
Appeal Decision

Site visit made on 7 February 2017

by Kenneth Stone BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 February 2017

Appeal Ref: APP/L1765/W/16/3160675

Wykeham Court, Winchester Road, Wickham PO17 5EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by McCarthy and Stone retirement Lifestyles Ltd against the decision of Winchester City Council.
 - The application Ref 16/01048/FUL, dated 11 May 2016, was refused by notice dated 7 September 2016.
 - The application sought planning permission for the demolition of structures on site and redevelopment to form 31 retirement apartments with communal facilities and associated landscaping and car parking without complying with a condition attached to planning permission Ref 13/00212/FUL, dated 27 October 2014.
 - The condition in dispute is No 26 which states that: There shall be no pedestrian access through or from the site to Tanfield Park.
 - The reason given for the condition is: The site is not considered suitable for pedestrian access in the interest of highway safety.
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Decision

1. The appeal is dismissed.

Main Issues and background

2. Planning permission was granted for a development of retirement apartments subject to a restriction on access to a cul-de-sac to the rear of the site, Condition 26, amongst other matters. The restricted access was to facilitate refuse vehicles to service the site and for emergency access only. The condition was imposed in the interest of highway safety. The restriction is also secured through a planning obligation.
 3. Subsequent to the development of the site and its occupation the residents have raised safety concerns with the existing pedestrian access to the village centre along Winchester Road and identified a desire to have access to an alternative route to the centre and to the wider countryside beyond the village. The application in effect seeks the alteration of this restriction by the removal of the planning condition and a variation of the planning obligation. I have been provided with a copy of an executed deed of variation for the planning obligation to expand the restrictions for the use of the access to allow for the use of the access for residents and visitors to the development including access for mobility scooters.
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4. The reason for the imposition of the condition was for highway safety reasons. The Council maintain concerns related to highway safety but also raise concerns about inconvenience and disturbance for residents of Tanfield Park through additional activity and parking that it is suggested would result.
5. The main issues in this appeal are therefore the effect of removing the condition would have on; firstly, the living conditions of surrounding residents, with particular reference to noise and disturbance; and secondly, the safety and convenience of drivers and pedestrians using Tanfield Park.

Reasons

Living conditions

6. At the time of my site visit there were two access gates in the rear wall a narrower personnel gate and a slightly wider gate for refuse operatives access. Neither would be wide enough for vehicular access and both were locked.
7. The use of the rear access by the removal of the condition would be controlled by the planning obligation and this would be amended to allow for use by residents and visitors and include the use by mobility scooters.
8. There is presently parking available on site for residents in accordance with the planning permission. I understand these spaces are subject to a charge. Tanfield Park is a cul-de-sac to the rear of the development and other than limited double yellow lining on the bend and at the junction with Tanfield Lane is unrestricted for parking of vehicles.
9. Tanfield Park is a quiet cul-de-sac with properties having driveways and garages. There was parking along the stretch of Tanfield Park from its junction with Tanfield Lane up to the 90 degree bend in the road which it is suggested is related to parking from the centre and is a relatively common occurrence. I also saw parking on Winchester Road on footways opposite the junction with Tanfield Lane. The main car park in the centre was well used, and this was not discouraged by the fact it was pay and display. Along with the evidence from the Council and the representations from local residents this leads me to conclude that parking in the locality is under pressure.
10. The additional users of the rear access that are suggested would include not only existing residents but also visitors to the development. It does not say to the residents and this could encompass visitors for all purposes to the development. There is a potential for a number of users other than the elderly residents gaining access to the site. It is not unforeseeable that there may be occasions when people would drive and the restricted parking at the site was full and therefore these visitors would search for alternatives. With pay and display and time limitations in the main centre car park this could encourage visitors to use Tanfield Park to park and access the site.
11. There is no strong evidence that there would be significant overspill parking from the residents of the development however it cannot be discounted. The residents have also suggested that the rear access would be a safe and convenient access for the residents as an alternative access to the centre or to access the nearby countryside or golf course. There would therefore be likely to be additional comings and goings from the site. Overall I am of the view that the lifting of the restriction would lead to additional parking and activity in the cul-de-sac. This would result in additional manoeuvring, car doors

slamming, as well as general activity from people accessing the site. Given the relatively quiet and tranquil nature of the cul-de-sac this would result in an increased level of activity to the detriment of the living conditions that the residents of the cul-de-sac have become accustomed to. The condition is therefore reasonable and necessary to protect these interests.

Highways safety

12. Given the conclusions above it follows that I would agree that there would be additional traffic movements in the cul-de-sac. The level of those traffic movements however in Tanfield Park is such that there would be unlikely to be significant increases in the potential for accidents or conflicts between road users and the roads have segregated footways. At the junction of Tanfield Park and Tanfield Lane and along Tanfield Lane increased pedestrian and vehicular use could increase the potential for conflict between pedestrian and vehicles particularly along the unlit section where there are no pavements.
13. I note the concerns of the elderly residents of the development that Winchester Road is unsafe for them to access the centre. However, the access to the centre by the back gate would be a significantly longer journey and, along Tanfield Lane, would be along a stretch of road that has no footways or street lighting. The section along Tanfield Lane would be longer than that along Winchester Road and I understand that safety improvements along Winchester Road are still to be implemented. On this basis I would see the alternative route to the centre as less convenient and indeed potentially more hazardous than the main route and which the development relied upon to gain planning permission. As the relaxation of the restriction on the use of the gate may encourage this I conclude that the restriction is also reasonable and necessary to protect these interests

Other matters

14. The residents of the development suggest that to allow access through the gate would allow for easier access to countryside and golf course for recreational walking etc. I accept that this would be a benefit of the proposals, albeit of limited value given the nature of residents and number who may benefit from it.
15. The residents of the development on a number of occasions refer to being 'locked-in', however the development was granted consent and developed on the basis that access would be via Winchester Road, and that the rear access was for emergency and refuse access only. It was developed as a single aspect entrance scheme and this would have been clear at the time of occupation.

Overall conclusions

16. I conclude that the condition is reasonable and necessary for the reasons given above. The condition is simple, precise in its restriction; it is specifically related and therefore relevant to the development and to planning and is enforceable. It is reasonable in all other respects. Consequently it would meet the relevant tests for conditions as set out in the National Planning Policy Framework and its removal would conflict with policy DP3 and T2 of the Winchester District Local Plan Review 2006 and policy DM17 of the Winchester District Local Plan Part 2 which collectively seek to ensure development is satisfactorily accessed and integrated within the surrounding area.

17. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR