *Caprimulgus europaeus* and Woodlark *Lullula arborea*, both of which nest on the ground, often at the woodland/heathland edge; and Dartford Warbler *Sylvia undata*, which often nests in gorse *Ulex* sp. Scattered trees and scrub are used for roosting.

Heathland is prone to nitrogen deposition due to increases in Nitrogen Oxide. Calculations undertaken for the Rushmoor Borough Council Local Plan found that there will be no in combination impacts on the habitats as a result of development in the Local Plan, including an allowance for 'windfall' housing developments. However within the screening process it will need to be ascertained whether development outside the Local Plan within 200m of the SPA will increase vehicle movements to above 1000 extra trips/day or exceed the Minimum Critical Load by over 1% either alone or in-combination with the Local Plan.

The bird populations and nests are very prone to recreational disturbance, with birds vacating the nests if disturbed by members of the public. This leaves the young unprotected and increases the risk of predation. Dogs not only disturb the adults, but can directly predate the young.

Visitor surveys have shown that the visitor catchment area for the Thames Basin Heath SPA is 5km, with any proposals for residential development within this catchment contributing to recreational pressure on the SPA. The research also evidenced that residential development within 400m of the SPA would cause impacts alone due to cat predation of adult and young birds.

The retained South East Plan Policy NRM6 and adopted New Rushmoor Local Plan (2014-2032) Policy NE1 (Thames Basin Heaths Special Protection Area) and Thames Basin Heaths Avoidance & Mitigation Strategy (2019)], state that residential development within 400m of the SPA should be refused and development within 5km of the SPA should provide Strategic Alternative Natural Greenspace (SANG) of 8ha/1000 additional population and contributions to Strategic Access Management and Monitoring Measures (SAMM) dependant on the number of bedrooms.

It is considered that there is sufficient information available with the planning application provided by the applicants with which the Council can undertake the HRA process. In this case the proposed development involves the creation of 2 net new residential units within the Farnborough urban area. As such, the proposed development is located within the 5km zone of influence of the SPA but outside the 400-metre exclusion zone. The proposed development is neither connected to, nor necessary to the management of, the Thames Basin Heaths SPA. Furthermore, the proposed development would not result in a net increase in traffic movements in excess of 1000 vehicular movements per day in proximity to the SPA.

All new housing development within 5 km of any part of the Thames Basin Heaths SPA, of which the current proposals would make a contribution, is considered to contribute towards an

impact on the integrity and nature conservation interests of the SPA. This is as a result of increased recreation disturbance in combination with other housing development in the vicinity of the Thames Basin Heaths SPA. Current and emerging future Development Plan documents for the area set out the scale and distribution of new housebuilding in the area up to 2032. A significant quantity of new housing development also results from 'windfall' sites, i.e. sites that are not identified and allocated within Development Plans. There are, therefore, clearly other plans or projects for new residential development that would, together with the proposals the subject of the current planning application, have an 'in-combination' effect on the SPA. On this basis it is clear that the proposals would be likely to lead to a significant effect on European site (i.e. the Thames Basin Heaths SPA) integrity.

**Appropriate Assessment under Regulation 63(1) of the Habitats Regulations:** If there are any potential significant impacts upon the Thames Basin Heaths SPA, the applicant must suggest avoidance and/or mitigation measures to allow an Appropriate Assessment to be made. The Applicant must also provide details that demonstrate any long-term management, maintenance and funding of any such solution.

The project the subject of the current planning application being assessed would result in a net increase of dwellings within 5 km of a boundary of part of the Thames Basin Heaths SPA. In line with Natural England guidance and adopted New Rushmoor Local Plan Policy NE1 and Thames Basin Heaths Avoidance & Mitigation Strategy, a permanent significant effect on the SPA due to an increase in recreational disturbance as a result of the proposed new development is likely. As such, in order to be lawfully permitted, the proposed development will need to secure a package of avoidance and mitigation measures.

Rushmoor Borough Council formally adopted the latest version of the Thames Basin Heaths SPA Avoidance & Mitigation Strategy (AMS) in 2023. The AMS provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the incombination effects of increased recreational pressure on the Thames Basin Heaths SPA arising from new residential development. This Strategy is a partnership approach to addressing the issue that has been endorsed by Natural England.

The AMS comprises two elements. Firstly the maintenance of Suitable Alternative Natural Greenspace (SANG) in order to divert additional recreational pressure away from the SPA; and, secondly, the maintenance of a range of Strategic Access Management and Monitoring Measures (SAMMs) to avoid displacing visitors from one part of the SPA to another and to minimize the impact of visitors on the SPA. Natural England raises no objection to proposals for new residential development in the form of Standing Advice provided that the mitigation and avoidance measures are in accordance with the AMS.

In order to meet the requirements of Policy NE1 and the AMS applicants must:-

(a) secure an allocation of SPA mitigation capacity from either the Council's SANGS schemes, or from another source acceptable to Natural England and to the Council; and

(b) secure the appropriate SANG and/or SAMM in perpetuity by making the requisite financial contribution(s) by entering into a satisfactory s106 Planning Obligation that requires the payment of the contribution(s) upon the first implementation of the proposed development.

These requirements must be met to the satisfaction of Natural England and Rushmoor Borough Council (the Competent Authority) before the point of decision of the planning application.

In this case the applicants have had the opportunity to acquire SANG capacity from the Hart District Council Bramshot Farm SANGS scheme sufficient for the 2 new dwelling units proposed, at a cost to the applicants of £12,110.44 however this has not yet been purchased by the applicant. Furthermore, the applicants have not yet completed a s106 Planning Obligation with Rushmoor BC to secure a financial contribution of £1,102.24 towards the SAMM element of the SPA mitigation.

Conclusions of Appropriate Assessment : The Council are not satisfied that the applicants have adequately mitigated for the impact of their proposed development on the Thames Basin Heaths SPA in perpetuity in compliance with the requirements of New Rushmoor Local Plan Policy NE1 and the AMS. Accordingly, it is considered that planning permission should also be refused on this basis.

### **Full Recommendation**

It is recommended that permission be **Refused** for the following reasons:

1. The proposals, by reason of being an unacceptable overdevelopment of the site as exemplified by:-
  - (a) The poorly contrived and unsatisfactory parking layout having regard to the allocation of on-site parking to the proposed new houses and/or the retained existing house;
  - (b) The lack of adequate provision for on-site parking to meet the functional parking requirements of the development without unacceptably compromising the ability of the site to provide adequate on-site turning facilities to enable cars to both enter and leave the site in forward gear to avoid potentially dangerous conflicting vehicle movements and/or provision of adequate pedestrian and bin and servicing access;
  - (c) The concentration of the vehicle parking and turning arrangements for all three houses at the application site in a small narrow space directly and closely abutting the whole west side boundary of No.8 Avon Close likely to give rise to an unacceptable loss of amenity to occupiers of this immediately neighbouring residential property; and
  - (d) The unjustified likelihood of unacceptable impact on the health and stability of trees on adjoining land to the north of the application site as a result of the proximity of the proposed Plot 2 house

Would be an unacceptably poor design that would be likely to give rise to unacceptable harm to the health and stability of trees worthy of retention, the amenities of neighbours and the safety and convenience of users of the adjacent public highway. The proposals are thereby considered unacceptable having regard to Policies DE1, DE11 and NE3 of the adopted Rushmoor Local Plan (2014-2032)

2. The proposals fail to make satisfactory provision for public open space in accordance with the requirements of policy DE6 of the adopted Rushmoor Local Plan (2014-2032).
3. The proposed development makes no provision to address the likely significant impact of additional residential units on the objectives and nature conservation interests of the Thames Basin Heaths Special Protection Area. The proposals are thereby contrary to the requirements of retained South East Plan Policy NRM6 and Policy NE1 of the Rushmoor Local Plan (2014-2032).

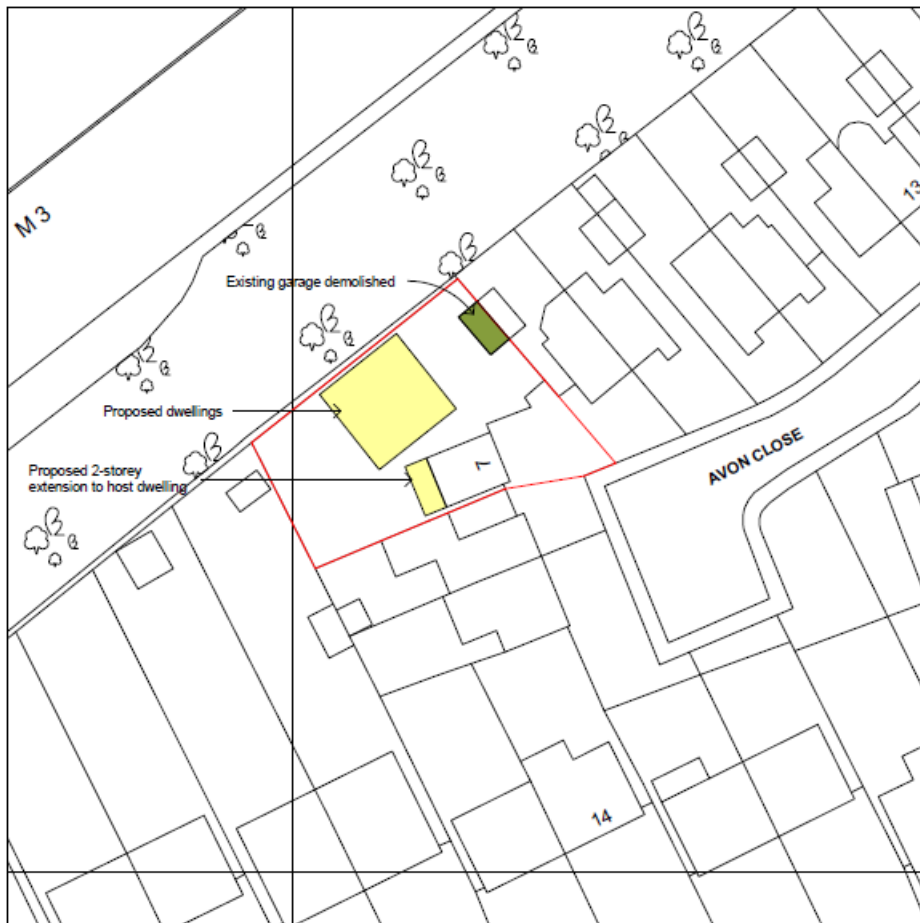


Location Plan



**Site Location Plan**

1 : 1250

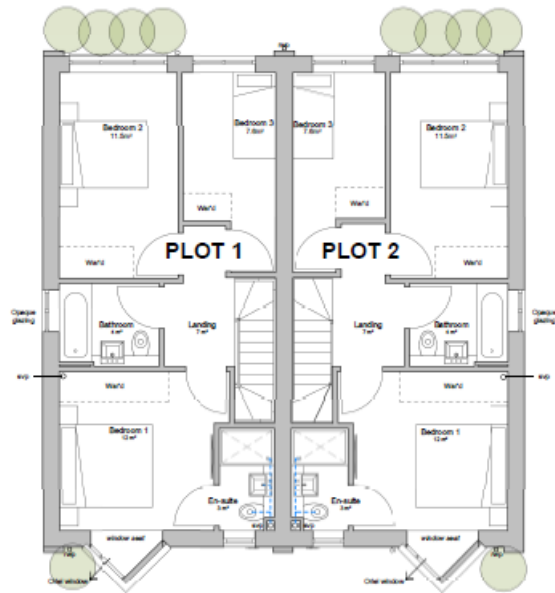


**Site Block Plan**

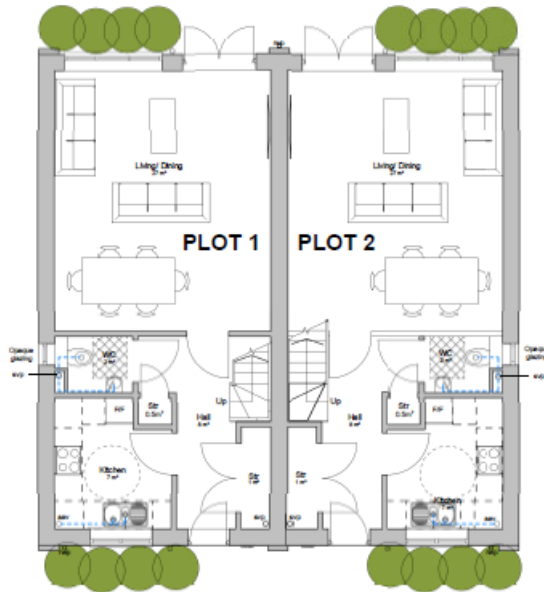
1 : 500







01\_First L  
1:50



00\_Groun  
1:50

Floor plans – new dwellings



**Front Elevation**  
1 : 50



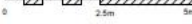
**Side Elevation (Right)**  
1 : 50



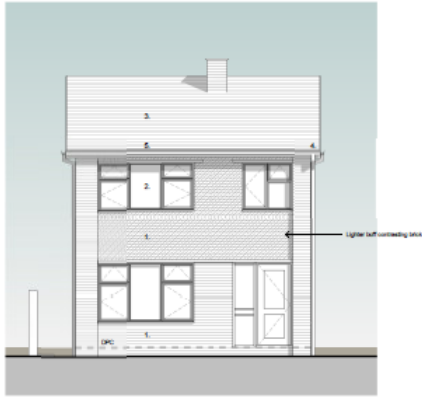
**Rear Elevation**  
1 : 50



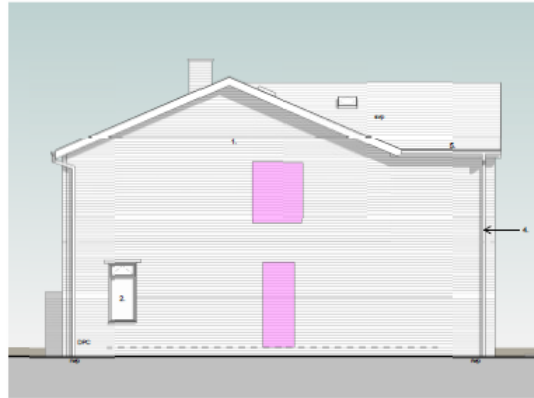
**Side Elevation (Left)**  
1 : 50

SCALE: 1 to 50  
  
 Note: This may be a reduced sized print, check scales below

Elevation Plans – new dwellings



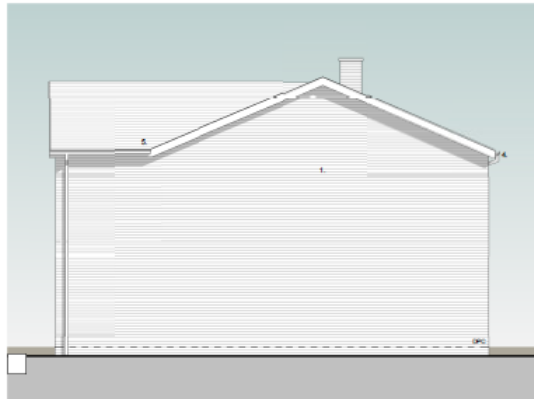
**Front Elevation**  
1 : 50



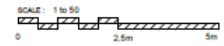
**Side Elevation (Right)**  
1 : 50



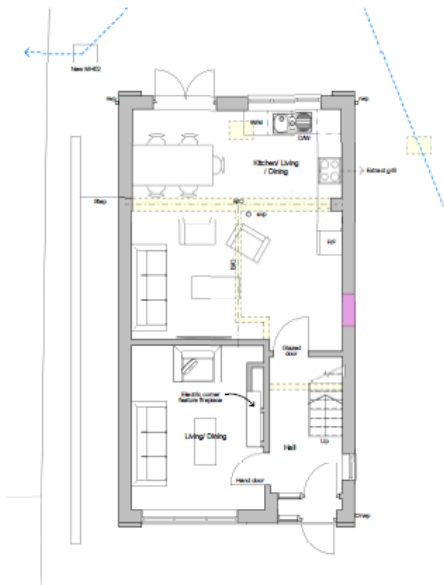
**Rear Elevation**  
1 : 50



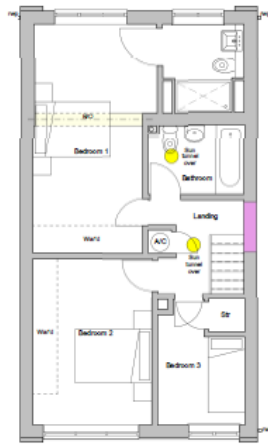
**Side Elevation (Left)**  
1 : 50

SCALE: 1 to 50  
  
 Note: This map is a reduced sized print, check scales below

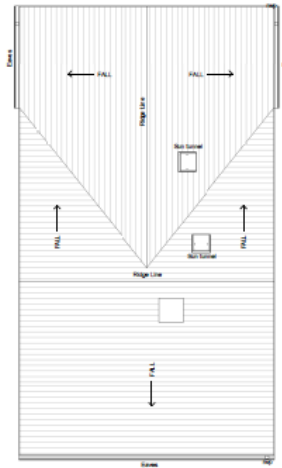
Proposed elevations – existing dwelling



**00\_Ground Level**  
1:50



**01\_First Level**  
1:50



**Roof Level**  
1:50

Proposed floor plans – existing dwelling