
Appeal Decision

Site visit made on 14 September 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/C1760/W/21/3276031

Land east of Furzedown Road, King's Somborne, SO20 6QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Richard Wickins on behalf of Shorewood Homes and the Diocese of Winchester against the decision of Test Valley Borough Council.
 - The application Ref 19/02899/OUTS, dated 2 December 2019, was refused by notice dated 30 April 2021.
 - The development proposed is the erection of 18 dwellings with associated landscaping and parking (outline) with all matters reserved except access and layout and change of use of land to allotments with new access off Furzedown Road and erection of a storage building (detail).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Richard Wickins on behalf of Shorewood Homes and the Diocese of Winchester against Test Valley Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline, with access and layout for consideration whilst appearance, landscaping and scale were reserved for future consideration. I have considered the submitted plans on the basis whether they pertain to matters for consideration or were illustrative. Detailed plans were submitted for the storage building.
4. Following the submission of statements, a Unilateral Undertaking (UU) was signed on 20 August 2021 and following comments from the Council was the subject of a deed of variation dated 29 September 2021. This confirms the arrangements for 7 affordable houses, public open space, allotment provision and an area taken out of agriculture for forestry. This seeks to address reasons for refusal 3-5, which refer to the lack of a legal agreement to secure such provisions.

Main Issues

5. The appeal site comprises two parcels of land linked by a footpath that runs adjacent to the rear boundary of the intervening residential development. The proposed dwellings would be located on the area currently occupied by

allotments, and within the confines of the village. This is an acceptable location for housing and as agreed by the Council would not in principle result in any harm to the character and appearance of the area. It is proposed to provide replacement allotments to the south.

6. The main issues are:

- the effect of the proposed allotments on the living conditions of the occupants of The Herra and Oakfield with regard to privacy;
- whether the proposed allotments would be suitable in terms of access, topography, microclimate and space for landscaping as a replacement for the existing facility; and
- the effects of the proposal on the Solent and Southampton Water Special Protection Area and Ramsar site and The River Test Site of Special Scientific Interest (SSSI).

Reasons

The suitability of the proposed allotments as a replacement: background

7. The village has a discernible centre and extends outwards along the roads through dips in the surrounding hillsides, spreading over a wide area. The existing allotments are about 200m away from the village centre. They are adjacent to Furzedown Road which has a pedestrian pavement and a street light close to one of the entrances to the allotments.
8. The existing allotments are separated from the road by a grass bank. There are two pedestrian accesses one at either end of the allotments over the bank.
9. I am advised that the allotments have been in existence for 110 years. The Council's statement indicates there are currently 48 plots, of which 45 are occupied with 3-4 people on the waiting list. As I saw on my site visit a few appeared to be in need of some upkeep, but others showed an impressive array of produce. There are a few sheds and polytunnels. The plots have a variety of sizes around mown grass paths.

The effect of the proposed allotments on living conditions

10. The proposed allotments would adjoin the boundary of The Herra and Oakfields. There would be very limited separation between the proposed allotments and these dwellings. The bedroom and living room windows would directly face towards the allotments. The windows of these two storey dwellings would be at a similar height to the allotments. As a result, the users of the allotments would have unavoidable, clear and close views into these windows at any time of day. The occupants of these dwellings would experience loss of privacy, including through overlooking. This would be particularly intrusive during summer months when the allotments may be at their busiest, including during the evenings and weekends when the occupants of these dwellings may wish to have their windows and doors open or use their gardens. I therefore find that the living conditions of the occupants of these dwellings would be significantly harmed.
11. To remedy the privacy, it is suggested that landscaping could be undertaken along the boundary. However, any planting would take time to establish, thicken and reach the necessary height to provide screening. It would also be

needed throughout the considerable length of the common boundaries and at a significant depth. Even if this was undertaken, it would fail to address loss of privacy arising from conversations.

12. I therefore find that the proposed allotments would significantly harm the living conditions of the occupants of The Herrra and Oakfields.
13. Policy LHW4 of Test Valley Borough Revised Local Plan DPD (LP) (adopted 2016) requires the protection of the privacy and amenity of residents. The proposal would be in conflict.

The suitability of the proposed allotments as a replacement: access, topography, microclimate and space for landscaping

14. The proposed allotments would be on the outskirts of the village. The submitted map shows the plot holders live over a wide area in this extensive village and generally the new facility would be further away for most existing allotment holders and could discourage some from continuing.
15. A new footpath link is proposed around the edge of the appeal site, which would be uphill although not unduly steep for the physically fit. The decision notice refers to a tortuous route; whilst I did not find from my site visit that it would be quite so pronounced but nonetheless it would not be perceived as direct.
16. The new allotments could also be reached by continuing further along Furzedown Road to a new access. However, the road has no pavement along this particular stretch or lighting and the road steepens significantly towards this point. I therefore find that the location would be slightly harder and perceived as less safe to walk to. The gradient of the road would also discourage cycling.
17. The new allotments would have a car park, which the appellants suggest would enable easy access and thereby suggested as an improvement, being more inclusive. In this respect the proposal would help accessibility, which would partially compensate for the impairment to the pedestrian access.
18. The new allotments would be on higher ground and currently open to the north and western sides. They would be exposed to wind, which would be likely to be particularly troublesome for allotment structures and high crops. Whilst the appellants have acknowledged this and offered a double hedge, it would take some time to establish and be thick enough to offer shelter.
19. The submitted cross sections show the site would be steeper than the existing, which would hinder access between the plots and the intensive cultivation associated with allotments. However, bearing in mind the field is currently in arable use, this would not be a fundamental impairment. There is mention of potential terracing, but the extent and degree of such works is unclear and as such would be too vague to be the subject of a condition.
20. The proposal includes the provision of water and deer proof fencing which would support cultivation. A communal shed is also proposed, which would help with social mixing. Toilets are proposed which may be welcome by some.
21. Policy LHW1 of the LP states that proposals that would result in the loss of existing open spaces or other recreation facilities will only be permitted if the

space or facility to be lost would be replaced by an equivalent or better provision in terms of quantity and quality and be in a suitable location. Paragraph 99 of the National Planning Policy Framework (the Framework) tallies with LP Policy LHW1, in terms of the loss being replaced by equivalent or better in terms of quantity, quality and in a suitable location.

22. The new allotments would be more distant for much of the village population and on a hill and whilst a new road access would be provided, there would be a slight loss of overall accessibility. Additionally, the slope and exposed nature would be disadvantageous albeit not fundamentally. Consequently, in terms of the comparative test in Policy LHW1, the proposed allotments would be less favourable, but with the benefits above, only to a limited extent.
23. As I have found above there is significant harm to the living conditions. For any landscaping scheme to be effective, screen planting would need to be undertaken throughout the considerable length of the common boundaries and to a depth of several rows of trees/shrubs. This would inevitably involve the loss of some of the potential allotment space as the submitted layout shows plots very close to the shared boundary. This would be likely to take up significant space, resulting in less allotments and undermining the adequacy of the replacement provision. The above policy requires an at least equivalent size of replacement.
24. I therefore conclude that the proposal would be in conflict with the above policies.

The effects on the Solent and Southampton Water Special Protection Area and Ramsar site and SSSI

25. The site lies within the zone of influence of the European nature conservation designations, the Solent and Southampton Water SPA/RAMSAR site. This includes sheltered channel, marginal wetland saline habitat and estuarine habitat, which support various scarce species and distinctive habitats, which are protected under The Conservation of Habitats and Species Regulations 2017. The site is also close to the River Test Site of Special Scientific Interest (SSSI).
26. The new houses would increase the volume of water disposal and the resulting contaminants in the waste water could enter into the ground water system. This could lead to enriched nutrient levels, particularly nitrates, resulting in growth of weeds and impairing aquatic ecology and the conservation objectives of the above designations.
27. The case officer's committee report mentions the Council, in partnership with Natural England, has developed an approach to mitigation. The appellant has provided a unilateral undertaking (UU) which commits to removing an area of agriculture and replacing it with forestry, and Natural England did not object to the appeal proposal. However, I have not been provided with comprehensive details of the mitigation strategy against which an assessment would be required under the Conservation of Habitats and Species Regulations 2017. In any event this assessment would only be necessary if I was minded favourably on the appeal proposal.

Other matters

28. The UU would meet the CIL regulations. It would provide affordable housing to meet the requirements of LP Policy COM07. It would also provide public open space in accordance with LP Policy LHW1. This would address the third, fourth and fifth reasons for refusal.
29. I note the appellant's suggestion that the site was identified for possible future residential development in the Parish Council and District Council reviews of policies as the location is suggested as being within the built-up limits of the village. However, the acceptability of residential development would be dependent upon satisfactory replacement of the allotments.

Planning Balance

30. The houses would be close to the village centre and the occupants would be well placed to support the village's services and facilities. The new development would also integrate into the form and envelope of the village. The new housing would be an economic boost through the construction process. The affordable housing would be a welcome addition to a pressing need particularly so in a rural area. The development would also make a contribution to the supply of housing.
31. The replacement allotments would significantly harm the living standards of the occupants of the adjacent dwellings. The proposal does not provide measures on how this can be properly addressed and potentially the allotment space would need to be significantly reduced. Additionally, the existing allotment provision contributes to the mental and physical well-being of the participants. Given the plots are virtually all used, this is an important facility. The existing allotments being centred within the community, contribute to the social mixing and vitality of the village. The accessibility is likely to lead to linked trips to the village's facilities, thereby supporting their retention. The replacement facility would be on the edge of the village where these attributes would be significantly reduced.
32. The proposal conflicts with the Policy LHW1 which requires the loss of such community facilities is replaced by equivalent or better in terms of quantity, quality and in a suitable location. I also find that the proposal would conflict with the overall Development Plan. Paragraph 92 of the Framework also highlights the importance of allotments to enable and support healthy lifestyles. Paragraph 98 of the Framework similarly highlights the importance of high-quality open spaces for the health and well-being of communities.
33. I conclude that the benefits of the proposal would not outweigh the impact of harm to living conditions and the replacement allotments.

Conclusion

34. I therefore conclude that the proposal should be dismissed.

John Longmuir

INSPECTOR

