



Eastleigh Borough Council

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F/22/93194

Date

23 August 2023

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Planning reference: F/22/93194

Site location: Ageas Bowl, Marshall Drive, West End, Southampton SO30 3XH

Proposal: Full planning application for the erection of 186 dwellings, a 71-bedroom care home (Use Class C2), a 142-bedroom hotel (Use Class C1), a well-being centre (Use Class E / F2), improvements to existing stadium, new vehicular access, car parking, pedestrian circulation, together with associated tree planting, landscaping, SuDS and biodiversity enhancements (Amended description)

Consultation Response: Refusal recommended

Thank you for consulting Hampshire County Council's Countryside Service ('the Service') as local highway authority in respect of Public Rights of Way ('PROW') and as Commons Registration Authority. It also manages Country Parks and Countryside Sites throughout Hampshire. Please accept this as its response to the above proposal, taking into account the material considerations relating to PROW, Commons, and impacts to Hampshire County Council (HCC) Country Parks and Countryside Sites.

Comment

The local planning authority and the Applicant are requested to refer to the Service's earlier comments dated 17 November 2022.

Review of the documents submitted since that date, notably the Walking Cycling and Horse Riding Assessment and Review (WCHAR), the Transport Assessment, the Transport Assessment Addendum, the Design and Access Statement Addendum, and the Response to Consultees and Design Review Panel by Calderpeel Architects, has failed to identify the Service's earlier response has been acknowledged, considered, or commented on. This would be contrary to the assurance given by the Applicant's agent in its cover letter 28 July 2023.

The Service offers comments on the following documents but requests the Applicant still refer to its earlier response of 17 November 2022.

1. WCHAR

This correctly identifies there are 4 no. Public Footpaths within the study area – West End Public Footpaths nos. 10, 505, 506, 509. It also acknowledges, amongst others, National Planning Policy Framework (NPPF) paras. 100 and 104, and the Service's Design Standards.

There is, however, no consideration within para. 3.4 - Walking Specific Opportunities, or para. 3.5 - Cycling Specific Opportunities, or elsewhere, of the Service's earlier comments to introduce cycling along West End Public Footpath 509 ('footpath 509') so as to connect the site with Botley Road, or for a walking and cycling route from the site to Moorhill Road through Telegraph Woods. Comment on Opportunity 6, the creation of a route through to Telegraph Road, appears to dismiss such a route (see Sections 6 and 7 below also).

Para. 2.6.3 notes there are 'very few dedicated cycling facilities in the area'; to which the Service suggests this is good reason to provide new routes as above. These routes would not just be for cycle access to and from the site but so that these paths connect local quiet roads and existing cycling facilities to make an integrated and wider local cycle network, thereby assisting to deliver the Travel Plan's stated aim of encouraging modal shift and meet various planning policies.

2. Transport Assessment Appendix D

Drawing 3579-SK-102 Rev A gives no regard for footpath 509. The Service is particularly interested to learn of proposed provision for walkers (potentially cyclists too – see Section 1 above) parallel to the proposed access road to connect with Botley Road.

3. Transport Assessment Appendix J

This acknowledges NPPF paras. 104, 106, and 112. Para. 3.3.3 references West End Public Footpath 10 ('footpath 10') (which is to the north-east of the site, not west) and, in light of the Travel Plan's aim for modal shift, infers this should be an attractive route for people walking from Moorgreen Road and Tollbar Way. The Service agrees increased user could be attracted to and from the Ageas Bowl on footpath 10 were the issues noted in WCHAR para. 2.5.3 addressed. Footpath 509 is acknowledged but without commentary and no recognition it would provide access for residents or visitors. As with the WCHAR, there is no suggestion of enhancement of the local PROW network, e.g. link to Moorhill Road; and without increasing off-road access opportunities, such as the routes suggested in the Service's earlier response, the Service disagrees with para. 3.10.1 that suggests 'there are good pedestrian and cycle links between the Ageas Bowl development and the surrounding local area'. This statement in fact contradicts WCHAR para. 2.6.3 (see above).

4. Landscape Plan Area 1 (East) Sheet 2 of 6

Drawing J00828-MP-002 Rev 13 indicates a proposed diversion route of footpath 509 due to proposed car parking and landscape plantings; however, it is unclear what provision is intended so path users can safely and conveniently connect with Botley Road (see also Section 2 above).

In suggesting diversion of part of footpath 509, it is presumed the Applicant would seek this under the Town and Country Planning Act 1990 Section 257. The principal legal test to satisfy is that diversion is necessary 'in order to enable development to be carried out', which would appear to be satisfied by the site layout as proposed. If taking this approach, the Applicant

is recommended to be aware of DEFRA [PROW Circular 1/09](#), particularly paras. 7.8 and 7.15 – the former requires diversions to avoid use of estate roads; and the latter requires consideration to be given to the disadvantages or loss path users or nearby occupiers may feel compared to the existing route.

The Service wishes further to advise the Applicant that it will require any diversion route to be constructed to its satisfaction and for the Applicant to provide a commuted sum for its maintenance in the years ahead. Design guidelines are made available by the Service on the HCC website: see [Countryside Service design standards | Hampshire County Council \(hants.gov.uk\)](#) (acknowledged within the WCHAR). A commuted sum will be necessary as the Service considers it is inappropriate for it, consequentially from development, to be faced with an increased liability without mitigation – advice on charging is provided below.

5. Landscape Plan Area 4 Sheet 4 of 6

Drawing J00828-MP-004 Rev 09 does not include PROW within its key (as a green dashed line) but includes a marking relevant to Sheet 2 suggesting PROW diversion instead, which is not relevant to the area depicted; some may find this confusing.

Also, no formal link from the occupied site to footpath 509 appears to be provided yet the Design and Access Statement (August 23) suggests a new path crossing footpath 509 would be provided for access to/ from the proposed Thorneydown parking area. These statements/ drawings are inconsistent.

6. Landscape Plan Footpath Link to Telegraph Road

Drawing J00828-MP-009 Rev 07 suggests only an informal provision with a possible additional cycle link to be created at a later time. To the Service this appears to roll back from the earlier suggestion by the Applicant that a walking and cycling route between the site and Telegraph Road would be provided as part of the development.

On the suggestion to lay bark mulch on the path surface, the Service advises the permission of the landowner will be needed and queries the use of bark mulch – this will quickly degrade and decompose, adding to the difficulty of using the path; which likely will require increased future maintenance rather than less. It is not explained who would be expected to maintain this route in future.

7. Transport Assessment Addendum

Section 7 - Footpath Links through Telegraph Woods, clarifies the Applicant's intention not to offer a formal route, only a permissive footpath. It is uncertain how the Applicant can offer this if not in control of the land and, as commented in Section 6 above, this seeks to roll back the Applicant's earlier suggestion to provide a walking and cycling connection between the site and Telegraph Road.

The local planning authority should note that if a permissive path is provided, there is no guarantee this will remain available in perpetuity for the public - whomsoever owns the land could close public access at any time; whereas if a route is established as a PROW (or other publicly maintainable route, such as a Cycleway), public access can only be withdrawn following consultation with the public. For this reason, the Service does not consider the offer of a permissive path is ever appropriate to mitigate development.

Conclusion

It is difficult to consider this proposal as offering any enhancement to the PROW network, so the Service must consider it contrary to NPPF para. 100, Eastleigh Local Plan Policy DM13, and other policy. The application is at times inconsistent if not contradictory towards off-road access provision, and also appears to roll back on the earlier suggestion of improved off site access links.

Given the prominence of PROW and off-road access within the NPPF, the Eastleigh Local Plan, HCC's Transport Plan 4, and other policy documents, the Service considers the application should be refused. It is appreciated the local planning authority will be weighing a multitude of topics in making its eventual decision, which may be some time away still, and that the Applicant may seek to use that time to address the many concerns of the Service as stated above and in its previous response.

Were the Service offered a further opportunity to review this proposal, it would expect the Applicant to better recognise the impact of development on the local PROW network and how that network can deliver for future residents and visitors of the site. The following information would be required:

1. demonstrate how the proposal satisfies NPPF paras. 92, 93, 100, 104, 106, and 112;
2. a plan with accompanying specification for the proposed diversion route of footpath 509, together with advice on how the Applicant would seek to secure this.

In addition, the Service expects the following to be specifically delivered:

- i. positive proposals to deliver links to Moorhill Road and Telegraph Road, and the introduction of public rights to walk and cycle over these and to Botley Road.
- ii. a schedule of improvements to be delivered to improve footpath 10 so as to reduce local vehicle use and ensure off-site access opportunities for future site residents, whether for recreation, personal health, or for other justification for planning permission.
- iii. a schedule of improvements to be delivered to improve footpath 509 so this can reasonably accommodate the increased user arising from the proposed development.

Where works are agreed as necessary as mitigation in the event of grant of planning permission, it is customary for an Applicant to undertake appropriate works on the PROW network subject to the prior approval of the Service and securing any other necessary permissions. It is, however, possible the Service could accept to undertake some or all of such works on behalf of the Applicant subject to the Service securing a suitable sum within a Section 106 obligation.

The Applicant is also advised the Service will require, in the event any development is permitted, a commuted sum to mitigate the increased maintenance demand in future years on the local PROW network as a result of this development – demand will increase as a consequence of the increase in the local population as much as the increased use of PROW for non-motorised access to and from the Ageas Bowl for sporting and other entertainment events. HCC corporate practice is to secure financial contributions for the future maintenance of its highway assets where development can reasonably be foreseen to increase the pressure on highway surfaces or other highway facilities – it is inappropriate for HCC, consequentially, to be faced with an increased liability without mitigation. Once the proposal has been clarified in response to the above points, the Service will be able to advise further

on an appropriate commuted sum – this will be calculated using the Service's standard formula at the time of signing any S106 obligation and suitably index linked.

Should the local planning authority be minded to determine the application shortly, it is requested to contact the Service for reasons for refusal.

Yours sincerely,

Jon Perks

On behalf of Hampshire Countryside Service - Countryside Planning

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