
APPLICATION NO.	20/00356/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	17.02.2020
APPLICANT	Mr Kevin Bryant
SITE	12 Hill View Road, Braishfield, SO51 0PP, BRAISHFIELD
PROPOSAL	Erection of single storey detached dwelling for supported living at rear
AMENDMENTS	08/01/2021- Nitrate Information 12/03/2021- Additional Nitrate Information 30/04/2021- Additional Nitrate Information
CASE OFFICER	Mr Mark Staincliffe

Background paper (Local Government Act 1972 Section 100D)

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 site is situated within the settlement boundary of Braishfield, this area is characterised by dwellings fronting the road and consists of two storey semi detached dwellings with large rear gardens. The application site forms part of the rear garden to 12 Hill View Road.

- 2.2 The site and the wider street scene is on a gentle slope and this slopes from its highest point from its Northern edge to the South.

3.0 PROPOSAL

- 3.1 Erection of single storey detached dwelling for supported living (C3b). The application would represent 'backland' development with no vehicular access directly serving the property. One off street parking spaces would be provided at the end of the turning head serving Hill View Road.

4.0 HISTORY

- 4.1 18/02713/FULLS- Proposed residential dwelling for supported living.
Withdrawn
- 4.2 19/00536/FULLS- Erection of single storey detached dwelling for supported living at rear. **Refused and dismissed at appeal**

5.0 CONSULTATIONS

- 5.1 **Ecology**- No objection subject to condition

5.2 **Highways-** Object- Giving regard to the previous pertinent history to this application site, Highways Development Planning took a balanced view and approach to the previous proposal and in that regard and were willing to accept a single parking space to be created at the turning head on Hill View Road that would serve the property remotely from the site in conjunction with an additional off-street parking space. The creation of two parking spaces at the top of the turning head to serve the application site remotely in what would appear to be proposed to simply overcome a previous refusal on unrelated highways matters is not considered acceptable.

Officer Comment- The submitted plans have now removed the second parking space at the turning head. The proposal now seeks to provide one parking space only. This is considered later in the report.

5.3 **Conservation-** No objection

5.4 **Policy-** No objection

5.5 **Natural England-** No objection subject to securing appropriate mitigation

6.0 **REPRESENTATIONS** Expired 16.04.2021

6.1 **Romsey and District Society-** Objection (Summarised)

- Over development of the site
- Not in character with the surrounding area.
- There is inadequate access for construction.
- There is no vehicular access for emergency vehicles and we question its suitability for assisted living.
- Parking arrangement is visually intrusive. further source of congestion and further over development of the area

6.2 **Local Residents-** 25 representations were received in total. 0 were in support and 25 raised objections to the proposed development. A summary of the comments is set out below (summarised):

- Over development
- Parking
- Highway Safety
- Ecological Harm
- Access not suitable for emergency services
- Impact on amenity of adjoin residents (noise disturbance and privacy)
- Light pollution
- Poor Design
- Harm to Conservation Area
- Harm to character and appearance of the area
- Previous appeal was dismissed so should this application
- Crime and public safety
- No need
- Harm to trees
- Conflict with village design statement
- Loss of sunlight and daylight

6.3 Braishfield Parish Council- Objection (Summarised:

- Backland development contrary to the Braishfield Village Design Statement (VDS) and has negative impact on the appearance of the village.
- loss of privacy for nearby houses
- Over-development of the site
- Poor access to the proposed property a long and narrow footpath.
- There is no vehicular access within close proximity of the property.
- No access for emergency services.
- Provision of a parking space on the road for an additional dwelling is not appropriate when the pressure for on-street parking is already so high.
- Parking will be required for additional vehicles visiting the new house, including patient transport vehicles and ambulances. This is not provided for.
- Parking for No. 12 Hill View does not appear to provide sufficient spaces for this extended
- Access to the site at the end of this cul-de-sac is poor. This plan will increase the congestion.
- With the limited provision for on-site and on-street parking, it is likely that the turning space at the end of Hill View Road will end up occupied by vehicles associated with this new house, making necessary turning very difficult.
- Issues with trade vehicles during the construction phase of the development
- Proposal will negatively impact the appearance and ambiance of the Conservation Area.
- This new building will be prominently visible and harm public views
- Privacy and overlooking
- The design of the roof is poor and does not complement the surrounding buildings.
- If permission is granted PD rights should be removed.
- No drawings showing a dustbin lorry entering and exiting Hill View Road.
- The new proposal would not allow a bin lorry to turn.
- No ecological report was submitted identifying the potential impact on wildlife in this area.

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)

Policy SD1: Presumption in Favour of Sustainable Development

Policy COM2: Settlement Hierarchy

Policy E1: High Quality Development in the Borough

Policy E2: Protect, Conserve and Enhance the Landscape Character of the Borough

Policy E5: Biodiversity

Policy E7: Water Management

Policy E9: Heritage
Policy LHW4: Amenity
Policy T1: Managing Movement
Policy T2: Parking Standards

7.3 Supplementary Planning Documents (SPD)

Braishfield Village Design Statement

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle of development
- Impact on heritage assets
- Impact on the character and appearance of the area
- Impact on amenity of neighbouring properties
- Impact on ecology
- Nitrate neutrality
- Highway safety and parking
- Recent appeal decision

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 The site is situated within the settlement boundary in Braishfield as defined by the Test Valley Borough Local Plan 2016 (LP). As a result, provided that the proposals comply with the other relevant policies contained within the Local Plan, they are considered acceptable in principle.

8.4 **Impact on Heritage**

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

8.5 In addition, Policy E9 of the RLP is pertinent to development affecting heritage assets and their setting and states:

Development and/or works affecting a heritage asset will be permitted provided that:

- a) *it would make a positive contribution to sustaining or enhancing the significance of the heritage asset taking account of its character, appearance and setting; and*
- b) *the significance of the heritage asset has informed the proposal through an assessment proportionate to its importance.*

8.6 Though the application site is not located within a conservation area the Northern and Western boundaries of the site about the boundary of the conservation area. It is therefore necessary to consider whether the proposal impacts on the setting of this heritage asset.

- 8.7 The proposed building is considered to sit comfortably within the curtilage of the application property due to its size, scale and design. However, the proposal is to be built in a location that doesn't respect the established pattern of development but by virtue of its small scale and materials to be used, it does respond to the character of the area.
- 8.8 Any glimpsed views of the proposal would be seen in the context of the existing dwelling and the context of the immediate area. The proposal is considered to have a neutral impact on the character and appearance of the conservation area and is therefore in compliance with Policy E9 RLP and section 16 of the NPPF.
- 8.9 In determining the recent appeal for planning application 19/00536/FULLS, the Planning Inspector concluded at paragraphs 11 & 12 that the development was COM2, E1 and E2 & E9 compliant. Taking into consideration the above matters it is considered that the proposal does not conflict with these policies and is acceptable in this regard.
- 8.10 **Design**
The design of the new building is considered to be appropriate in the context of the area. The proposed unit is of simple proportions with a rectangular footprint and a traditional roof. However, it also has sufficient detailing to add interest to the design and thereby not look out of place in design terms. It is considered that the design and appearance of the building is attractive and relates well to the existing property and street scene. As such the proposed design is considered to meet the requirements of Policy E1 of the RLP. As set out above, the Inspector's decision at paragraph 12 reached a similar conclusion that the proposal was appropriate in its context and would not result in conflict with Policy E1 or E2 of the RLP.
- 8.11 **Character and Appearance of the Area**
Policies E1 & E2 of the RLP requires new development to be designed to maintain and enhance the character and appearance of the area. This policy is an acknowledgement of the importance given to layout considerations that should be respectful of the urban grain. This matter formed a reason for refusal by the Council when considering the previous planning application but the Inspector disagreed with the Council's conclusion and was of the view that there was no conflict with the development plan.
- 8.12 The concerns of the local residents are noted as is their reference to the Village Design Statement for the Parish of Braishfield, which specifically seeks to avoid backland development and strives for truly high quality development. These were all arguments advanced within the Council's delegated report and appeal statement in consideration of the previous application. On considering the arguments advanced by the Council and appellant the inspector concluded that there was no conflict with the local plan or NPPF in this regard.

- 8.13 The design, size and scale of the submission is the same as the previously dismissed appeal, the only difference between the schemes is the parking arrangement and ability for the scheme to achieve nitrate neutrality. The planning inspector's decision was issued in January 2020 and there have been no new local or national planning policies that would alter the conclusion in the appeal decision. The Inspector's decision with regards to 'Character and Appearance' must be afforded significant weight and there have been no material change in circumstances that would indicate that the application should be refused. For the reasons set out above it must be concluded that the proposal does not conflict with Policy COM2, E1 & E2 of the Local Plan.
- 8.14 **Noise Disturbance**
The previously refused application proposed to provide one parking space to the front of the existing dwelling (12 Hill View Road). The appeal inspector agreed with the Council that this parking arrangement would cause disturbance to existing and future residents of 12 Hill View Road. To overcome this concern and reason for refusal the parking space has been removed. Taking into consideration this change to the submitted scheme it is concluded that that the proposal would not result in harm to the living conditions of the existing and future occupiers of number 12 Hill View Road. The proposal would therefore accord with policy LHW4 of the RLP.
- 8.15 **Loss of Sunlight & Daylight**
Taking into consideration the single storey nature of the dwelling and the separation distance between the proposed dwelling and neighbouring properties that there would be no adverse impacts on the amenities of neighbouring dwellings in terms of overshadowing and loss of sunlight or daylight. As such the development is considered to accord with policy LHW4 of the RLP with respect to amenity.
- 8.16 **Overlooking**
With regards to overlooking and overbearing impact, the proposal sees the construction of a single storey unit measuring 2.1m to eaves and 4.75m to ridge with no accommodation in the roof. Taking into consideration the single story nature of the development, the separation distance between the proposal and existing dwellings being between 21m & 31m, the existing and proposed boundary treatment and location of windows. It is considered that the development would not result in harm to the residential amenities of adjoining properties with regards to overlooking, perceived overlooking or overbearing impact, as such the development accords with policy LHW4 of the RLP in this regard. To ensure that overlooking does not occur in the future and to ensure the building does not, over time become overbearing by utilising permitted development rights it is proposed to remove these by way of planning condition.
- 8.17 **Highway Safety**
The previous application was supported by various tracking plans to demonstrate that the proposed parking is safe and can be accommodated without causing harm to highway safety and allowing vehicles and refuse carts to access the existing properties within the area. This information has been assessed by the Highway Officer and no objection is raised to the single parking space now proposed.

- 8.18 The planning inspector, when considering the appeal in 2020 reached a similar conclusion, with regards to this matter. It is considered that the level of traffic likely to be generated by the proposed residential element is minimal and would have no material impact upon highway safety or its efficiency in this location. The development therefore accords with policy T1 of the RLP.
- 8.19 **Ecology**
The previous application was accompanied by survey work which identified that the proposed work has potential to impact protected species including bats, nesting birds and foraging badger. The proposed site plan shows that the development will include planting of boundary vegetation and grass. Recommendations have been made within the ECOSA reports to avoid impacts to protected species and the incorporation of native species planting into the landscape proposals.
- 8.20 Provided that the recommendations made within the ECOSA reports are implemented no objection to the proposal is raised. The proposal would therefore accord with policy E5 of the RLP.
- 8.21 On a recent visit to the site it was noted that some site clearance had been undertaken on site in the area of the proposed parking space. The applicant's appointed ecologist has written to the Council confirming that this has been undertaken in accordance with the ecological reports prepared by ECOSA for this site.
- 8.22 **Garden Size**
The proposal would allow for some outdoor space, sitting out, bin storage and for hanging out of washing, the proposal would also provide outdoor amenity space for the occupant to enjoy.
- 8.23 Furthermore, the proposed garden area, though smaller than many in the locality, is considered acceptable for a unit of the size proposed. Bearing in mind the size of the dwelling proposed it is considered that the outdoor space provided satisfies the guidance for outdoor amenity space for a new dwellings. The development is therefore considered to comply with Policy LHW4 of the RLP.
- 8.24 **Contributions**
The development will also result in a net increase in residential dwellings within 13.6km of the New Forest SPA. This distance defines the zones identified by recent research where new residents would be considered likely to visit this site.
- 8.25 To address this issue, Test Valley Borough Council has adopted a strategy whereby a scale of developer contributions has been agreed that would fund the delivery of measures to address these issues. With respect to the New Forest, a new strategic area of alternative recreational open space is being delivered that would offer the same sort of recreational opportunities as those offered by the New Forest. The scale of these contributions is set at £1300 per new dwelling for the New Forest mitigation and will be secured through the s106 agreement. This is discussed in more detail later in the report.

8.26 **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.

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 by way of a s106 agreement. The mitigation off-setting land that the applicant has progressed to demonstrate that the effect of nitrates on the European site, is not adverse. This land is located within the appropriate catchment area and will be taken out of agricultural production and planted with trees. As such, the proposed development does not conflict with the Habitats Regulations and accords with Policy E5 of the TVBRLP.

8.29 **Parking**

The applicant has provided clarification as to the nature of the accommodation being C3b residential unit. Annex G and Policy T2 of the RLP sets out the Council's adopted standards. However, the classifications within annex G do not use the same definitions as the Use Class Order. It could be open to interpretation as to whether the proposal is a 'dwelling' or supported accommodation. If the proposal was considered to be a form of supported accommodation the local plan parking requirement would be for 1 off street parking space and a storage area. Subject to a planning condition limiting the use of the new unit of accommodation to a C3b use the proposal, if considered to be supported accommodation, is considered to accord with the RLP Policies T2 and Annex G.

8.30 However, if the proposal was considered to be a dwelling 2 parking spaces are required. In this case only one is proposed but Policy T2 does allow flexibility if there is likely to be low demand for parking. The applicant has clarified his company (Primary Access Ltd) offers care for individuals who are capable of living independently subject to some minimal external support. The individuals have sensory learning disabilities and are unlikely to drive and described as having low care support needs, as such the use of the unit would be C3b. Whilst the occupants are independent, they sometimes need assistance with just one member of care staff visiting at any one time. Subject to a planning condition limiting the use of the new unit of accommodation to a C3b use the proposal is considered to accord with the RLP Policies T2 a) as the nature of the use is not comparable to that of a standard C3 use.

8.31 In summary, whether the unit is considered to be a residential dwelling or supported accommodation for the purposes of Annex G it is considered to be compliant with the RLP.

8.32 The initial concern of the highway officer with regards to the provision of parking and parking arrangement has been overcome through amended plans. These concerns were noted and a revision to the submission made to overcome this concerns. As such there is no conflict with Policy T1 or T2.

8.33 **Neighbour Comments**

The observations and comments raised by local residents are noted and have been addressed in the body of the report above. However matters relating to need for the accommodation and crime and public safety have not been addressed. With regards to need- there is national housing crisis which successive governments have attempted to address, irrespective of there being a need or not for this type of accommodation the site is located within the settlement boundary. In locations such as this additional residential units are acceptable in principle and need is not material to the determination of the application.

8.34 The comments from various local residents with regards to community safety are noted. However, members of the public would not be permitted to live in accommodation such as this if it was not safe for the occupants or surrounding neighbours. As such these two matters are not reasons to refuse the planning application under consideration.

9.0 CONCLUSION

- 9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that “determination must be made in accordance with the plan unless material considerations indicate otherwise”.
- 9.2 It is agreed that the Council can demonstrate a 5 year supply of housing land. Furthermore, The outcome of the most recent Housing Delivery Test (HDT) have been published by Government, based upon performance over the previous three years it is confirmed that Test Valley Borough Council successfully passed the most recent HDT.
- 9.3 As relevant policies in the plan are not absent, silent or out of date paragraph 11 of the Framework is not engaged. The Council is therefore in the position of carrying out a straight balance, in decision making this means determining the application in accordance with the development plan unless material considerations indicate otherwise and as advised at paragraph 11 of the Framework development that accords with the development plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 9.4 In undertaking the balance it is first necessary to identify the development plan position. In particular the conclusions that there is no policy conflict arising from the granting of permission. It is acknowledged that the proposal does meet the Council’s parking standards as set out in policy T1 and annex G of the Local Plan.
- 9.5 Furthermore, the inspector’s reasons for dismissing a recent appeal have now been overcome. As no conflict with National or local planning policies 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:

- 1. The completion of a legal agreement to secure the offsetting land to ensure the scheme is nitrate neutral, does not result in harm to Special Protection Areas and thus is in full compliance with the Habitats Regulations in perpetuity and management of the land.**
- 2. The provision of a financial contribution towards the New Forest Special Protection Area (SPA).**

Then 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:
IMF2018/75/101 D**

**IMF2018/75/106 E
IMF2018/75/110 E
IMF2018/75/111 G
IMF2018/75/117 A**

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

- 3. The development hereby approved shall not be occupied or brought into use until, the car parking space, has been provided in accordance with the approved plan IMF2018/75/111 G. The area of land so provided shall be retained at all times for this purpose.**

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. 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. Details shall include:**

- i) proposed finished levels or contours;**
- ii) means of enclosure;**
- iii) hard surfacing materials;**
- iv) planting plans;**
- v) written specifications (including cultivation and other operations associated with plant and grass establishment);**
- vi) schedules of plants, noting species, plant sizes and proposed numbers/densities;**
- vii) programme of implementation.**

The landscape works shall be carried out in accordance with the approved details and the implementation programme.

Reason: To enable the development to respect, complement and positively integrate into the character of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policies E1 and E2.

- 5. Any trees or planting that are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within 5 years of their planting, shall be replaced before the end of the current or first available planting season following the failure, removal or damage of the planting.**

Reason: To enable the development to respect, complement and positively integrate into the character of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policies E1 and E2.

- 6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order), no detached buildings, extensions or external alterations to the development, structure, walls or fences of any kind shall be erected without the prior written consent of the Local Planning Authority.**

Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of the local amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy LHW4 & Policy E2.

7. **The site shall be used for Class C3b purposes and for no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).**

Reason: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case for accordance with Test Valley Borough Revised Local Plan (2016) policy LHW4, Policy T1 & Policy T2.

8. **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.

9. **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.

Note 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.**
-