
Appeal Decision

Site visit made on 3 January 2017

by L Gibbons BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 January 2017

Appeal Ref: APP/E0345/W/16/3154721

Land at Oxford Road, Tilehurst, Reading, Berkshire RG31 6TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Yew Tree Property Ltd against the decision of Reading Borough Council.
 - The application Ref 150136, dated 23 January 2015, was refused by notice dated 19 January 2016.
 - The development proposed is an outline application with all matters reserved (with the exception of means of access and landscaping) for a residential development of 8 units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the decision notice refers to access only to be determined at this stage, the Council have confirmed that the application seeks outline planning permission with access and landscaping to be determined at this stage. Appearance, layout and scale are reserved matters to be considered in the future. Although the application plans show a potential layout, the appellant has indicated that this is for illustrative purposes. I shall determine the appeal on this basis.
3. During the planning application process there was a change in site ownership. The Council were notified of this and have confirmed that the applicant is Yew Tree Property Ltd as set out above.

Main Issues

4. The main issues are:
 - i) The effect of the proposed development on the character of the area with particular regard to protected woodland;
 - ii) The effect of the proposed development on biodiversity and the green network;
 - iii) Whether the proposed development would make adequate provision for affordable housing.
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Reasons

The character of the area

5. The appeal site is the subject of a woodland Tree Preservation Order (TPO) and consists mainly of an unmanaged area of trees and scrub. It is located on a major route in and out of Reading and lies immediately to the west of Tilehurst railway station and car park area. The site is in a prominent position as the land rises slightly to be higher than the railway line and station. There is residential development to the south and west consisting of detached houses in large grounds with a considerable amount of mature planting. The area has a pleasant verdant appearance.
6. The appellant submits that the woodland is mainly noticeable by the perimeter vegetation. I do not agree as the impression of the site being a wooded area as a whole is strong. This is because the site is not large and it is possible to see through it from the pavement when the trees are not in leaf even with the loss of tree canopy within the central part of the site. The depth of the woodland can be appreciated when travelling west and turning into the station forecourt. Although separated by roads there are also clear visual links to the vegetation in the surrounding area.
7. There is no public access to the appeal site although there are some informal footpaths through it. Although woodlands are not specifically referred to, the site performs an important function in relation to visual amenity as described in the supporting text of Policy CS28 of the Reading Borough Core Strategy (CS) 2008. The site provides an outlook and variety in the urban scene and is also a positive element in the landscape.
8. I accept that the site has some invasive species and that a number of individual trees are of a low quality. I also note that the site has been used for dumping rubbish and in parts is unkempt. Nevertheless, I consider the appeal site makes a significant contribution to the quality of the environment in this part of Tilehurst.
9. Although the proposal is in outline, the illustrative layout shows that a significant area of the site would be used for parking and turning areas, access, hardstanding and the proposed dwellings. The proposed removal of a significant proportion of the trees on the site would have a considerable effect on the contribution of the trees to the character of the area as a whole. Replacement planting would be mainly focused on the perimeter of the site with two small areas of planting to the south-east and north-west of the site. I consider that the amount of proposed planting and retention of a very small number of trees would not be adequate compensation for the loss. Moreover, it would not be sufficient to result in an improvement of tree cover within the Borough. The scheme would have a negative effect on the character of one of the primary routes in and out of Reading.
10. There is a housing scheme to the north west of the appeal site known as Lippincote Court. This was granted planning permission on appeal in 2002. There were trees within that site and some were removed as part of the development. However, the site was also entirely within the area of a house and its grounds and I note that replanting of 54 trees would be undertaken. The circumstances of that case differ from those before me.

11. The Council refer to the potential for the remaining trees to be subject to windthrow which could result in the loss of those trees. However, there was no evidence to confirm that would be the case on this site. I therefore give this argument little weight. However, it is not sufficient reason to justify the appeal scheme.
12. For the reasons given above, I conclude that the proposed development would cause harm to the character of the area. It would be in conflict with Policies CS38 of the CS and DM18 of the Sites and Detailed Policies Document (SDPD) 2012 (altered 2015). These amongst other things seek to protect individual trees, groups of trees, hedges and woodland from damage and removal, and new development to make provision for tree planting to improve the level of tree coverage within the Borough, to maintain and enhance the character and appearance of the area in which a site is located. It would also be in conflict with Policy CS28 of the CS. It would be contrary to the National Planning Policy Framework (the Framework) in relation to taking account of the different roles and character of different areas.

Biodiversity and green networks

13. The parties do not agree whether the site would be classified as an Area of Biodiversity Action Plan (BAP) and that it falls within the definition of lowland mixed deciduous woodland. I accept that the site is not shown on the MAGIC website which provides information on the location and type of habitats including mapping BAP sites. However, two ecological assessments¹ undertaken during the course of the planning application process refer to the site in different terms.
14. The initial report dated January 2015 does refer to the site as being lowland broadleaf woodland which would meet the description of this type of habitat, albeit I note it indicates the site is of value at the local level only. The August 2015 report indicates that the understory and ground flora are of low diversity. This is contradicted somewhat by the January 2015 report which acknowledges that there is ivy along the margins of the site but that a moderately rich woodland ground flora is present. The timescale between these two assessments is not significant. The woodland is not managed and there is the possibility that the quality could potentially deteriorate over time. However, there was no detailed evidence provided to confirm that this would be the case. From the information before me, I consider there are sufficient features within the site as a whole to be considered as a mixed deciduous woodland.
15. It is proposed that the woodland in the south east part of the site and along Oxford Road is retained. I note that the planning statement which accompanied the planning application indicated that it would be intended to retain some groups of trees. Conditions are also suggested to ensure the retention of higher quality woodland and prepare a management plan to enhance these areas for biodiversity interest. There would be the potential for a buffer area in the north-west corner of the site close to the residential development at Lippincote Court. I note that there are proposals for green walls and roofs as well as other measures such as bat boxes.
16. However, the tree survey and illustrative layout appear to show the retention of only five individual trees. The south east corner of the site would also

¹ Greenwillow Associates Ltd (January 2015) and White Young Green (August 2015)

contain an outdoor shared amenity play space and there is no information provided on how this would work in conjunction in the space to be provided for the woodland and its management. I consider that the scale of the loss of woodland site is significant having regard to the particular features of the site. Balanced against the type of improvements and mitigation proposed, my conclusion is that the proposal would nevertheless result in a harmful effect on the ecology and biodiversity of the site.

17. In terms of the site's contribution to the green network the appellant refers to the site being disconnected from other sites which perform this function. However, the January 2015 ecological report identifies that the type of habitat within the site can contribute to the overall ecological connectivity. Policy DM17 of the SDPD indicates that amongst things new development shall demonstrate that the location and type of open space, landscaping and other features have been arranged such that they maintain or link into the existing green network and contribute to its consolidation. Measures should also enhance the green network.
18. I note that there was no evidence of protected invertebrate species or bats found on the site. However, whilst the links to other sites are slightly fragmented there was no evidence to suggest that some species would not be able to make use of the site. It would be possible for some species to migrate to the area even though these species may not be protected. Although it is proposed that there would be some management of the remaining and replanted areas, I am not persuaded that the retention of a small number of trees and additional planting would be sufficient to consolidate the green network or contribute to its enhancement.
19. For the reasons given above, I conclude that the proposed development would cause harm to the biodiversity of the site and the green network. It would be in conflict with Policies CS36 of the CS and DM17 of the SDPD. These amongst other things seek new development which should retain and protect biodiversity. It would be contrary to the Framework where it relates to conserving and enhancing the natural environment.

Affordable housing

20. The Council indicates that on site affordable housing would be required and no planning obligation has been provided. Policy DM6 of the SDPD amongst other things requires on-site affordable housing of 20% for sites with 5 to 9 dwellings. Following a Court of Appeal decision in May 2016, Government policy as set out in the Written Ministerial Statement (WMS) of 28 November 2014 in relation to planning obligations and affordable housing is that for 10 units or less and which have a maximum combined gross floor space of no more than 1000 sq. metres no affordable housing or tariff style contributions should be sought. This is a material consideration of considerable importance and weight. There is conflict between the national threshold relating to the provision of affordable housing in the WMS and paragraph 31 of the Planning Practice Guidance (the Guidance), and the local thresholds set out in Policy DM6.
21. Policy DM6 indicates that for sites of four or more houses on-site provision should be made in the first instance with negotiation on a financial contribution for the rest if needed. The lack of affordable housing was a reason for refusal, although the Council's officer report indicates that as the proposal was

considered unacceptable for other reasons, no planning obligation was requested in this case. It is not clear what would need to be provided and whether it would be in the form of housing on the site or with a proportion being made from a financial contribution, and if so how this would be calculated.

22. Planning obligations should only be sought where they meet the three tests set out in paragraph 204 of the Framework. These are that it is necessary to make the development acceptable in planning terms, is directly related to the development and fairly related in scale and kind. The Council has provided evidence in relation to the consideration of specific circumstances within the area which it considers justifies the application of a lower threshold. I note the contribution which small sites make to the numbers of affordable homes within the Borough.
23. However, I have not been provided with any evidence as to how a planning obligation would be directly related to the development or fairly related in scale and kind. Accordingly, it has not been demonstrated that an obligation would meet all three tests and is justified. Therefore, the lack of a planning obligation in this case does not weigh against the proposal.
24. I have been referred to three appeal decisions within the area which have considered matters in relation to affordable housing. These have come to different conclusions about whether a planning obligation was justified. However, I have not been made aware of the information that was provided to the Inspector in each of those cases or whether the on-site provision or contribution had been determined.

Conclusion and balance

25. I have found that the lack of a planning obligation does not weigh against the appeal proposal. The appeal site is within an accessible location adjacent to the railway station and close to bus stops on a primary route into Reading. The proposal would make a contribution towards the housing supply within the area. However, the appeal scheme would cause harm to the character of the area, biodiversity and green networks.
26. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L Gibbons

INSPECTOR