

ITEM 8

APPLICATION NO.	17/02779/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	27.10.2017
APPLICANT	Mr R Westhead, Bayview Developments South Ltd
SITE	Land to rear of Baverstock and Dinton, Rownhams Lane, Rownhams, SO16 8AR, NURSLING AND ROWNHAMS
PROPOSAL	Erection of 2 no. detached dwellings, associated access drive, private amenity and car parking including a replacement garage on land to the rear of Baverstock and Dinton
AMENDMENTS	
CASE OFFICER	Ms Astrid Lynn

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 This application is referred to Planning Control Committee (PCC) because the Southern Area Planning Committee (SAPC) was minded to refuse planning permission for reasons that the Head of Planning and Building advised would, in one instance represent a new reason for refusal relative to the previous decision and would constitute unreasonable behaviour, and in two instances could not be substantiated. In either case a decision would result in a risk of costs being awarded against the Council at appeal.
- 1.2 A copy of the Officer's report to the 6 March 2018 SAPC and its associated update paper, are attached as **Appendix A** and **Appendix B**.

2.0 PLANNING CONSIDERATIONS

- 2.1 Members of SAPC resolved to refuse planning permission contrary to the Officer recommendation. Members considered that the proposed development would represent overdevelopment of the site, failing to integrate, respect and compliment the character and appearance of the area.
- 2.2 Additional refusal reasons included causing unacceptable loss of privacy and increase traffic noise and disturbance which would adversely affect living conditions in existing neighbouring properties. These are detailed below:
1. The proposed housing development would represent over development of the site and would as a consequence fail to make an efficient use of the land in a way that ensure the development integrates, respects and compliments the character and appearance of the area. The proposal is therefore contrary to Policies E1 (a) and E1 (d) of the Test Valley Borough Revised Local Plan (2016).

2. The proposal would result in an increased level of traffic movements between existing property (Bracken House and Baverstock) which would increase the level of noise and disturbance experienced in these properties. The effect of which would be to adversely affect the living conditions in these properties, contrary to policy LHW4 of the Test Valley Borough Revised Local Plan (2016).
- 2.3 The proposal result in the loss of privacy to neighbouring properties which would adversely affect the living conditions in these properties, contrary to policy LHW4 of the Test Valley Borough Revised Local Plan (2016).
- 2.4 **Reason for refusal 1: Impact on the character and appearance of the area.**

The reason for refusal by the SAPC referenced conflict with Policy E1(a) and E1(d) which require (a) that development “*should integrate, respect and compliment the character of the area in which the development is located in terms of layout, appearance, scale, materials and building styles*”, and: (d) that developments “*makes efficient use of the land whilst respecting the character of the surrounding area and neighbouring uses*”.
- 2.5 Members of SAPC referenced the size of the application site and the related plot sizes and considered these uncharacteristic of the area in terms of policy E1(a) and (d).
- 2.6 As is described in the officer’s recommendation, the area is characterised by substantial dwellings in substantial plots, with mature trees and hedgerow boundaries to the rear gardens. The proposal represents a courtyard development of two dwellings with garages, contained within mature trees and hedgerows, whilst the designs and scale are considered in accord with the adjacent properties, with gable end designs, materials of brick and tile hangings with slate garage roofs and plain tiles roofing for the dwellings.
- 2.7 The discussion at SAPC focussed on the impact the development would have on the character and appearance of the area. Members did not however identify in the debate where the change in the character and appearance of the area would be appreciated, or why this was particularly harmful. Officer advice is that the extent to which the site, and the proposed dwellings, would be appreciated would be limited. Views are limited from the churchyard due to the presence of trees along the common boundary and which are shown for retention. This provides a visual barrier to appreciating development from this position, and provides a significant backdrop to the new dwellings from Rownhams Lane. In addition, the extent to which views are possible from Rownhams Lane are constrained by the presence of both existing built development and features (dwellings, outbuildings, and road side vegetation). The combination of these factors contributes to limiting the visual impact of this development to a very small area directly in front of the properties known as Baverstock and Dinton. Officer advice is that any possible views of the proposed development from these positions would have a limited effect on the character and appearance of the area.

- 2.8 The 1,471²m site is considered acceptable for two dwellings with garages, equating to twenty dwellings per hectare. The development is therefore considered an efficient use of the land, and in considering the extent of visual influence (as detailed above) would respect the character of the surrounding area and neighbouring uses. The development for two dwellings with single garages is therefore considered compliant with policy E1 (a) and (d) and guidance contained within the NPPF.
- 2.9 In reaching the resolution at SAPC Councillors did not express form where the development would be seen, and why therefore the development was unacceptable. Consequently, Members were advised that this refusal reason would therefore carry a risk that costs could be awarded against the Council in any subsequent appeal.
- 2.10 **Reason for refusal 2: Traffic impacts and their effect on the neighbouring properties living conditions**
Members of SAPC raised concerns that the development would give rise to amenity issues associated with vehicle noise along the access to the application site.
- 2.11 As described in the officer's report, the driveway access would comprise tarmacadam and block paving, with no gravel being proposed along its length. In addition, Members were advised in the Update Paper, that no objection was raised on noise grounds by the Environmental Health Officer. In considering the presence of both a retained fence and a proposed replacement fence along the common boundary with Bracken House to the south, the presence of a garage/summer house structure in the grounds of the property the proposal is therefore not considered to give rise to a significant or adverse effect on the living conditions on neighbouring properties with regard to noise and disturbance and is considered to comply with policy LHW4 of the TVBRLP, and the guidance contained in the NPPF.
- 2.12 Members at SAPC were advised that in refusing the previous planning application (which also proposed two dwellings accessing Rownhams Lane via the same route as that now proposed) that the impact on traffic noise did not represent a reason for refusal previously. Although accepting that a decision had been reached under delegated powers, the decision does, nevertheless, represent the formal determination by the Authority, and is a material consideration in the determination of this current application. Given the similarity of the two schemes in this respect the Head of Planning and Building advised that a reason for refusal on these grounds would represent unreasonable behaviour and that consequently this current refusal reason would therefore carry a risk that costs could be awarded against the Council in a subsequent appeal.
- 2.13 **Reason for refusal 3: Loss of privacy to neighbouring property**
Members expressed concerns with regards to loss of privacy arising from the proximity of the proposed dwellings to neighbouring properties, Baverstock, Dinton and Bracken House. That said, it was not explicitly clear on what basis, or from which windows, such a loss of privacy was felt to arise. It was also not explicit which of the neighbouring properties were affected.

2.14 The officer's report advises that there are no windows with which to raise overlooking concerns, in respect of Dinton or Bracken House, and no unacceptable overlooking issues arise in any respect. Members were also advised, that the outbuildings existing at Bracken House (to the south), comprised a longer structures than indicated on the block plan, and in combination with the distance between properties that sufficient levels of privacy would be retained for Bracken House.

2.15 In reaching the resolution at SAPC Councillors did not explicitly set out where the loss of privacy would arise, and for which property. In addition Officers are of the opinion that the scheme is acceptable in this respect. Consequently, Members were advised that this refusal reason would therefore carry a risk that costs could be awarded against the Council in any subsequent appeal..

3.0 **CONCLUSION**

3.1 It remains the consideration of the Case Officer that the proposal, subject to the required conditions would have no significant adverse impact on the character and appearance of the area when viewed from Horns Drove, Rownhams Lane or St. John's Churchyard, neither would it significantly or unacceptably impact upon the amenity of neighbours.

4.0 **RECOMMENDATION OF THE SOUTHERN AREA PLANNING COMMITTEE REFUSE for the reasons:**

1. **The proposed housing development would represent over development of the site and would as a consequence fail to make an efficient use of the land in a way that ensure the development integrates, respects and compliments the character and appearance of the area. The proposal is therefore contrary to Policies E1 (a) and E1 (d) of the Test Valley Borough Revised Local Plan (2016).**
2. **The proposal would result in an increased level of traffic movements between existing property (Bracken House and Baverstock) which would increase the level of noise and disturbance experienced in these properties. The effect of which would be to adversely affect the living conditions in these properties, contrary to policy LHW4 of the Test Valley Borough Revised Local Plan (2016).**
3. **The proposal result in the loss of privacy to neighbouring properties which would adversely affect the living conditions in these properties, contrary to policy LHW4 of the Test Valley Borough Revised Local Plan (2016).**

5.0 **RECOMMENDATION OF THE HEAD OF PLANNING AND BUILDING PERMISSION subject to:**

1. **The development hereby permitted shall be begun within three years from the date of this permission.
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**

- 2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: Site Layout 102 Rev. A; Ground Plans 103 Rev. A; First Floor Plans 104 Rev. A; Elevations north & south 106 Rev. A; Elevations east & west 105; Garage elevations 107 Rev. A; Soft Landscape Plan.**

Reason: For the avoidance of doubt and in the interests of proper planning.
- 3. No development shall take place above DPC level of the development hereby permitted until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.
- 4. Notwithstanding the submitted Landscaping Plan, no development shall take place above DPC level of the development hereby permitted until full details of hard and soft landscape works have been submitted and approved in writing by the Local Planning Authority. Details shall include-where appropriate: Exterior lighting locations and specifications; Soft landscape works to include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities.**

The landscape works shall be carried out in accordance with the implementation programme and in accordance with the management plan.

Reason: To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and E2.
- 5. No development shall take place above DPC level of the development hereby permitted until a schedule of landscape management and maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. The approved management plan shall be carried out in accordance with the implementation programme.**

Reason: To ensure the provision of amenity afforded by proper maintenance of existing and new landscape features as an improvement of the appearance of the site and to enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and E2.

- 6. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.
Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.**
- 7. Development shall proceed in accordance with the measures set out for site clearance in sections 6.3 and 6.4 and the ecological enhancement measures set out in section 6.7 of the Ecological Assessment - Land to the rear of Baverstock, Rownhams Lane Rownhams report (Ecosupport, April 2017, updated November 2017) with all ecological enhancement features being permanently retained.
Reason: to avoid impacts to protected and priority species and to conserve and enhance biodiversity in accordance with Policy E5 of the Test Valley Revised Local Plan DPD.**
- 8. The development hereby approved shall be undertaken in full accordance with the provisions set out within the Arboricultural Impact Assessment, Method Statement reference received 8th November 2017 (A.J. Scott), and Tree Report submitted January 2018, (A.J. Scott).
Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.**
- 9. Tree protective measures must be installed in accordance with submitted Tree Protection Plan Rev. A dated 16th January 2018 (Scott Tree services) before the onset of any other site works and shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities, nor material storage, nor placement of site huts or other equipment what-so-ever shall take place within the barrier.
Reason: To ensure the avoidance of damage to existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.**
- 10. All service routes, drain runs, soakaways or excavations in connection with the development hereby permitted shall remain wholly outside the tree protective barrier.
Reason: To ensure the avoidance of damage to existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan policy E2.**

Notes to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to paragraphs 186 and 187 of the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**

- 2. Attention is drawn to the requirements of the Agreement dated 08.01.2018 under Section 106 of the Town and Country Planning Act 1990 which affects this development.**
 - 3. Attention is drawn to the provisions of the Control of Pollution Act 1974 which control the emission of noise, use of plant and equipment, and working hours on construction and demolition sites. You are advised to consult with the Environmental and Health Service on 01264 368460 to determine what requirements may be necessary on this development.**
 - 4. No vehicle shall leave the site unless its wheels have been sufficiently cleaned as to minimise mud and other material being deposited on the highway. Appropriate measures, including drainage disposal, should be taken and shall be retained for the construction period. (Non-compliance may breach the Highway Act 1980.)**
 - 5. Bats and their roosts receive strict legal protection under the Wildlife and Countryside Act 1981 (as amended) and the conservation of Habitats and Species Regulations 2010 (as amended). All work must stop immediately if bats, or evidence of bat presence (e.g. droppings, bat carcasses or insect remains), are encountered at any point during this development. Should this occur, further advice should be sought from Natural England and/or a professional ecologist.**
 - 6. Bird's nests, when occupied or being built, and the widespread species of reptile receive legal protection under the Wildlife and Countryside Act 1981 (as amended). It is highly advisable to undertake clearance of potential bird nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc.) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.**
 - 7. Reptile habitat such as compost heaps should be carefully cleared by hand during warmer months as if hibernating reptiles are disturbed they will die. Any reptiles revealed should be moved to adjacent retained rougher / boundary habitat or allowed to move off of their own accord.**
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