



Appeal Decision

Site visit made on 2 June 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2023

Appeal Ref: APP/L1765/W/22/3305305

Land at the corner of Paradise Lane and Winchester Road, Waltham Chase SO32 2LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Graham Nowik against the decision of Winchester City Council.
 - The application Ref 21/03254/FUL, dated 21 December 2021, was refused by notice dated 22 April 2022.
 - The development proposed is described as the erection of 1 x Vert Skate Ramp and 1 x Mini Skate Ramp; fencing up to 2m around the perimeter of the plot; change of use to F2(c) Areas or places for outdoor sport or recreation (not involving motorised vehicles or firearms).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the application and appeal only a location and block plan (references GNSRLP and GNSRBP) were submitted, supported by several photographs. However, there are elements of the completed structure which do not accord with the details before me. The photographs indicate, and I observed on site, cargo netting supported by a frame positioned over and around the ramps. This does not form part of the appellant's description of development, but they have referred to it within their statement of case and the Council determined the planning application in consideration of this. As such I have also taken it into account.

Main Issues

3. The main issues are whether the appeal site is a suitable location for the proposed development having regard to relevant policies relating to the countryside and rural character; and whether it can provide sufficient car parking to function as proposed.

Reasons

Location

4. The appeal site is located on Winchester Road, the main road between Bishop's Waltham and Waltham Chase, beyond the settlement boundaries of both villages. It is on the junction with a narrow country road called Paradise Lane. There is a residential dwelling, Springfield, adjacent to the site and another dwelling opposite. These residential properties are representative of the loose

and low-density development along Winchester Road, which is interspersed with areas of trees, mature hedging, and fields. The appeal site would have been part of these verdant elements and contributed to the road character accordingly.

5. The appellant states the ramps are mainly for their own use but that they also offer skate tuition as a business, providing weekly sessions with up to 15 participants.
6. The main parties agree the appeal site is within the countryside, and that the use of the skate ramps falls under Class F.2(c) of the Town and Country Planning (Use Classes) Order 1987, as the skate tuition could constitute a local community use. Policy DM13 of the Winchester District Local Plan Part 2 (LPP2) specifically deals with leisure and recreation in the countryside. Amongst other things, the policy requires that a countryside location is necessary for the development of new leisure and recreational facilities.
7. According to the appellant, the ramps are suitable for Olympiad training, and it is acknowledged they are significantly larger than those provided at the nearby Swanmore skatepark. It is also appreciated that skate boarding is a burgeoning sport, where professional standard facilities are not as common as they are for more traditional sports, and its support can have social and economic benefits for a community.
8. Nevertheless, the necessity of the countryside location has not been substantiated beyond the proximity to the appellant's home and that it has already been built. Although this is beneficial to the appellant, there is nothing before me stating the countryside is a necessary requirement to facilitate this particular sport. The assertion by the appellant that land within urban areas is prioritised for housing, has not been evidenced, nor can it be assumed a proposal of this nature would automatically be refused. The proposal therefore fails to justify why the countryside location is necessary and so is contrary to Policy DM13.
9. However, even if I had found the countryside location essential for the use, Policy DM13 requires that the proposal should not have an unacceptable affect on the rural character, and Policy DM23 sets out 3 factors which should be taken into account when considering this.
10. The erected fencing is a reasonable boundary treatment in keeping with the surrounding residential properties, and the retention of the trees behind the fencing serves to soften the overall boundaries of the site. Equally the ramp structures up to a height of 3.6m are largely screened by the fencing and trees, and additional landscaping could be conditioned to infill the various gaps within the boundary planting to strengthen this.
11. However, the enormity of the frame and its irregular, angular and man-made form is incongruous to the natural surroundings. This is further exacerbated by the extensive use of cargo-netting at such height, which only serves to draw attention to the structure, by creating a more solid and impenetrable form, at odds to the surrounding tree canopies and open sky. The awkwardness of this part of the structure is not only inconsistent with the rural character of the area but appears a dominating feature when compared to the visually smaller residential properties around it. The proposal therefore both visually and

physically constitutes an incongruous feature within its surroundings and as such causes harm to the rural character of the area.

12. It is acknowledged Winchester Road is reasonably busy and that it is unlikely the sound of people using the ramps would be louder than traffic noise, notwithstanding any music played, and there is no external lighting proposed. Therefore, considering the proximity to the road and that although low density, there is a proportion of development already in the area, I am satisfied that the impact of the proposal on tranquillity could be controlled by conditions relating to hours of use, amplified music, and external lighting. Nevertheless, a lack of harm in relation to tranquillity does not outweigh the harm identified in relation to the visual and physical impact on rural character.
13. Consequently, the appeal site is not a suitable location for the proposed development having regard to relevant policies relating to the countryside and rural character. It fails to comply with LPP2 Policies DM13, DM15, DM16 and DM23 as far as they seek to control development in the countryside and protect local character.
14. The appellant has identified that the National Planning Policy Framework (the Framework) places significant weight on supporting economic growth and productivity, and seeks to support a prosperous rural economy. However, Paragraph 84 of the Framework only supports such development where it is shown to respect the character of the countryside; and Paragraph 85 recognises that the use of previously developed land and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist. As the necessity of the countryside location has not been justified and harm has been identified to the rural character of the area, the proposal conflicts with paragraphs 84 and 85 of the Framework.

Parking

15. LPP2 Policy DM18, amongst other things, requires parking provision to be in accordance with relevant standards and the needs of the development. Although the Council has referred to its Parking Standards supplementary planning document, it is evident this is only relevant to residential development. The supporting text of DM18 states for other forms of development parking standards should be considered on a case-by-case basis.
16. It is not in question that some if not most of the users of the site travel by car, and there is nothing before me proposing a limit to the number of those users, thus a limit to vehicles requiring parking. There is no obvious public car park which could be utilised, nor is there any evidence that access for those less able has been considered. Therefore, I would find it necessary that some level of designated parking would be required for the proposed development to function properly as a community outdoor sport or recreation facility, not least to provide parking for those with mobility issues who may seek to use the ramps.
17. No parking has been provided within the appeal site, but the appellant states parking is available at Springfield, where they currently reside. Notwithstanding whether the capacity of the parking at Springfield is appropriate for a residential dwelling and the users of the ramps, this parking area is outside of the appeal site so cannot satisfactorily be secured by condition and there is

nothing before me to secure it by obligation. Therefore, it can only be concluded the proposal has no designated car parking.

18. Without any justification for a lack of parking provision and with no way of securing the existing parking used, the proposal fails to provide sufficient car parking in the interests of its proper function. It consequently fails to comply with LPP2 Policy DM18.

Other Matters

19. The proposal could constitute a recreational development which could contribute to the rural economy. It also provides, albeit limited, social benefits as set out above and a training facility of a reasonably high standard. These matters cumulatively carry limited weight in favour of the proposal and do not overcome the harm identified.
20. Tollgate Cottage, a grade II listed building, is located near the appeal site. Formerly a tollhouse the significance of its setting revolves around its relationship with Winchester Road. However, as the appeal site is on the opposite side of the road, I am satisfied the proposal would not affect the setting of the Cottage nor harm its special interest. Nevertheless, a lack of harm is a neutral factor so does not weigh for or against the proposal.
21. The Winchester City Council area is within the River Itchen and Solent Special Area of Conservation (SAC). It is an area which, as designated by Natural England, needs action to be taken concerning nutrient neutrality. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 require an appropriate assessment (AA) to ensure that the development would not adversely affect the integrity of the SAC. However, clause 63(1) of that regulation states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. An AA is not, therefore, necessary where there is no intention to grant permission. As I am dismissing the appeal for other reasons, I am not required to pursue this matter further.

Conclusion

22. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed

RJ Redford

INSPECTOR