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## Appeal Decisions

Site visit made on 1 September 2021

**by C Osgathorp BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 September 2021**

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### **Appeal A Ref: APP/N1730/W/21/3274093**

**Land west of Redfields Lane, Church Crookham, Fleet, Hampshire  
GU52 0RE**

- 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 Mr John Matuszewski (Martin Grant Homes Ltd) against the decision of Hart District Council.
  - The application Ref 20/02827/AMCON, dated 12 November 2020, was refused by notice dated 22 February 2021.
  - The application sought planning permission for outline planning application for up to 315 residential units, land for up to 1,050m<sup>2</sup> D1 floorspace for a GP surgery including pharmacy and up to 370m<sup>2</sup> A1 retail floorspace for a convenience foodstore and associated access, open space, playing pitches including MUGA and car park, landscaping, Suitable Alternative Natural Greenspace (SANG) including car park and improvements to the A278/ Redfields Lane junction (means of access into the main site to be considered, all other matters reserved) without complying with a condition attached to planning permission Ref 14/00504/MAJOR, dated 26 June 2015.
  - The condition in dispute is No 37 which states that: *'The A287 / Redfields Lane roundabout hereby approved shall be completed and fully operational prior to the first occupation of the development'*.
  - The reason given for the condition is: *'The improvements to the A287 / Redfields Lane junction through the provision of a roundabout must be fully operational prior to the first occupation of any dwellings to ensure highway safety is not compromised as a result of the increase in traffic generated by the development'*.
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### **Appeal B Ref: APP/N1730/W/20/3264492**

**Land west of Redfields Lane, Church Crookham, Fleet, Hampshire  
GU52 0RE**

- 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 Mr Jamie Green (Martin Grant Homes Ltd) against the decision of Hart District Council.
- The application Ref 20/01844/AMCON, dated 5 August 2020, was refused by notice dated 5 November 2020.
- The application sought planning permission for outline planning application for up to 315 residential units, land for up to 1,050m<sup>2</sup> D1 floorspace for a GP surgery including pharmacy and up to 370m<sup>2</sup> A1 retail floorspace for a convenience foodstore and associated access, open space, playing pitches including MUGA and car park, landscaping, Suitable Alternative Natural Greenspace (SANG) including car park and improvements to the A278/ Redfields Lane junction (means of access into the main site

to be considered, all other matters reserved) without complying with a condition attached to planning permission Ref 14/00504/MAJOR, dated 26 June 2015.

- The condition in dispute is No 37 which states that: *'The A287 / Redfields Lane roundabout hereby approved shall be completed and fully operational prior to the first occupation of the development'*.
  - The reason given for the condition is: *'The improvements to the A287 / Redfields Lane junction through the provision of a roundabout must be fully operational prior to the first occupation of any dwellings to ensure highway safety is not compromised as a result of the increase in traffic generated by the development'*.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

## **Preliminary Matters**

3. Appeals A and B are effectively the same proposal for the variation of Condition No 37 of planning permission Ref. 14/00504/MAJOR under s73 of the Town and Country Planning Act 1990 to change the time trigger for the improvements to the A287/Redfields Lane junction to be completed and fully operational from prior to the first occupation of the development to prior to occupation of the 50<sup>th</sup> dwelling.
4. In respect of Appeal B, the appellant's supporting transport technical note was not considered by the Council in reaching its decision, and this has been submitted with the appeal. A transport technical note was submitted at planning application stage for Appeal A, which was subject of consultation and considered by the Council. For the avoidance of doubt, I have dealt with the appeals together in my decision to avoid repetition.
5. The Crookham Village Parish Neighbourhood Development Plan 2016-2032 was 'made' on 20 May 2021 following its approval at referendum on 6 May 2021 and therefore forms part of the Development Plan.
6. Since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties were given the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework.

## **Main Issue**

7. The main issue in both appeals is the effect of the variation of Condition No 37 on highway capacity and safety.

## **Reasons**

8. The original Transport Assessment (the original TA) submitted as part of planning application Ref. 14/00504/MAJOR showed that the existing A287/Redfields Lane/Bowling Alley junction operated over capacity in 2013, with a maximum queue during the morning peak of 63 vehicles in Redfields Lane (ahead and right turn) and 27 vehicles in Bowling Alley (ahead and right turn). This is reinforced by the previous Inspector's appeal decision dated

26 June 2015<sup>1</sup>, which states “*I observed substantial queues of traffic waiting on Redhills [sic] Lane to gain access onto the A287*”. The modelling in the original TA identified a further deterioration in capacity in 2018 (including committed development) with a maximum queue of 133 vehicles in Redfields Lane and 27 vehicles in Bowling Alley. The issues at the junction include poor geometry/visibility to the east of the Redfields Lane arm onto the A287 and the volume of 2-way traffic on the A287, which results in a lack of gaps in the traffic for vehicles queuing in Redfields Lane and Bowling Alley to join the carriageway - particularly for vehicles turning right.

9. The original TA set out a junction improvement scheme consisting of a new roundabout. The modelling in the original TA showed that the proposed junction would operate within capacity having regard to future growth in traffic flows, including the proposal and committed development. The previous Inspector was satisfied that the proposed mitigation would be acceptable, and she stated that the improvements to the junction must be completed and fully operational prior to the first occupation of any dwellings to ensure that highway safety would not be compromised as a result of the increase in traffic generated by the development.
10. The traffic growth rates used in the original TA were based on the National Trip End Model (NTEM) database (version 6.2, released in December 2009) through TEMPRO. The appellant’s Technical Note 07A<sup>2</sup> states that the current version 7.2 of NTEM was released in March 2017 and is based on more up to date census data. The current data indicates a lower traffic growth rate than that forecast in the original TA for the period 2011-2018. This amounts to a reduction in traffic growth predictions of 73 and 69 vehicles passing through the junction in the morning and evening peak periods respectively, when compared with the figures used in the original TA. On this basis, the appellant asserts that the vehicular trips associated with the occupation of 50 dwellings is forecast to be lower than the future baseline traffic forecasts used in the original TA, on which the previous Inspector’s conclusions regarding traffic and road safety impacts were predicated.
11. However, the original TA only assessed the mitigation provided by the improvements to the Redfields Lane junction and did not consider the effect of the proposal on the capacity and safety of the existing junction. This is likely because the original TA recognised the need for mitigation, and the new roundabout junction formed part of the proposed development. Crucially, Tables 6-12 and 6-13 of the original TA showed that the improvements to the junction would result in it operating within capacity having regard to committed development and development traffic. It is on this basis that the previous Inspector found the highway impact of the proposal to be acceptable.
12. The current appeal scheme proposes for the roundabout junction to be provided prior to the occupation of the 50<sup>th</sup> dwelling. Whilst I acknowledge the appellant’s information that the forecast traffic growth is lower than that shown in the original TA because of the updated data, little evidence has been provided regarding the effect of vehicular trips associated with 49 dwellings on the capacity and safety of the existing road junction.

<sup>1</sup> Appeal Ref. APP/N1730/A/14/2228404

<sup>2</sup> Technical Note 07A: Redfields Lane/A287 Traffic Forecasting – 18 November 2020 prepared by motion.

13. Table 4.6 of the Council's Transport Statement<sup>3</sup> indicates the operational performance of the existing junction, including 3 different growth rate assumptions. The first relates to a 2018 base with 'observed traffic growth rates' plus 50% of committed development. I agree with the appellant's Technical Note 11<sup>4</sup>, which states that it is unclear how the 'observed traffic growth' has been calculated. Table 4.1 of the Council's Transport Statement does not show observed count data for the years 2011 and 2018, and it appears that estimated figures may have been used. Furthermore, the Council's calculation of observed traffic growth appears to rely on only 3 years (2010, 2015, 2019), and I find that this is not sufficient data to draw any firm conclusions regarding observed traffic counts.
14. Nevertheless, Table 4.6 of the Council's Transport Statement also shows calculations based on the traffic growth rates shown in the appellant's Technical Note 07A plus 50% of committed development. This identifies that the existing junction operates significantly over capacity during the morning and afternoon peak hours. During the morning peak hour, the maximum queue length is shown to be 93 vehicles on Redfields Lane (ahead and right). Furthermore, the Council's Transport Statement also sets out calculations for a zero-traffic growth scenario plus 50% of committed development, which again shows the junction operating significantly over capacity during the morning and afternoon peak hours. The maximum queue length during the morning peak hour at Redfields Lane is moderately lower at 78 vehicles. There is little before me to doubt these two growth scenarios provided by the Council, which shows that the existing junction operates significantly over capacity and has deteriorated compared to the 2013 base set out in the original TA.
15. The appellant's Technical Note 07A states that 50 dwellings would result in 28 two-way trips in the morning peak and 31 two-way trips in the afternoon peak. I appreciate that the number of additional trips would be moderate, and I have had regard to the comments from the Highway Authority, which raise no objection to planning application Ref. 20/02827/AMCON. Nevertheless, the evidence shows that the existing Redfields Lane junction operates significantly over capacity and the proposal for the improvements to the junction to be provided prior to the occupation of the 50<sup>th</sup> dwelling rather than prior to first occupation would add to queuing vehicles travelling through the existing junction. Consequently, this would further reduce the capacity of an already congested junction, which would be detrimental to the efficient flow of traffic and the safety of the users of the highway.
16. During my site visit, I observed that the Redfields Lane and Bowling Alley arms of the junction with the A287 were closed and the proposed junction improvement works had commenced. The road signs indicated that the works are due to be completed by Autumn 2022. The speed limit around the roadworks was reduced to 30mph and diversion signs were in place. Traffic intending to use Redfields Lane was diverted to Beacon Hill Road (B3013) and Aldershot Road. Signs were in place indicating that other roads off the A287 (including Crondall Road, Dare's Lane, and Church Lane) were not suitable for diverted traffic. Traffic intending to access Bowling Alley was diverted to the junction close to the BP petrol station on the A287.

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<sup>3</sup> Prepared by rps group dated 14 June 2021 Ref. JNY11002-01

<sup>4</sup> Technical Note 11: Transport Rebuttal – 22 June 2021 prepared by motion.

17. Whilst I appreciate that the Redfields Lane junction is currently closed, there is little before me to show the effect of the additional trips associated with the proposal on the existing roads in the area, which could already experience more congestion as a result of Redfields Lane being closed.
18. For the above reasons, I find that Condition 37 of planning permission Ref. 14/00504/MAJOR is necessary and reasonable because it mitigates the impact of the proposed development on the local highway network and enables construction to commence ahead of the completion of the junction improvements. The proposed variation of the condition would cause a severe impact on highway capacity and safety. The proposal would therefore be contrary to Policy INF3 of the Hart Local Plan (Strategy and Sites) 2032 ('the Local Plan'), saved Policy GEN1(viii) of the Hart Local Plan (Replacement) 1996-2006 saved policies and Policy TM02 of the Crookham Village Parish Neighbourhood Development Plan 2016-2032, which, amongst other things, state that development proposals will be supported that do not have a severe impact on the operation, safety or accessibility of the local or strategic highway networks; and mitigate impacts on the local or strategic highway networks, arising from the development itself or the cumulative effects of development.
19. The proposal would also be contrary to paragraph 111 of the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

### **Other Matters**

20. I have had regard to the appellant's explanation regarding the delays to the delivery of the proposed roundabout junction. The design, construction and working restrictions have clearly caused complex challenges. The variation of Condition 37 would bring forward the delivery of 49 dwellings and aid the construction programme, which I attach moderate weight in favour of the proposal. Nonetheless, this would not outweigh the harm regarding the effect of the proposal on the capacity and safety of the highway.
21. A Section 106 Agreement was executed as part of the original planning permission, which included obligations for the provision or improvement of infrastructure, including: affordable housing, Strategic Access Management and Monitoring (SAMM), Suitable Alternative Natural Greenspace (SANG), education, transport, travel plan, artificial turf pitch, MUGA, leisure and open space, local area for play for children (LAP), local equipped area for play for children (LEAP), green infrastructure, medical facility, sports pavilion, sports pitches, sports car park, sustainable urban drainage system and Zebon Copse Centre.
22. The effect of a successful s73 application will be to create a new planning permission, therefore unless a new Section 106 Agreement or deed of variation is completed between all the parties, none of the planning obligations which were attached to the original planning permission could be enforced. The Council states that in the absence of any legal obligation, the appeal proposal would be contrary to the objectives of Policy INF3 of the Local Plan. The appellant has indicated a willingness to complete a legal agreement, however no mechanism to secure the above infrastructure is before me. Nevertheless, as I am dismissing the appeals for other reasons, it has not been necessary for me to pursue this matter further.

**Conclusion**

23. For the above reasons, I conclude that the appeals should be dismissed.

*C Osgathorp*

INSPECTOR