



Planning and Economic Development

The Commons Team
The Planning Inspectorate
3A Temple Quay House
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Bristol
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By email

30 November 2020

Dear Commons Team

Woodcock Hill Village Green - Vale Avenue - Borehamwood - Hertfordshire - WD6 2BD

I refer to the application for Deregistration and Exchange of village green land at Woodcock Hill, Borehamwood submitted to the Secretary of State by Taylor Wimpey.

The application to register land at Woodcock Hill as a village green was made to Hertfordshire County Council as Registration Authority in 2004. A public inquiry was subsequently held in 2007; the Inspector concluded that the conditions for registration of the land (with the exception of the area to the east of footpath 9) were met i.e. that the local community had used the land, as of right, over a period of at least 20 years for lawful sports and pastimes, and that the registration authority should register the land as a town or village green. Hertfordshire County Council registered the Village Green in 2008. Hertsmere Borough Council respects the outcome of the 2007 public inquiry and subsequent decision to register the land as a village green. This resulted in land which had been previously been safeguarded for housing in the 2003 Local Plan being unable to be considered further for residential development. As such, the land was returned to the green belt in the current Local Plan, a decision which was supported by the Inspectors who examined that plan.

The Council objects to the proposed deregistration of village green land as set out in Taylor Wimpey's application to the Secretary of State. The objection relates both to the detrimental effect on the interests of the neighbourhood and the wider public interest. It also relates to inconsistencies in the manner in which the perceived benefits of the proposals are misleadingly presented in the application and on the applicant's website.

Impact on the Interests of Persons having Rights in relation to the land and residents of the neighbourhood

Hertsmere Borough Council is strongly of the view that the area of land as originally designated should remain as village green for the benefit of the local community, following the process which was undertaken in 2007. Whilst it is accepted that the area of land to be exchanged is slightly

larger than the area proposed to be de-registered, the Council does not agree that it is of equal benefit and is unaware of any local support for such an exchange.

Section 16 of the Commons Act 2006 requires that a decision as to the merits of the proposal must have regard to the interests of persons having rights in relation to the land and of the neighbourhood. The rights to use the existing registered Woodcock Hill Village Green are vested in the inhabitants of the neighbourhood.

The Inspector at the 2007 Inquiry was satisfied that *'the user evidence supports the applicant's case that the application land has been used for recreation by a significant number of the inhabitants of a particular neighbourhood, namely the residents of Linster Grove, Carrington Close, Carrington Avenue, Lullington Garth, Masefield Avenue, Milton Drive, Tennison Avenue, Byron Avenue, Melrose Avenue, Vale Avenue, Byron Avenue and the few houses on the western side of Furzehill Road between the track to the rear of the houses in Melrose Avenue to the south and Tennison Avenue.'* The land continues to be used and enjoyed by the local community as is evidenced by the weight of objection to the current proposals from local residents. In their response to the applicant's June/July 2020 consultation exercise these residents highlighted the significant amount and breadth of use they make of and the high degree of value they place on the currently designated village green area.

The applicant's supporting statement seeks to demonstrate that overall, the proposed village green area with revised and potential new access points will be accessible to more people in the wider area. For those in the defined neighbourhood however, the applicant's evidence indicates a reduction in accessibility. It is also noted that the availability of the additional access onto Byron Avenue which would improve accessibility for those living in Byron Avenue and the wider area, is not certain, being noted as 'potential'¹

Even were the proposals to result in proximity to points of access remaining the same or improving for residents of the neighbourhood, the majority of the proposed revised village green, including the land offered in exchange, would effectively be separated from its original community in both distance and visual terms. The area to be de-registered is the closest part of the village green to the neighbourhood, and has a significant, open frontage to Vale Avenue. The proposed revised village green area would have only limited frontage to Vale Avenue, with the main part of the village green being located elsewhere and accessed via a narrow strip of land linking it to Vale Avenue. Should the de-registration and exchange proceed, the open, 'useful', part of the new area of village green would be further from neighbourhood residents, and thus separated from its neighbourhood community by distance, making it less accessible particularly to those with any sort of mobility difficulties. The village green would also effectively be separated from its original community in visual terms. This would particularly be the case in the event that the applicant's clear intention of pursuing residential development on the current village green site should subsequently be successful.

The importance to health and wellbeing of having good access to open space has increased significantly during the current covid-19 pandemic and this would be exacerbated by the loss of a valued, existing area of public open space.

The applicant indicates that should the application for de-registration and exchange be successful, the area de-registered will cease to be available for recreation and access (para 5.36 Supporting

¹ as indicated in eg para 4.5(vi) and the tables in Para 5.44 of the supporting statement, and the draft S106. The draft S106 indicates that the applicant would 'use reasonable endeavours to provide a pedestrian access from the new village green to Byron Avenue but that if this had not been resolved within a specific period of time then there would be no obligation to do so.'

Statement). Whilst proposals for the replacement village green land are indicated to be implemented within 18 months (or 36 months+ if any of the proposed enhancement works require planning permission), no timescale is indicated for the removal of access to the area proposed for de-registration - just that *'It is the intention that the Release Land would cease to be available for recreation and access should the Application be approved.'* In addition it is not clear how, in the event of the current application being successful, use of this area for recreation and access would be prevented. The erection of security fencing around the site would be significantly detrimental to the amenity of the local area and could be in place for a significant period of time should consent for residential development not be forthcoming.

The applicant's clear intention for the area proposed for de-registration is to pursue a housing allocation in the emerging Hertsmere Local Plan and the granting of planning permission for residential development (see below). This is a matter for the local planning authority to determine in the first instance. Should an allocation and/or consent for residential use not be forthcoming however, no provision for how the site will be managed going forward is indicated, and as indicated in para 5.6 of the Supporting Statement, this situation could continue without time limit. Absence of use and management on the site will result in a deterioration in appearance and loss of amenity, in particular for those local residents whom the original designation was intended to benefit.

In light of the above the Council does not agree with the applicant's statement (para 5.18, Supporting Statement) that *'the effect of the proposals on the ability of rights holders to exercise their rights is effectively mitigated by the provision of the proposed Replacement Land, which will grant the same rights and freedoms as currently enjoyed should the Application be approved. Accordingly, the interested persons having rights in relation to, or occupying the land are not lost by the proposals, merely transferred.'* The Council therefore considers that the specific area of land as currently designated should retain its village green status and objects to the proposed re-registration and exchange.

Public Interest - housing development

Section 16 of the Commons Act 2006 requires that regard to the public interest must be given in determining an application for de-registration and exchange. Despite indicating that the application for de-registration and exchange of village green land is not tied to proposals to develop the site (see below for further discussion of this point), the applicants indicate via their Supporting Statement (e.g. para 5.82) that the provision of housing on the land proposed for de-registration would *'deliver significant underlying public benefits by providing much needed new homes, including Affordable Housing in an area with significant affordability pressures and in a highly accessible and sustainable location as previously recognised by the site's former 'Reserve Housing Site' status.'*

In response, Hertsmere Borough Council would firstly point out that the 2003 Local Plan, in which the land currently being proposed for de-registration was safeguarded for housing, has been superseded by the current Local Plan, adopted in 2013 (Core Strategy) and 2016 (Site Allocations and Development Management Policies) wherein a review of safeguarded land for housing resulted in the land being returned to full Green Belt status. Its former safeguarded status carries no weight.

Going forward HBC is in the process of assessing a large number of sites that have been promoted for development through the local plan-making process, a process with in-built opportunities for local communities to engage with the decision making process. No decisions have yet been made as to what allocations will be made in the new plan. It is anticipated that a Regulation 19 plan will be published for consultation in mid-2021. The public interest in relation to

future housing provision will be secured through allocating those sites that best deliver the emerging growth strategy for the borough, and which are consistent with emerging policies for the type and location of new development required in order to meet the borough's future needs. It is these criteria, not the contents of an out of date and superseded former Local Plan, nor robust promotions of individual sites, which will determine the choice of sites to be allocated.

As the applicants are clear that the current application *'is related solely with the proposed Deregistration and Exchange of Village Green land'*, benefits which the applicant claims would accrue from potential future development cannot be used to justify the current application. This is particularly given the case that the area on which the application proposes development lies within the Green Belt and is wholly covered by a Local Wildlife Site designation, and is thus contrary to both national and local planning policies.

Public Interest - Local Economy

The applicant indicates in para 5.87 of the Supporting Statement that the delivery of new homes on the site *'would also generate significant public benefits in the form of funding for local infrastructure, create employment opportunities, increase spending in the local economy and raise tax revenue.'* The Council's view is that it could be argued that any such development could provide benefits of this type and this would not provide public interest justification for the development of this site over others. Again, if, as the applicant claims, the current application is independent of any proposals for development on the site, this argument cannot be used to justify the de-registration and exchange proposal.

Public Interest – other issues

In line with the definition of 'public interest' in s16 of the Commons Act 2006, the applicant has submitted a significant amount of evidence relating to the ecological and heritage advantages/absence of negative impacts arising from the proposed de-registration and exchange of village green land.

The Council would want to be assured that those organisations with the degree of interest and specialist knowledge to be able to properly assess and validate these technical documents have been invited to comment on the application as submitted to the Secretary of State. This is particularly the case with issues relating to the impact on the ecology of the Local Wildlife Sites affected by the proposals; a significant amount and level of objection, both to the potential loss of the existing village green land within the Woodcock Hill Village Green Local Wildlife Site, and to the nature of the works proposed on the exchange land here and in the Elstree Tunnel East Grasslands Local Wildlife Site, was submitted to the Taylor Wimpey consultation undertaken in June/July 2020. The appropriateness of the proposed works on the exchange land in ecological/biodiversity terms needs to be rigorously assessed.

Links to potential housing development

Hertsmere Borough Council does not consider it correct to say, as the applicant does on their website, that *'This application is not linked to any potential housing development at this site and is solely related to providing an enhanced Village Green for the local community,'* Paragraph 1.3 of the supporting statement indicates that *'This Application to the Secretary of State is related solely with the proposed Deregistration and Exchange of Village Green land under the provisions of the Commons Act 2006.'* Such a statement is clearly misleading given that it proceeds to advise that *'In parallel with this Application, the Applicant is promoting the area of Village Green proposed for deregistration for residential development through the Hertsmere Local Plan-making process and*

the success of this Application will assist in facilitating this objective, either in the preparation of the next Local Plan or future iterations thereof.'

The applicant's very clear rationale for seeking to release this area from village green designation is to prepare the way for seeking to achieve a housing development on the site. The applicant is, of course, a national house builder and in fact submitted a representation to Hertsmer Borough Council's public engagement on 'Potential Sites for Housing and Employment' in December 2018 promoting the site for residential use.² This submission acknowledged that the site lies '*within an area registered as a Village Green and as such, it is proposed that under the provisions of the Commons Act 2006: Section 16, an application is to be prepared and submitted to deregister and exchange the area of the Village Green proposed for development with alternative nearby land*'

Hertsmer Borough Council objects to an application that presents itself as a proposal concerned solely with a proposal to de-register and exchange village green land, but which promotes the benefits of developing the site for residential purposes and is clearly being progressed in order to facilitate such development. This is particularly the case given that the applicant is unwilling to consider the potential negative impacts of development on the land proposed to be de-registered. Their response to objections raised in their consultation exercise of June/July 2020 includes, for example '*The proposals before the Secretary of State relate solely to the proposed deregistration and exchange of Village Green land and associated improvement works. Accordingly, concerns in relation to traffic congestion and impacts on local infrastructure similarly do not apply at this stage in the process.*' (page 14, Supporting Statement)

Draft Section 106 agreement

Hertsmer Borough Council is named as a signatory to the draft agreement that forms part of the deregistration submission, but wishes to stress that it has not been party to any discussions concerning its content. It is misleading to place into the public domain a draft legal document which the named parties have neither been consulted on nor agreed to.

Status of land proposed for de-registration

Whilst the applicant states that the de-registration proposal is not linked to a proposal for housing nor would it lead to a change in the site's Green Belt or Local Wildlife Site status, it is clearly the intention that the parallel promotion of the site for residential development would, if successful, do so. Such a proposal would, however, be contrary to both national and local planning policies.

The area proposed for release lies within the Green Belt as defined on Hertsmer's adopted Local Plan Policies Map. Both national (NPPF) and local (Hertsmer adopted Local Plan) policies indicate a strong presumption against inappropriate development in the Green Belt. Residential development is inappropriate in the Green Belt and would thus be contrary to current national and local planning policy. The NPPF (para 136) requires that '*Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans*'. Local Plan Core Strategy Policy CS13 indicates that '*There is a general presumption against inappropriate development within the Green Belt, as defined on the Policies Map and such development will not be permitted unless very special circumstances exist. Development proposals...in the Green Belt will be assessed in relation to the NPPF.*'

² This consultation exercise publicized and sought views on sites that had been submitted to the council through a Call for Sites and also resulted in the submission of a number of further site promotions, including that put forward by Taylor Wimpey for this site.

The site proposed for de-registration also lies within the Woodcock Hill Fields Local Wildlife Site, and the proposed exchange land includes further Local Wildlife Site designation (Elstree Tunnel Grasslands East). Current Local Plan Core Strategy Objectives include '*To protect and enhance local biodiversity*' and Policy SADM10 Biodiversity and Habitats indicates that development that would adversely affect any Local Wildlife Site will not normally be permitted.

If arguments concerning perceived benefits to the public interest arising from development on the site presented by the applicants are to be considered, the potential negative impact of such development on these current designations should also be acknowledged and taken account of.

For the above reasons, Hertsmere Borough Council strongly objects to the application submitted by Taylor Wimpey to the Secretary of State to de-register and exchange land at Woodcock Hill Village Green and respectfully requests that the application be refused.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Wh', with a stylized flourish at the end.

Ross Whear
Head of Planning and Economic Development