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<b>APPLICATION NO.</b>	20/01121/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	29.05.2020
<b>APPLICANT</b>	Bloor Homes
<b>SITE</b>	Land At Redbridge Lane, Redbridge Lane, Nursling, SO16 0XN, <b>NURSLING AND ROWNHAMS</b>
<b>PROPOSAL</b>	Erection of three storey block comprising 12 no. apartments, parking landscaping and other associated works (Amended siting and design to 15/01763/FULLS - Retrospective)
<b>AMENDMENTS</b>	
<b>CASE OFFICER</b>	Mr Mark Staincliffe
	Background paper (Local Government Act 1972 Section 100D)

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## 1.0 INTRODUCTION

- 1.1 The application is presented to the Southern Area Planning Committee at the request of a Local Ward Member.

## 2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site lies on the western side of Redbridge Lane, and forms a small part of a wider site covering an area of approximately 11ha. This wider site benefits from planning permission for the construction of 326 dwellings.
- 2.2 The wider site is largely complete with the final phase of development currently being undertaken by the site owner. The site, when originally granted planning permission was located within an area designated as countryside but that is no longer the case. The application is therefore within the Settlement Boundary.

## 3.0 PROPOSAL

- 3.1 Erection of three storey block comprising 12 no. apartments (all affordable dwellings), parking landscaping and other associated works, including the construction of an electricity substation. This represents an amended siting to the permission granted by 15/01763/FULLS. The works have already been undertaken and is therefore a retrospective planning application.

## 4.0 HISTORY

- 4.1 15/01763/FULLS- Erection of 326 dwellings, construction of access, footpaths, cycle ways, areas of open space, landscaping, drainage infrastructure and other associated infrastructure- **Planning Permission Granted.**
- 4.2 19/02831/VARS- Vary condition 2 of 15/01763/FULLS (Erection of 326 dwellings, construction of access, footpaths, cycleways, areas of open space, landscaping, drainage infrastructure and other associated infrastructure) Substitution of plans to regularise adjusted siting and design of block A (plots 9-20)- **Not Yet Determined.**

## 5.0 **CONSULTATIONS**

5.1 **Refuse-** No objection.

5.2 **Highways-** No objection.

5.3 **Landscape-** Comment (Summarised):

The movement and building of the large flatted development in the amended position has now virtually obscured this ling view through and the purpose of the frontage amenity space and is visual link with planting to the larger open space to Fen Meadow and beyond. It does have a detrimental impact within the streetscene due to this. There is no space left to implement any mitigation landscaping of value.

5.4 **Community and Leisure-** It would be helpful to understand what mitigation the applicant proposes as a consequence of this loss of landscaping / open space. Whilst this will not remove the impact of the block of flats there will be scope for additional planting elsewhere on the development.

## 6.0 **REPRESENTATIONS** Expired 10.07.2020

6.1 **Parish Council-** Object (summarised):

- Only 14 metres from the houses opposite.
- Entrance to the block will be very close to the public footpath with the separation verge being almost non-existent.
- The loss of the green verge in front of the block seriously impacts the look when entering the estate.
- Loss of privacy to these plots 153, 154 and 156.
- Flats overlook both 9 and 11 Bodding Avenue (Windows only 14.5 metres).
- Character of the area on entry to the estate changes.
- The appearance is incongruous and over dominates the entry to Bodding Avenue.

6.2 9, 11, 35 74 Bodding Avenue & 1 Nutsea Road- Object (summarised)

- Harm to character of area:
- Crime and community safety
- Poor Design
- Noise & Disturbance
- Overlooking habitable windows and gardens
- Unnecessary size, scale and bulk
- Loss of sunlight
- Traffic
- Parking safety
- Smell
- Negative impact on house prices
- Loss of public open space

## 7.0 **POLICY**

### 7.1 Government Guidance

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

### 7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM2 (Settlement Hierarchy)

T1 (Managing Movement),

T2 (Parking Standards)

E1 (High quality development in the Borough)

E2 (Protect, conserve and enhance the landscape character of the Borough),

E5 (Biodiversity)

E7 (Water Management)

E8 (Pollution)

E9 (Heritage)

LHW1 (Public Open Space)

LHW4 (Amenity)

### 7.3 Supplementary Planning Documents (SPD)

Infrastructure and Developer Contributions

New Forest SPA Mitigation- Interim Framework

Solent Recreation Mitigation Strategy

## 8.0 **PLANNING CONSIDERATIONS**

### 8.1 The main planning considerations are:

The main planning considerations are:

- Principle of the development
- Amenity of Existing Residents
- Highways impacts
- Ecology
- Design
- Landscape
- Highways

### 8.2 **Principle of Development**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

### 8.3 Section 73A of the Town and Country Planning Act specifically accommodates the submission of retrospective applications. The Act is clear that any such application should be considered on its merits.

### 8.4 COM2 presents the way the settlements, classified in the settlement hierarchy, will develop in the future. COM2 seeks to promote a sustainable pattern of development. As a matter of fact there is an extant planning permission in place for the block of flats to be constructed, though the extant permission would see the block of flats set back a further 3.39m into the site and thus a greater distance between the block of flats and the properties opposite.

8.5 Policy COM2 creates a presumption in favour of sustainable development within the defined limits of settlements. The development is considered to accord fully with COM2. Subject to compliance with the RLP as a whole, development can be supported. These other material considerations are dealt with in detail below.

8.6 **Amenity of Existing Residents**

Policy LHW4 of the RLP sets a number of criteria against which development proposals will be assessed in order to safeguard the amenity of existing and future residents, particularly in terms of overlooking, loss of privacy and any adverse impact in terms of loss of daylight/sunlight.

8.7 At its closest point The block in question has been built 3.39m closer to the dwellings in Bodding Avenue. The principal impact is in on numbers 15, 11, 09 & 07 Bodding Avenue as well as 01 Nutsea Road. The separation distance between the block and plots 112 & 113 have not changed and thus no material change in the impact of the development on these properties. The table below sets out the minimum separation distance between these properties and the block of flats.

8.8

Property	07 Bodding Avenue	09 Bodding Avenue	11 Bodding Avenue	15 Bodding Avenue	01 Nutsea Road	Plot 112	Plot 113
Separation as built (Wall to Wall)	14.5	14.5m	18.50m	25m	20m	12m	12m

8.9 As set out above, the block has not been constructed in accordance with the approved layout and has resulted in the block being materially closer to a number of properties. The properties listed above are considered to be those most impacted by the development in terms of loss of sunlight, daylight, privacy and overbearing impact. These matters are considered in turn below.

8.10 Sunlight, Daylight, Shadowing

The properties in Bodding Avenue and Nutsea Road are located to the South East, South and South West of the block. Taking into consideration the separation distances, size and scale of the block and its geographical location in relation to these properties, it is considered that development would not result in such a change to the level of light entering the properties or shadow cast over them to conclude that harm would occur . The proposal does not result in harm in this respect.

8.11 Privacy & Overbearing impact

The design and layout of the block is largely the same as the block permitted under the original planning permission. The only material change is the siting of the building. When considering the original planning application the level of mutual overlooking within the site was considered acceptable with regards to all elevations and all plots.

- 8.12 It is accepted that the building has moved closer to some dwellings but the separation distance is still in excess of 14m to the dwellings in Bodding Close. When considered the original application, amenity was considered within the report and it was concluded that the separation distances between properties was acceptable.
- 8.13 It is a fact that the separation distance between the block and Plot 112 & Plot 113 (to the West of the block) has remained at 12m. When considering the original application it was considered that this separation distance was acceptable, it would therefore be very difficult to now argue that a separation distance in excess of 12m would result in harm to the residential amenities of residential properties where the separation distance is greater than 12m.
- 8.14 In summary, taking into consideration the separation distances, the size of the block and the positions of habitable rooms in both the block and surrounding properties, it is considered that the relationship is acceptable and will not result in harm to the residential amenities of adjoining neighbours and would therefore accord with Policy LHW4.
- 8.15 Highways & Parking  
The proposal has not resulted in any changes to the internal road layout and is therefore considered to accord with Policy T1 of the RLP. The number of parking spaces allocated to the block of flats also remains unaltered and provides sufficient parking to meet the requirements of Policy T2 and Annex G of the RLP.
- 8.16 Design  
The design of the block of flats remains materially unchanged from the original planning permission. As acknowledged within the original report for application 15/01763/FULLS and in particular paragraph 8.26, the proposed development is high quality and all elements have been carefully designed to ensure the development as a whole is coherent and that the blocks have been carefully designed that they offer natural surveillance to all public and private areas. Taking into consideration the content of the original report and the quality of materials selected for the development it is considered to be of a high quality design and therefore conforms to Policy E1 of the RLP.
- 8.17 Character and Appearance of the Area  
The movement of the building further forward has obscured the view from the entrance of the site to the public open space and wooded area to the rear. It is unfortunate that this visual link has largely been lost. However, the design, size and scale of the block has not been altered from the original consent, it would therefore always have been possible to have prominent views of the large flank elevation of the block of flats and limited views through to the woods at the rear of the site .

- 8.18 It does water down the overall concept for this part of the site, however, the harm is not so great that it could be argued that there was conflict with the RLP. There is still a small area to the front of the block for some landscaping to soften this view and vista. The proposal is a well designed block of flats and has utilised high quality materials. On balance the proposal is considered to have a neutral impact on the character and appearance of the area and therefore conforms to Policy E2 of the RLP.
- 8.19 Public Open Space  
Paragraphs 8.30-8.35 of the committee report for application 15/01763/FULLS sets out the requirements for open space and the level of open space secured through the s106 agreement. In summary, the public open space policy requirement was 1.8612ha but the development secured 2.99ha of open space. This was further supplemented by the Home Covert Management Plan, which provides for public access in perpetuity to the woodland area immediately adjoining the site.
- 8.20 The change in the siting of the block of flats has resulted in the loss of a small section of public open space which equates to 0.01 hectares, this is unfortunate as this area was envisaged to contribute to the character and appearance of the area. However, taking into account the negligible amount of public open space lost through the revision and the extensive amounts, over and above the policy requirement, secured through the original planning permission it is not considered to be reasonable or CIL compliant to secure a commuted sum or additional public open space. The proposal is therefore considered to accord with Policy LHW1 of the RLP.
- 8.21 Crime and Community Safety  
Neighbour comments have listed crime and community safety as a reason for objection. However, these comments have failed to identify how the siting of this building would result in issues of crime and community safety.
- 8.22 As explained in paragraph 8.15 above, the block of flats has been carefully designed to ensure that it offers natural surveillance to the public domain as well as the private parking area of the flats. Taking into consideration the above it is considered that the proposal accords with Policy CS1 of the RLP
- 8.23 Noise Disturbance & Smell  
Concerns have been expressed by local residents that the proposal will result in unacceptable noise, disturbance and smell from the block of flats. As previously outlined above, the nearest residential property is 14m away. This separation distance is far greater than the distances separating existing detached and semi-detached properties from each other.
- 8.24 It is difficult to envisage how a block of flats 14m from the nearest residential property would result in noise disturbance and smell that would justify a reason for refusal. It is concluded that the separation distance between the block of flats and the properties opposite would not result in harm to the residential amenities of these properties and therefore accords with Policy E8 and Policy LHW4 of the RLP.

#### 8.25 Nitrate Neutrality

The River Test and its major tributaries flow into the Solent. The Solent region is one of the most important for wildlife in the United Kingdom. There are currently high levels of nitrogen and phosphorus input into this water environment and there is evidence to suggest that this is having a detrimental impact on the biodiversity of this area. Housing and other certain types of development are currently contributing negatively towards this issue and there is evidence that further development, without mitigation, would exacerbate this impact.

#### 8.26 The Solent region consists of the following Special Areas of Conservation (SAC) and Special Protection Areas (SPA):

- Chichester and Langstone Harbours SPA
- Portsmouth Harbour SPA
- Solent and Southampton Water SPA
- Isle of Wight Lagoons SPA
- Solent Maritime SAC
- Solent and Dorset Coast SPA (Proposed)

8.27 These sites are protected by National and European Law which requires the Council to undertake a formal assessment of the implications of any new plans or projects that may be capable of affecting the designated interest features of European Sites before deciding whether to grant planning permission for new residential development. This formal assessment is known as an Appropriate Assessment and considers the potential adverse effects of a plan or project (in combination with other plans or projects) on Special Areas of Conservation and Special Protection Areas. The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. The impact of the case law is that any development which could result in a decrease in water quality would cause a likely significant effect on the Solent's European sites.

8.28 In the context of planning, the impact comes from population increase and the resultant increase in effluent. Proposed developments for new housing, hotels and care homes (as well as other forms of overnight accommodation) are being affected by the issue as a result. Given the nature of this application the applicant was invited to provide an assessment. A finalised nitrate budget calculation and proposed mitigation has been submitted and an Appropriate Assessment submitted to Natural England. Natural England raise no objection subject to securing mitigation in perpetuity. The mitigation off-setting land is within the wider application site and its retention as public open space is already secured through the original s106 agreement. As such, the proposed development does not conflict with the Habitats Regulations and accords with Policy E5 of the TVBRLP.

8.29 Affordable Housing

The block of flats is still proposed to be 100% affordable housing. This is in accordance with the original planning permission and is reflected within the heads of terms of the original s106 agreement. Should planning permission be granted for the development a deed of variation to the original section 106 agreement would be required to secure this development as affordable housing in perpetuity. Subject to the above the development is considered to accord with Policy COM 7 of the RLP.

8.30 Electricity Substation

The principal reason for the block of flats being located in an alternative location is due to the construction of an electricity substation. The application also seeks planning permission for this infrastructure.

8.31 Taking into consideration the modest size of the substation and the high quality design and visual appearance of it, it is considered that the proposal has a satisfactory relationship with the character and appearance of the area. Taking these matters in the round it is considered that the proposal is high quality design and accords with Policy E1 & E2 of the RLP.

8.32 Property Prices

The concerns expressed by local residents with regards to property prices is noted. However, Paragraph: 008 Reference ID: 21b-008-20140306 of the Planning Practice Guidance is clear with regards to the scope of what can constitute a material consideration. In general, planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property could not be material considerations. For this reason the objections from third parties in relation to falling property prices should be afforded no weight.

9.0 **CONCLUSION**

9.1 It can be seen from the analysis above that the Development Plan policies are complied with in full. Representations received during the life of the application have raised particular concerns with regards to the loss of Public Open Space within the site. The loss of the small area of public open space is unfortunate but the overall impact on the re siting of the block of flats is a neutral impact and there is therefore no direct conflict with Policy E1 & E2.

9.2 The report further emphasis the lack of conflict with national and local planning policies, but this would only be the case were the units to be secured as affordable housing through a s106 agreement.

9.3 As no conflict with National or local planning polices has been identified, in accordance with paragraph 11 c) of the NPPF it is recommended that the development be approved without delay.



## 10.0 RECOMMENDATION

Delegate to Head of Planning and Building for the following:

The completion of a legal agreement to secure:

- A Deed of Variation to the legal agreement attached to application 15/01763/FULLS to secure all previous s106 requirements, including but not limited to, the provision of all units of accommodation as affordable housing with the terms and tenure mix as set out in that agreement.

then PERMISSION subject to conditions and notes:

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:

PD/001  
PD/002  
PD/003  
PD/004  
PD/005  
SL.01.LB  
SLA1  
BML/001  
DML/001  
SS-PD/01  
50087-LS-009F  
50087-LS-010F

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No flat hereby permitted shall be occupied until the approved parking has been laid out and provided for use in accordance with the approved plan and this space(s) shall thereafter be reserved for such purposes at all times.

Reason: To ensure sufficient off-street parking has been provided in accordance with the Test Valley Borough Revised Local Plan (2016) Policy T2 and in the interest of highway safety in accordance with Test Valley Borough Revised Local Plan (2016) Policy T1.

4. 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.

5. **Prior to the first occupation or use of the development, all hard landscaping as shown on plan number BML/001, shall be undertaken in accordance with these details. The soft landscaping details shown on plan number SO087-LS-010f shall be carried out before the end of the current or first available planting season following completion or first occupation of the development. The planting and landscaping shall be maintained to encourage its establishment for a minimum period of five years following completion of the development. Any trees or planting that are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within this period, shall be replaced before the end of the current or first available planting season following the failure, removal or damage of the planting Reason: In the interests of amenity and the appearance of the locality in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.**

**Notes to applicant:**

1. **In reaching this decision Test Valley Borough Council (TVBC) has had regard to 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 .... under Section 106 of the Town and Country Planning Act 1990 which affects this development.**