

Appeals Progress Report

1. New Appeals

- 1.1 An appeal against refusal of planning permission 21/00331/FULPP for the *“Construction of an attached dwelling to the existing semi-detached property to create a terrace of 3 following the demolition of existing detached garage”*. at **71 Tongham Road, Aldershot** has now been made valid and given a start date. The planning appeal reference is APP/P1750/W//21/3284132. The appeal will be determined by the ‘written representation’ method.
- 1.2 An appeal against refusal of planning permission 21/00912/FUL for the *“Formation of a new driveway and vehicular access for off street parking”* at **66 Church Road Aldershot**, has now been made valid and given a start date. The planning appeal reference is APP/P1750/D/22/3294328. The appeal will be determined by the ‘householder fast track written representation’ method.

2 Appeal Decisions

- 2.1 Appeal against refusal of planning permission 21/00276/FULPP for *“Erection of a one bed dwelling with associated parking”* at **81 Blackthorn Crescent, Farnborough** The Council refused planning permission under delegated powers on 2 June 2021 for the following reasons;

- 1 The proposal would result in a cramped form of development on an awkwardly shaped plot, that would be dominated by off-road parking, with no compensatory landscaping, that would be out-of-character with the surrounding area and due to its prominent location at the junction of two roads, would have a detrimental impact upon the street scene and the character of the surrounding area, contrary to Policies DE1 and DE11 of the Rushmoor Local Plan and the National Planning Policy Framework/Practice Guidance..
- 2 It has not been satisfactorily demonstrated that off-road parking in accordance with the requirements of Policy IN2 of the Rushmoor Local Plan and the Council's adopted Car & Cycle Parking Standards SPD 2017 will be provided and this may lead to further demand for on-street parking, to the detriment of highway safety and visual amenity and friction between the two households.
- 3 The proposal fails to make any provision for off-site Public Open Space improvements to support the addition dwelling and is thereby contrary to Policies DE6 and DE7 of the Rushmoor Local Plan.
- 4 The proposed development makes no provision to address the likely significant impact of the additional residential unit on the objectives and

nature conservation interests of the Thames Basin Heaths Special Protection Area. The proposal does not include any information to demonstrate how the development will enhance bio-diversity within the site to produce a net gain in biodiversity. The proposals are thereby contrary to the requirements of retained South East Plan Policy NRM6 and Policies NE1 and NE4 of the Rushmoor Local Plan.

- 5 The proposals will result in a significant increase in the amount of buildings and hard surfaced areas and fail to provide details of appropriate surface water drainage for the development as required by adopted Rushmoor Local Plan Policy NE8.

The Inspector considered the main issues to be:

- a) The effect of the proposal on the character and appearance of the area,
- b) Whether the proposed parking would be adequate, and
- c) The method for securing off-site public open space improvements

The Inspector agreed with the Council that the development would not accord with the general character of the area, producing a cramped development, dominated by parking and with little opportunity for landscaping. In summary, the Inspector concluded that the proposal would harm the character and appearance of the area. It would not accord with Policies DE1 or DE11 of the Rushmoor Local Plan 2014-2032 (LP), which together seek to ensure that development proposals respect the character and appearance of the local area including the established pattern of development.

The Inspector also agreed that the proposed parking arrangements were unsatisfactory and likely to harm the amenity of the properties and rejected the argument that the Council's adopted parking standards were excessive. The proposal was found contrary to Policy IN2 of the Local Plan which seeks to provide appropriate parking provision in terms of amount, design and layout, in accordance with the SPD.

The Inspector noted that the parties agree that a contribution towards nearby schemes of public open space, which would be of benefit to the future occupiers of the proposed dwelling, would be appropriate, but dismissed the appellant's suggestion that this could be secured through a condition. The proposal would therefore fail to contribute to nearby schemes of public open space contrary to Policies DE6 and DE7 which seek to ensure that development proposals support the provision of high quality and accessible open space and facilities.

The Inspector considered that the drainage issues could be dealt with by condition, were they minded to allow the appeal.

The Inspector noted that although the proposal would deliver a new dwelling in a location with good access to local services and facilities, this is not sufficient to outweigh the harm found in relation to the main issues.

The Inspector noted that the appeal site is within 5km of the Thames Basin Heaths Special Protection Area and agreed that the addition of a residential

dwelling within this area would be likely to have a significant effect on the internationally important interests and features of this site. As the Inspector intended to dismiss the appeal for other reasons, the likely significant effect would not occur in any event, and this matter did not therefore need to be considered further.

The Inspector therefore **DISMISSED** the Appeal.

- 2.2 Appeal against refusal of planning permission 21/00048/REVPP seeking to *“extend customer opening hours one hour earlier from 06:00, and closing one hour later until midnight, 7 days a week”* at **McDonalds, 1 North Close, Aldershot**, has been allowed, with a condition that the extended hours operate for temporary trial period of 1 year.

The Development Management Committee refused the application in April 2021 for the following reason:

1. The proposed permanent extended customer opening hours would give rise to unneighbourly nuisance impacts on neighbouring residential properties due to lighting and activity early in the morning and late at night to the detriment of the living environment and amenities of occupiers of those residential properties. The proposals are thereby unacceptable having regard to Policies SS1, DE1 and DE10 of the adopted Rushmoor Local Plan (2014-2032) and the National Planning Policy Framework and Guidance.

The Inspector concluded it was unlikely that the proposal would result in significant disturbance by way of noise, given the relatively high ambient noise levels, and Customer Order Points and roof plant being put on night time settings. The acoustic report was considered to be robust.

The Inspector accepted the appellant's mitigation measures as reasonable and enforceable. These include cordoning off spaces closest to Clyde Court during the extended hours, adjusting customer order point plant to night time settings and compliance with the Premises anti-social behaviour Management Plan.

The Inspector granted the extended hours for a temporary period of 1 year to allow the LPA to review the efficacy of the proposed mitigation measures. The appellant may apply to the LPA to vary the condition thereafter.

The impact on amenity from internal lights, signs and headlights was found to have an acceptable impact with no technical evidence presented to demonstrate otherwise.

The Inspector therefore **ALLOWED** the Appeal.

- 2.3 Appeal against refusal of planning permission 20/00149/FULPP seeking *“Refurbishment and amalgamation of existing Units 2A & 3 Blackwater Shopping Park, including removal of existing mezzanine floors, revised car parking and servicing arrangements; relief from Condition No. 4 of planning permission 93/00016/FUL dated 10 January 1994 to allow use as a foodstore*

*(Use Class A1) with new mezzanine floor to provide ancillary office and staff welfare facilities, ancillary storage and plant machinery areas; use of part of new foodstore unit as self-contained mixed retail and cafe/restaurant use (Use Classes A1/A3); relief from Condition No. 17 of planning permission 93/00016/FUL dated 10 January 1994 to allow extended servicing hours for the new foodstore unit of 0600 to 2300 hours Monday to Saturday (including Bank Holidays) and 0700 to 2000 hours on Sundays; loss of existing parking spaces to front of proposed foodstore to provide new paved area with trolley storage bays and cycle parking; installation of new customer entrances to new units; widening of site vehicular access to Farnborough Gate road to provide twin exit lanes; and associated works (re-submission of withdrawn application 19/00517/FULPP)” at: **Units 2A & 3 Blackwater Shopping Park, 12 Farnborough Gate, Farnborough.***

The Council’s Development Management Committee refused planning permission on 20 January 2021 in agreement with the recommendation set out in the Officer Report put to this meeting, for the following reasons:-

- 1 It is considered that there is a sequentially preferable suitable and available town centre location which could accommodate the proposed development. Development in this out of town location would therefore be contrary to the objective of regenerating Farnborough town centre and would adversely impact upon the vitality and viability of the town centres within the Borough. As such the proposal conflicts with Policies SS1, SS2, SP1, SP2 and LN7 of the adopted New Rushmoor Local Plan (2014-2032), the advice contained in the National Planning Policy Framework and the objectives of the Supplementary Planning Documents on Farnborough Town Centre (July 2007) and accompanying Prospectus.
- 2 The proposal fails to make the appropriate financial contributions for the implementation and monitoring of a Travel Plan. The proposals thereby fail to meet the requirements of Policy IN2 of the adopted New Rushmoor Local Plan (2014-2032).

The appeal was considered under the Written Representations procedure. The Inspector considered the main issue to be whether the proposal would meet the sequential test for main town centre uses set out in the National Planning Policy Framework, and whether it would have a significant adverse impact on the vitality and viability of Farnborough town centre.

The Inspector considered that the small food and beverage unit proposed with the scheme would primarily serve existing customers at Blackwater Shopping Park (BSP) as an ancillary use and therefore has a specific location need. Accordingly, only the proposed discount foodstore (indicated to be occupied by Aldi) needed to be considered in terms of applying the sequential test.

The Inspector noted that the sequential site assessment had been undertaken and subsequently updated for the appeal : some considerable time had elapsed since the planning application had been refused. Furthermore, when the

Inspector visited Solartron Retail Park (SRP) recently, the only sequentially preferable location (at Units 3-4 SRP) for a discount foodstore within Farnborough Town Centre cited by the Council to justify the refusal of planning permission, was clearly now being prepared (as a result of planning permission 20/00287/FULPP granted in September 2020) for occupation by Lidl. Additionally, no other potential sequentially preferable site(s) had been identified during the appeal proceedings. On this basis the Inspector concluded that there were no longer any sequentially preferable sites to the appeal scheme, such that the sequential test was now passed.

The Inspector also concluded that there would not be a significant adverse impact on the vitality and viability of Farnborough town centre in terms of any loss of customer choice or any increase in shop vacancy rate.

With respect to reason for refusal No.2, the Inspector noted that a satisfactory s106 Unilateral Undertaking had been agreed between the appellants and the Highway Authority (Hampshire County Council) to secure the Travel Plan financial contributions that they required. This dealt with this reason for refusal.

The Inspector therefore **ALLOWED** the Appeal.

The outcome of this appeal is of no surprise, since the case was always known to turn upon whether or not Lidl would commit to the sequentially preferable SRP site – and whether or not this would become known at a fortuitous stage during the BSP Aldi scheme appeal proceedings. When planning permission was refused for the BSP scheme identifying Aldi as the proposed foodstore operator there was no indication that the permitted SRP scheme was near ready to be implemented and, indeed, that Lidl would actually secure this site for their own use.

3. Recommendation

4.1 It is recommended that the report be **NOTED**.

Tim Mills

Head of Economy, Planning and Strategic Housing