



Appeal Decision

Site visit made on 27 May 2025

by **Lynne Evans BA MA MRTPI MRICS**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2025

Appeal Ref: APP/N1730/W/25/3360358

Land to the north of London Road, Hook, Hampshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by David Wilson Homes Southern against the decision of Hart District Council.
- The application Ref is 22/01987/AMCON.
- The application sought planning permission for erection of 300 new residential dwellings, including roads, infrastructure, landscaping, open space and associated works without complying with a condition attached to the reserved matters approval Ref: 17/01123/REM dated 01 November 2017 pursuant to outline planning permission Ref: 14/00733/MAJOR, dated 21 November 2016.
- The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with the following drawing numbers and documents, unless otherwise agreed in writing by the Local Planning Authority:

Drawings:

H5644/LP/002 (Location Plan); H5644/PL/01 Rev. J (Planning Layout); H5644/ML/01 Rev. B (Materials Layout); H5644/SHP/01 Rev. B (Storey Heights Plan); H5644/AP/01 Rev. B (Adoption Plan); H5644/SPP Rev. B (Surveillance & Protection Plan); H5644/ABC Rev. A (Access & Bin Collection Plan); DWH House Type Plans and Elevations: 1BH-E-5 Rev. A; DWH2 1—5; H304-PR5 Rev. A; H331-PR5 Rev.A; H333 NEH7 Rev.A; H333 -WD7 Rev.A; H406---7 Rev.A; H436 HR-7; H436—X7 Rev.A; H497 H—7 Rev.A; H577---7 Rev.A; H584—X7 Rev.A; P230 NEH7; P232 SHE7_P233 SHE7 Rev. A; P285-E-7 Rev. A; P285-I-7 Rev. A; P332 SH7 Rev. A; P341—D7 Rev. A; P341-E-7 Rev. A; P341WD7 Rev. A; P341 WEHK Rev. A; SH1BHE-5 Rev. A; SH27--X5 Rev. A; SH38--X5 Rev. A; SH332---7 Rev. A; SHCD-D-5 Rev. A; Barratt House Type Plans and Elevations: Woodvale Rev. A; Alderney Rev. A; Allendale Rev. A; Chester Rev. A; Eskdale Rev. A; Folkstone Rev. A; Hesketh Rev. A; Hythie Rev. A; Malvern Rev. A; Marlowe Rev. A; Radleigh Rev. A; SHCD-E-5; Type 50 Rev. A; Type 53 Rev. A; Type 53 S Rev. A; Type 54 Rev. A; Type 55 Rev. A; Garage Plans and Elevations (Various) Rev. A; Boundary Details - (H5644/TCB, H5644/BW, H5644/TGG1 A, H5644/TGG2, H5644/KR & H5644/PFCL); Soft Landscape Proposals - GL0749/01B, GL0749/02B, GL0749/03B, GL0749/04B, GL0749/05B, GL0749/06B, GL0749/07B; BLC170126 - 1 Rev: C; BLC170126 - 2 Rev: C; BLC170126 - 3 Rev: C (Tree Protection Plans); Refuse Vehicle Swept Paths Sheet 1- A064/RM/81 P2, Sheet 2 A064/RM/82 P2 & Sheet 3 A064/RM/83 P2; Fire Tender Swept Paths Sheet 1 A064/RM/86 P2, Sheet 2 A064/RM/87 P2 & Sheet 3 A064/RM/88 P2; General Arrangement Sheet 1 A064/RM/01 P2, Sheet 2 A064/RM/02 P2 & Sheet 3 A064/RM/03 P2; Longitudinal Sections Sheet 1 A064/RM/15 P1, Sheet 2 A064/RM/16 P1, Sheet 3 A064/RM/17 P1, Sheet 4 A064/RM/1 P1 & Sheet 5 A064/RM/19 P1; Engineering Layout Sheet 1 A064/RM/41 P2, Sheet 2 A064/RM/42 P2 & Sheet 3 A064/RM/43 P2; Drainage Layout Sheet 1 A064/RM/51 P2, Sheet 2 A064/RM/51 P2 & Sheet 3 A064/RM/53 P2; Drainage Details Sheet 1 A064/RM/55 P1 & Sheet 2 A064/RM/56 P1; Kerbing Details Sheet 1 A064/RM/71 P2, Sheet 2 A064/RM/72 P2 and Sheet 3 A064/RM/73 P2; and, Construction Details Sheet 1 A064/RM/75 P1 & Sheet 2 A064/RM/76 P1.

Documents:

Design and Access Statement - June 2017; Planning Statement - June 2017; Landscape Specification - May 2017; Landscape Management Plan - May 2017; Tree Survey - CBA7496 v7; Arboricultural Method Statement - April 2017; Badger Survey - March 2017; Bat Survey - November 2016 Ref: ODWH112/007/004; Bat survey - June 2013 Ref: O-DWH-105/002/002; Bat Survey- June 2013 Ref: O-DWH-105/004/002; Tree Climbing Bat Surveys May 2014; Breeding Bird Survey September 2016; Dormouse Walkover Survey 1st March 2016; Dormouse Survey October 2016; Great Crested Newt Survey - 8th March 2017; Reptile Survey - July 2015; Water Vole and Otter Survey July 2013; Extended Phase 1 Habitat Survey - January 2017; Ecological Mitigation and Management Plan - April 2017; Amphibian and Reptile Mitigation Method Statement May 2017; Archaeological Supporting Statement - June 2017 (Including the Archaeological Desk Based assessment June 2013 and WSI Ref: 770563 A); Transport Statement - May 2017; Parking Assessment and Strategy - 5th May 2017; Utility Statement - 28th April 2017; Gas Main Protection Protocol - 27th April 2017; Desk Study Ref: R/10236/001 Issue 2 June 2013; Ground Investigation Report March 2015 - R/10236/002; Ground Investigation Report 'Brent Land' May 2016 Ref: R/10236/003; Supplementary Ground Investigation Report Letter 3rd November 2016; Update to Ground Gas Risk Assessment and Groundwater Level Data - 4th November 2015; and Drainage Statement Rev. A.

- The reason given for the condition is: To ensure that the development is carried out in accordance with the approved plans and particulars.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission was granted in November 2016 under the Council's Ref: 14/00733/MAJOR for a residential development of up to 550 residential dwellings and associated works, and reserved matters for the appearance, landscaping, layout and scale for 300 dwellings and associated works was granted under the Council's Ref: 17/01123/REM dated 1 November 2017. At the time of my site visit, the development appears to be largely completed, and the dwellings occupied.
3. The approved plans under the reserved matters application showed a hoggin path crossing an area of open space between the two residential parcels. However, the Appellants have constructed a raised timber boardwalk in place of the approved hoggin path. This follows the same alignment as the approved hoggin path with one exception, namely a section connecting into the development built to the north by another developer. The Council advises that it is looking further into this.
4. As the timber boardwalk has been built and is in operation both the Council and the Appellant agree that the application seeks retrospective permission to vary the approved plans. It is therefore an application under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted. The relevant condition is No 2 which listed the approved plans.
5. There is some inconsistency in the approved plans pursuant to the reserved matters approval between those listed on the decision notice and those held by the Council, primarily in respect of the revision numbers to those plans. I am however, satisfied that I have the information I require to determine this appeal.

6. There are references as to whether a Flood Risk permit would have been required for the boardwalk, but this is covered under other legislation and I do not therefore need to address it further.

Main Issue

7. The main issue in this appeal is whether the boardwalk as installed provides access which is attractive, safe, suitable, convenient and inclusive for all users and provides suitable permeability within the development.

Reasons

8. The area of land the subject of this appeal lies within the overall residential site and relates to an area of open land separating two parcels of the residential development. It lies within Flood Zone 3 as classified by the Environment Agency, and such land is classified as 'land which has a high probability of flooding from rivers and the sea'. Photographs provided by the Appellant show parts of this site under water as of January 2023.
9. The approved hoggin path would have been 2m wide along its whole length and at grade.
10. The raised boardwalk, as constructed, has a varied width; approximately half of its length is 2.4m wide and the rest is 1.2m wide. Where it is 1.2m wide, passing places have been introduced, approximately every 30m to increase the width to 2.4m. Handrails have been provided either side of the boardwalk where the drop at either side of the boardwalk is over 600mm. An anti-slip treatment has been applied along the whole length of the boardwalk.
11. Given the photographic evidence provided by the Appellant from January 2023 of parts of this area of land being under water, the principle of considering an alternative solution in order to provide a path that links the different elements of the development and that can be used at all times of the year is sensible and supported. Although I have noted some reservations over the durability of the selected materials, taken on its own, I consider that the design is attractive and suited to the open nature of the land over which the walkway traverses. The Council has raised no concerns in this regard.
12. However, I do have concerns about its usability by all. The Appellant has set out that there are no legal requirements for boardwalk design, and that it has therefore followed the County Council's design guidance for boardwalks produced in 2013 and updated in 2020. However, the County Council in its consultation response on the application has pointed out that its guidance and design standards should be regarded as a starting point, and the need for any design to reflect and to take into account a range of factors, including the intended usage and location.
13. It is not clear to me whether it is intended as a cycle path as well as a footpath, but I saw no signs at my site visit to indicate that it should not be used by cyclists. There is also no information before me to suggest that the hoggin path, given its width and surfacing, could not have been used by cyclists. It is therefore my understanding that the path is intended to be used by both pedestrians and cyclists. Although I agree that there is good visibility along the boardwalk, I remain concerned at the long sections of the boardwalk that are only 1.2m wide, especially where there are no handrails, as this is, in my view, insufficient width for all users,

including all pedestrians and cyclists, to feel comfortable using the boardwalk, especially if meeting others coming in the opposite direction.

14. I have noted that handrails have been applied where the drop is greater than 600m, but I am not satisfied that the approach that has been adopted does provide for all users to feel safe when using the boardwalk, and therefore to maximise permeability and safety for all users, including those who may be disabled or a wheelchair user, or have visual impairments, or families with small children as well as the elderly.
15. I have noted the concerns by the Parish Council and others that the boardwalk is not lit, but there is no evidence before me to indicate that the hoggin path was intended to be lit. However, in view of this, it further emphasises the need to ensure that the path does provide acceptable levels of convenient and safe permeability, particularly if being used at times of the day or times of the year when the light levels are lower.
16. The Appellant has drawn my attention to a similar raised boardwalk at another site in Hampshire, known as Ganger Farm. However, I do not know the full details of the purpose and intended user groups for this boardwalk, and therefore the extent to which the boardwalk at that site and the one before me are serving the same or different purposes. Given the reasons I have set out above, it does not persuade me to a different view.
17. I am therefore not satisfied that the boardwalk as constructed provides access which is attractive, safe, suitable, convenient and inclusive for all users, and provides suitable permeability within the development. It conflicts with Policies NBE9 and INF3 of the Hart Local Plan (Strategy and Sites 2016-2032, Policy HK12 of the Hook Neighbourhood Plan 2020 and the National Planning Policy Framework and in particular Sections 8, 9 and 12, all of which, amongst other matters, seek a high quality design which provides safe suitable and convenient access for all users.
18. I have also had regard to the Public Sector Equality Duty (PSED) set out under S149 of the Equality Act 2010. In failing to provide safe and convenient access for all users, the boardwalk as erected has not had due regard to the aims of the PSED and in particular to advance equality of opportunity.

Conclusion

19. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed and the condition relating to the approved plans should not be varied as requested.

L J Evans

INSPECTOR