

APPLICATION NO.	21/02607/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	23.09.2021
APPLICANT	Mr Mark Weeks
SITE	14 Fairview Close, Romsey, SO51 7LS, ROMSEY TOWN
PROPOSAL	Change of use of amenity land to residential garden - (Retrospective)
AMENDMENTS	None
CASE OFFICER	Kate Levey
	Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 The application is presented to Southern Area Planning Committee in accordance with the Member and Officer Interests Protocol.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The site is located within a built up area to the north east of Romsey. The property is an end of terrace dwelling situated at the eastern side of Fairview Close. To the south and east of the property are detached houses set within larger plots. Existing areas of open space and mature trees within existing gardens contribute to the feeling of openness. Public views from Fairview Close looking to the south east are of uniform two storey properties, and there is a backdrop of mature trees within the rear garden of Newlands.

3.0 PROPOSAL

- 3.1 This proposal is for change of use of a footway that is maintained by the Highway Authority. The change of use has already been undertaken and the planning application seeks to retain the use. For the avoidance of doubt the route does not show on the HCC Definitive footpath map and so does not constitute a public right of way.
- 3.2 The application also seeks planning permission for operational development in the form of a close board fence of approximately 1.8 metres in height. This fence forms an enclosure around the land in question and incorporates the land into the existing garden of 14 Fairview Close.

4.0 HISTORY

- 4.1 18/02267/FULLS Erection of front and rear single storey extensions to form extended lounge/dining area and porch. Permission subject to conditions and notes 12.10.2018

5.0 CONSULTATIONS

- 5.1 **HCC Highways:** no objection
- 5.2 **Refuse Collection:** no comment

6.0 **REPRESENTATIONS** Expired 11.11.2021

6.1 Romsey Extra Parish Council and Romsey Town Council (joint meeting):

No objection

6.2 X1 letter of objection: Treview, 5 Windfield Drive, Romsey (summarised)

- The small area of amenity land referred to in the planning statement is a public footpath
- The work was undertaken in summer 2020 without consultation
- The size of the rear garden at the site has increased by approximately 30%
- The existing northern boundary of Treview did not adjoin 14 Fairview Close as previously the footpath separated the two
- It is now not possible to maintain the boundary hedge and fence
- Adverse amenity impacts in terms of additional noise, loss of privacy, disturbance
- Garden and play items are positioned adjacent to the boundary, and the gate is adjacent to the boundary fence leading to further noise
- Impact to the character and appearance of the area – previously there was an open aspect of trees and hedges, which are now hidden behind a 1.9 metre close boarded fence which looks out of place
- With the footpath enclosed, the feeling of open ness is reduced
- The opportunity to apply for additional side / rear accesses has been removed
- Ownership issues – HCC adopted amenity land and an enforcement notice 21/0217/REG has been issued
- The notice under article 13 was placed in a free pick up publication only available in selected outlets and not widely distributed
- Loss of property value
- Damage to and use of the boundary fence during building works

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)(TVBRLP)

COM2: Settlement hierarchy

E1: High quality development in the Borough

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

E5: Biodiversity

LHW4: Amenity

T1: Managing movement

7.3 Supplementary Planning Documents (SPD)

Look at Romsey Area 5: Great Woodley

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle of development
- Character and appearance of the area
- Biodiversity
- Amenity
- Highways

8.2 **Principle of development**

The site lies within the settlement boundary as defined on the Inset Maps of the TVBRLP. In accordance with Policy COM2 of the TVBRLP development is permitted provided the proposal is appropriate to other policies of the Revised Local Plan. The proposal is assessed against relevant policies below.

8.3 **Character and appearance of the area**

To accommodate the change of use of the land to private amenity space, a close board fence of approximately 1.8 metres in height has been erected. This fence is situated at the eastern end of the row of terraced properties. Previously the boundary treatment between Newlands and 14 Fairview Close was visible at the end of the footpath.

8.4 During the case officer's site visit it was noted that the rear and side boundary of 5 Windfield Drive, to the south, is a timber fence of approximately 1.8 metres in height, with a high hedge atop. Other fences are also present in the immediate and wider residential estate, such as the south west boundary of 26 Fairview Close. Therefore the proposal does not appear at odds with other boundary treatments in the surrounding area. Furthermore, given the set back of the fence at the application site from the road, it is not visually intrusive.

8.5 Any views of the proposal would be seen in the context of the existing dwelling and other boundary treatments in the area. There is also a relatively narrow and recessed public view of the proposal such that the effect of the change of use on the character and appearance of the area is minimised. In this respect the development does not adversely affect the character and appearance of the area, in compliance with Policies COM2 and E1 of the RLP.

8.6 **Biodiversity**

The proposal is not considered to give rise to any adverse impacts on existing habitat or on-site ecology, and the proposal is in accordance with Policy E5 of the RLP.

8.7 **Amenity**

Third party concern from the owner of 5 Windfield Drive with regards to noise is noted. The comments raise concern about additional noise disturbance from the area of land incorporated into the applicant's garden due to the use of children's play equipment in close proximity to the shared boundary, and also noise from the garden gate being opened and closed. Noise disturbance from residential activity is an inevitable consequence of living within a built up area. The

proposal extends an existing garden, which could already be used for the purposes outlined above, moving the play equipment closer to the boundary fence by approximately 4 metres is not considered to give rise to additional significant impacts to the neighbour in terms of noise, over and above what was experienced previously. Comment has also been received by the owners of 5 Windfield Drive about a reduction in privacy. The development is not considered to have caused issues relating to privacy because there is a fence of approximately 1.8 metres in height and mature hedging between the application site and 5 Windfield Drive. Therefore views into the private garden spaces within these properties is limited.

8.8 By the nature of the development and its scale, it's position relative to neighbouring property, and the nature of the other intervening boundary treatment the proposal would not give rise to an adverse impact on the living conditions of neighbouring properties by virtue of loss of daylight, sun light, or privacy. The proposal is in accordance with policy LHW4 of the RLP.

8.9 **Highways**

The area of path which has been enclosed by the fence was previously accessible to the wider public. It was not used by vehicles and does not provide vehicular access or pedestrian access to anywhere other than the rear gardens of properties to which it is adjacent to. Neither does it represent a Public Right of Way as defined on the definitive footpath map. The Highways Officer has raised no objection to the application and the scheme is not considered to give rise to any detrimental highways impacts. The application is in accordance with policy T1 of the RLP.

8.10 **Other matters**

Ownership of the land

Originally an incorrect ownership certificate was signed, this has been corrected with Certificate D now served. The applicant has confirmed that enquiries have been made to both Test Valley Borough Council and Hampshire County Councils to determine who is the legal owner and the land is unregistered. An advert has been placed within the Hampshire Independent on 27th August 2021. Any disputes regarding land ownership are between the relevant parties as a civil matter, and is outside of the scope of planning control and should in no way influence the determination of the application and must be determined on its merits.

8.11 Third party comments

It has been commented by the owners of 5 Windfield Drive that it is no longer possible to maintain the boundary hedge and fence, and that there has been damage to the boundary fence during the building works. Additionally, comment has been received about a loss of property value. These are matters which are not material to the determination of this planning application and as such are afforded no weight in the determination of the application.

9.0 **CONCLUSION**

9.1 The proposal is in accordance with the relevant policies of the TVBRLP (2016) and is therefore acceptable.

10.0 RECOMMENDATION

PERMISSION subject to conditions & notes

- 1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan: location plan / block plan.
Reason: For the avoidance of doubt and in the interests of proper planning.**

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.**