
Appeal Decision

Inquiry held on 31 May 2017

Site visit made on 31 May 2017

by L Gibbons BA (Hons) MRTPI

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

Decision date: 28 June 2017

Appeal Ref: APP/W0340/W/16/3163018 Land East of Tull Way, Thatcham, Berkshire

- 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 Bloor Homes Southern against the decision of West Berkshire Council.
 - The application Ref 16/00625/OUTMAJ, dated 26 February 2016, was refused by notice dated 30 August 2016.
 - The development proposed is the erection of 75 no. dwellings, associated access and public open space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 75 no. dwellings, associated access and public open space at Land East of Tull Way, Thatcham, Berkshire in accordance with the terms of the application, Ref 16/00625/OUTMAJ, dated 26 February 2016, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The application seeks outline planning permission with access to be determined at this stage. Appearance, landscaping, layout and scale are reserved matters to be considered in the future. The application plans show masterplan layouts. The appellant indicated that these illustrate the principles of development. I shall determine the appeal on this basis.
 3. Since the appeal was submitted the Council adopted the Housing Site Allocations DPD (HSA DPD) in May 2017. Policy C 1 of the HSA DPD replaces saved Policy HSG.1 of the West Berkshire District Local Plan (LP) 1991-2006 that is referred to on the Council's decision notice. I have dealt with the appeal on this basis.
 4. The single reason for refusal related to landscape and visual impact. Before the start of the Inquiry a Statement of Common Ground (SOCG) was submitted. The SOCG indicates the Council consider that the harm identified remained. However, having considered the matter further in respect of boosting housing land supply and the planning balance there was no longer a basis to withhold planning permission, and it was no longer resisting the appeal. In the light of this the Council advised that it would not be presenting evidence to the Inquiry. At the Inquiry the Council confirmed that it had withdrawn the single reason for refusal.
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5. Notwithstanding, I must consider and determine the appeal in the light of all the written and verbal evidence put before me, and my site inspection.
6. The proposal is accompanied by a copy of a signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended) dated 31 May 2017 in relation to the provision of on-site affordable housing and open space, and for offsite highway works. I return to this matter below.

Background and Main Issue

7. The appeal site has a planning history which includes an appeal in 2013 which was dismissed¹. The proposal was for up to 90 homes with associated works and access. The main issues in that case related to the character and appearance of the area and whether adequate provision was made in terms of infrastructure. The Inspector concluded that the scheme would result in the loss of the positive contribution the site makes to the character of this part of Thatcham and cause harm to the character and appearance of the area. The Inspector also concluded that the scheme would make adequate provision for infrastructure. I have considered the previous Inspector's findings and recognise the need for consistency, and where a decision is different to be able to reasonably distinguish between the cases and give explanatory reasons.
8. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

9. The appeal site is agricultural land located on the west side of Thatcham. The site generally slopes down to the south with an area of slightly higher ground again in the south west corner of the site. Tull Way to the west of the site forms part of the settlement boundary. There is residential development to the north along Florence Gardens and to the east along Bowling Green Road. To the south is a sports ground and a garden centre. Further to the west is land which separates the urban area of Newbury and Thatcham. It is not possible to see the urban area of Newbury from the appeal site.
10. The land to the west of the site which includes rights of way is partly on higher ground. Due to the lack of vegetation in places this allows views of the appeal site from a number of vantage points. Tull Way and the houses on Bowling Green Road are also visible from these points, and the built up area of Thatcham and some industrial uses can be seen in much longer views. That said the site has a rural character which does provide a softer transition to the countryside than is found in some other parts of Thatcham's settlement edge.
11. The layout masterplan shows that there would be a large area of open space to the west and south west of the site with around 50% of the site being developed. The layout is considerably different from the previous appeal scheme. That scheme showed development closer to the north and west boundaries and open space running through the middle of the houses from north to south.
12. In this case, the retained open space would make a significant role in maintaining the transition between urban and rural characters of the surroundings. With sensitive design and landscaping including off-site planting

¹ APP/W0340/A/13/2191207

close to the public right of way and the east side of Tull Way, the development need not detract from these views. This would be the case even in winter months when the majority of trees are not in leaf and particularly when planting is established.

13. The proposed development would be smaller in scale than previously proposed. This would allow for a more informal layout than the previous appeal scheme and the existing housing at Florence Gardens for example. There would be considerable potential in this scheme to create a soft urban edge retaining a visual link to the open countryside beyond. Development would not extend further west beyond the built up areas to the north or the buildings which are located to the south. The location of housing away from the west boundary and Tull Way would ensure there would be not be a negative effect on the gap between Thatcham and Newbury.
14. I accept that because of the relationship between the appeal site and some of the houses on Bowling Green Road the development would be visible to occupiers. This would be the case as the site is generally on higher ground than the houses on Bowling Green Road. However, there would be some separation between the new dwellings and the existing houses. A gap between two areas of houses running east and west is also shown on the layout masterplan which would also provide some mitigation in this respect.
15. Overall, I conclude that, whilst the proposed development would cause some very limited harm to the character and appearance of the area, it would not do so to a material extent. It would not therefore conflict with Policies CS19 and CS14 of the West Berkshire Local Plan Core Strategy (CS) 2012. These amongst other things requires new development to demonstrate a high quality and sustainable design that respects the character and appearance of the area, and that new development is appropriate in terms of location, scale and design in the context of existing settlement form, pattern and character. It would not be contrary to the National Planning Policy Framework where it relates to the different roles and character of different areas.

Other matters

16. In terms of the effect of the proposal on residents on Bowling Green Road the layout masterplan indicates the new dwellings would be located away from the boundary of the site with Bowling Green Road. It would be therefore be possible to significantly reduce the potential for overlooking. Although the change in outlook would occur for residents from some parts of Bowling Green Road I consider the degree of harm this would cause would be limited taking into account the site's location within the settlement boundary and its acknowledged potential for residential development.
17. Local residents raise concerns about highway safety particularly relating to a potential increase in accidents and the speed of traffic along Tull Way. The scheme proposes a single access in the south west part of the site. Available accident data submitted as part of the Transport Assessment show two accidents along Tull Way close to the site's northern boundary within a five year period. There are no objections from the Highway Authority in this regard. No accesses other than for pedestrians and cycles are proposed along Bowling Green Road and as a result there would not be a significant increase in vehicle movements here. Based on the evidence before me I consider that the proposal would not cause harm to highway safety.

18. Local residents raise concerns relating to the effect of the development on local services and facilities including schools and hospitals. I also note that the Local Education Authority have raised a concern about school places. The Council has not raised any objection in this respect and the Community Infrastructure Levy (CIL) which seeks to mitigate the impact of the proposed development on services would be considered at the reserved matters stage.

Planning Obligation

19. I have considered the UU in the light of the statutory tests contained in Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 204 of the National Planning Policy Framework. The UU includes provision for 40% affordable housing which would be in line with the Policy CS6 of the CS and the Planning Obligations Supplementary Planning Document. The tenure split proposed is acceptable. It would meet the tests at paragraph 204 of the Framework.
20. The UU proposes footway works on the southern side of Henwick Lane and also for dropped kerbing and tactile paving across junctions of Henwick Lane to the A4. These are works which fall outside the scope of the Council's CIL. The sums indicated are in line with that referred to by the Highways Authority and would be fairly and reasonably related to the development proposed. The UU also includes provision for on-site public open space and its management. This would be required in accordance with Policies RL.1, RL.2 and RL.3 of the LP.
21. The UU would be necessary to make the development acceptable in planning terms, is directly related to the development and fairly related in scale and kind. I have taking it into account in coming to my decision.

Conditions

22. Planning conditions were discussed at the Inquiry. I have considered the conditions in the light of the tests set out in paragraph 206 of the Framework and the Planning Practice Guidance. Where necessary, I have amended the suggested conditions in order to comply with the tests and to ensure clarity. The Council suggested conditions which would be before commencement of development. I have amended the order of the conditions to reflect this.
23. I have imposed a condition specifying the relevant drawings as this provides certainty. The importance of the principles of the masterplan was discussed at the Inquiry and I have attached a condition specifying the relevant drawing to ensure these principles are followed. Given that the application is in outline, a condition is needed to ensure that the matters reserved for future approval remain subject to the Council's approval. It is reasonable and necessary to require the reserved matters approval within the standard time limits.
24. In the interests of highway safety and in order to protect the living conditions of adjoining residents a Construction Environmental Management Plan is necessary. In respect of the adjoining residents it is also necessary to specify the hours of construction. I acknowledge that the Council consider flexibility in to change these hours may be necessary. However, in order to provide certainty for residents I have not added the wording suggested by the Council which would have allowed variations on the agreed hours.
25. In the interests of highway safety a condition is needed to secure the implementation of the proposed access. I concur with the Council that it is

reasonable that this should be completed prior to the construction of houses and internal accesses taking into account the use of Tull Way including the pedestrian crossings. A condition is also necessary to ensure pedestrian and cycles routes are provided before occupation. For the sake of clarity I have attached this as a separate condition.

26. In the interests of sustainability conditions are need to secure the provision of refuse and cycle storage. In view of the history of surface water flooding in the area particularly in 2007, it is necessary for sustainable drainage measures to be provided and retained. It is also be reasonable and necessary to ensure the submission and implementation of a Residential Travel Plan and the provision of car charging points.
27. In the interests of sustainability and ecology conditions are needed in relation to the protection of trees and their root zones. It is also necessary for the submission and implementation of a Landscape and Ecological Management Plan, a lighting design strategy and the removal of permitted development rights relating to external lighting. Offsite planting has been proposed and I agree that this it is necessary to secure this at this stage. In the interests of the historic environment and taking account of the Council's concerns relating to the archaeological desk based assessment submitted with the planning application a condition is needed in relation to archaeological work.
28. The site is located next to Tull Way which is a busy road. Notwithstanding the results of the acoustic report which accompanied the planning application, in order to protect the living conditions of future residents a condition is needed in relation to protection for external noise.
29. The Council suggested a condition relating to off-site highway works. A scheme to secure these is provided within the UU. The condition would therefore duplicate this and I have not included it. Conditions were suggested for soft and hard landscaping. However, as these are reserved matters I have not imposed them.
30. The Council also suggested a condition relating to a water supply strategy. Thames Water raises concerns about the ability to provide a water supply within the area. However, I have not been provided with any evidence or further information in respect of this. In addition, the condition lacks precision as there is no clear scope as to the suggested impact study or clarity over what would be required in terms of a connection point. I have therefore not imposed this suggested condition.

Conclusion and balance

31. The proposal would contribute to the supply of open market housing in an accessible location. There would be provision of affordable housing in an area where the local need is high. Temporary jobs would be provided and the local residents would make use of the services and facilities which are available in Thatcham. Public open space would also be provided. These benefits weigh in favour of the appeal proposal.
32. The appeal site is located within the settlement boundary of Thatcham. The settlement hierarchy set out in Policy CS1 of the CS indicates that amongst other things new homes will be primarily developed on suitable previously developed land and other suitable land within settlement boundaries.

33. Policy C 1 of the HSA DPD sets out that there is a presumption in favour of development and redevelopment within the settlement boundaries of the settlements listed within the policy. No further criteria are referred to and this provides a policy context different to the previous appeal scheme. The proposal would comply with Policies CS1, CS19 and CS14 of the CS and C 1 of the HSA DPD. In contrast to the Inspector's findings on the previous scheme, the layout and proposals in this case would help to ensure that the site's positive contribution to the character of Thatcham would not be wholly lost.
34. For the above reasons and having regard to all other matters raised, I conclude that subject to the conditions set out in the attached schedule the appeal should be allowed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert of Counsel instructed by Sarah Clarke, West Berkshire Council

The following people answered factual questions and took part in the roundtable discussion on conditions and the planning obligation, on behalf of the Council

Simon Till
Sinead O Donoghue

West Berkshire Council
West Berkshire Council

FOR THE APPELLANT:

Rupert Warren of Queens Counsel instructed by Douglas Bond of Woolf Bond Planning LLP

He called:

Julian Cooper
BSC(Hons) DipLD, FLI AILA

SLR Consulting

Douglas Bond
BA(Hons) MRTPI

Woolf Bond Planning LLP

INTERESTED PERSONS:

Cllr R Crumley

Thatcham Town Council and West Berkshire
Borough Council

M Harmsworth

Local Resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Appellant's Opening Points on behalf of the Appellant by Mr Warren
- 2 Housing Site Allocations DPD May 2017
- 3 Notification Letter of the Inquiry and the list of persons notified
- 4 Signed Statement of Common Ground dated 4 May 2017
- 5 Explanation of the Council's position read out by Ms Lambert
- 6 Explanation of the Council's position
- 7 Tull Way – Landscape Harm (detailed points to address)
- 8 Copies of Photomontage Viewpoints 3, 4, A and B
- 9 Draft Planning Conditions
- 10 Drawing WB03844-C-050 Proposed Access
- 11 Policy C 1 of the HAS DPD and Policy HSG.1 of the CS
- 12 The Housing Site Allocations (HSA DPD) and the Development Plan
- 13 Draft Unilateral Undertaking
- 14 CIL Compliance Statement
- 15 Closing submissions on behalf of the Council submitted by Ms Lambert
- 16 Closing submissions on behalf of the Appellant submitted by Mr Warren
- 17 Unilateral Undertaking dated 31 May 2017

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 2) The development shall begin not later two years from the date of approval of the last reserved matters.
- 3) Details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced. The development shall thereafter be carried out in accordance with the approved details.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: BLOO140403 SLP-01 Rev B and WB03844-C-050 Rev*.
- 5) The reserved matters shall broadly comply with the development principles established in the following plan: BLOO140403 CMP-01 Rev E.
- 6) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include (but not necessarily be limited to):
 - i) Temporary construction access arrangements to the site, including and temporary hard-standing and wheel washing facilities;
 - ii) Construction traffic details and parking arrangements;
 - iii) Loading and unloading arrangements for construction plant and materials;
 - iv) Storage arrangements for construction plant and materials;
 - v) Types of piling rig and earth moving machinery, and mitigation measures to prevent adverse impacts on neighbouring properties;
 - vi) A signage strategy for a preferred haul route for construction vehicles (to be agreed);
 - vii) A lighting strategy for the construction phase;
 - viii) Erection and maintenance of security hoarding including any decorative displays and facilities for public viewing;
 - ix) Measures to control the emission of dust and dirt;
 - x) A scheme of ecological and environmental mitigation during construction;
 - xi) Phasing of construction.
- 7) The construction of the vehicular access shall be the first development operation to take place. No other development shall take place (including the construction of the dwellings and internal access road) until the access and associated engineering operations have been completed in accordance with the approved details.
- 8) No development shall take place until a protection scheme for the existing trees to be retained has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of the protective fencing, and shall specify the type

of protective fencing, all in accordance with Chapter 6 and detailed in figure 2 of BS5837:2012.

No development shall take place until the approved tree protection scheme has been provided in accordance with the approved details. Notice of commencement of development shall be given to the Local Planning Authority at least 2 working days before any development takes place. The scheme shall be retained and maintained for the full duration of building/engineering operations, or until such time as agreed in writing with the Local Planning Authority. No activities or storage of materials whatsoever shall take place without the prior written agreement of the Local Planning Authority.

- 9) No development shall take place until details of the proposed access, hard surfacing, drainage and services providing for the protection of the root zones of trees to be retained has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.
- 10) No development shall take place until an appropriately detailed and quantified Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include adequate details of the following:
 - i) Description and evaluation of features to be managed and created;
 - ii) Aims and objectives of management;
 - iii) Appropriate management options to achieve aims and objectives;
 - iv) Prescriptions for management actions;
 - v) Preparation of costed work schedule for securing biodiversity enhancements in perpetuity;
 - vi) Ongoing monitoring and remedial measures;
 - vii) Reference hedgerow to be lost and how replacement hedgerow will be managed in the long term to ensure that a species rich hedgerow is secured;
 - viii) Measures to build biodiversity into the design of the new dwellings, providing details of the location and design of bird boxes to be fitted into buildings;
 - ix) Description of how the developer expects to ensure no impact on protected species (particularly bats and wild birds) on site;
 - x) Measures to support the objectives for a Living Landscape (Policy ADPP3 and paragraph 4.3 of the West Berkshire Core Strategy.The LEMP shall be implemented and managed in accordance with the approved details.
- 11) Development shall not commence until the details of the offsite planting shown on the following plan BLOO140403 CMP-02 Rev D, have been submitted to and approved in writing by the Local Planning Authority. Implementation shall be carried out in accordance with an implementation timetable agreed in writing with the Local Planning Authority.
- 12) No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted

to and approved in writing by the Local Planning Authority. These details shall:

- i) Incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with best practice informed by the SuDS Manual Ciria C753 (2015) and West Berkshire Council local standards;
- ii) Include and be informed by a ground investigation survey which establishes the soil characteristics, infiltration rate and groundwater levels;
- iii) Include a drainage strategy for surface water run-off from the site since no discharge of surface water from the site will be accepted into the public system by the Lead Flood Authority;
- iv) Include attenuation measures to retain rainfall run-off within the site, off site discharge will not be permitted;
- v) Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;
- vi) Include run-off calculations, discharge rates, infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in 100 year storm plus 30% for climate change;
- vii) Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to soil or groundwater;
- viii) Ensure any permeable paved areas are designed and constructed in accordance with manufacturers guidelines;
- ix) Ensure any permeable areas are constructed on a permeable sub-base material such as Type 3 or Type 1 material as appropriate;
- x) Include details of how the SuDS measures will be maintained and managed after completions. These details shall be provided as part of a handover pack for subsequent purchasers and owners of the property/premises;
- xi) Apply for an Ordinary Watercourse Consent in case of off-site surface water discharge into a watercourse (i.e stream, ditch, pipe etc).

The approved sustainable drainage measures shall thereafter be implemented in accordance with the approved details and in accordance with a timetable to be submitted to and agreed in writing with the Local Planning Authority as part of the details submitted for this condition. The sustainable drainage measures shall be maintained and managed in accordance with the approved details thereafter.

- 13) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall incorporate and be undertaken in accordance with the approved details.
- 14) Prior to the commencement of the development full details of the provision of electric car charging points and associated infrastructure to serve the approved development shall be submitted to and approved in

writing by the Local Planning Authority. The development shall be implemented and retained in accordance with the approved details.

- 15) No demolition or construction works shall take place outside the following hours:
07:30 to 18:00 Monday to Friday, 08:30 to 13:00 Saturdays. No work shall be carried out at any time on Sundays and Bank Holidays.
- 16) No dwelling shall be occupied until a storage area for refuse and recycling receptacles (and collections areas if necessary) has been provided for that dwelling in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and retained in accordance with the approved details.
- 17) No dwelling shall be occupied until cycle storage has been provided for that dwelling in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and retained in accordance with the approved details.
- 18) No dwelling shall be first occupied until the pedestrian and cycle accesses have been provided in accordance with the approved details.
- 19) No dwelling shall be occupied until mitigation measures to protect its occupants from externally generated noise have been provided in accordance with a scheme of works that has first been submitted to and approved in writing by the Local Planning Authority. The scheme of works shall be informed by an appropriately detailed investigation to address the noise impacts from Tull Way.
- 20) No dwelling shall be occupied until a lighting design strategy for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:
 - i) Identify those areas on the site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites or resting places or important routes used to access areas of their territory, for example foraging; and
 - ii) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.
- 21) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no external lighting other than that approved under Condition 20 shall be installed without planning permission being granted by the Local Planning Authority on an application made for that purpose.
- 22) A full Residential Travel Plan for the approved development shall be submitted to and approved in writing by the Local Planning Authority at least 6 months prior to the first occupation of any residential unit. A

Travel Plan Coordinator shall be appointed at least 3 months prior to the occupation of the first dwelling. The Residential Travel Plan shall be implemented from first occupation of the first dwelling. The Residential Travel Plan shall be reviewed, updated where necessary, and targets agreed within 3 months of the initial survey. After that the Residential Travel Plan shall be annually monitored and reviewed and updated for the life of the Residential Travel Plan. The developer shall commit to funding the Residential Travel Plan including: the provision of walking and cycling maps; professional cycle training and a voucher for cycling equipment per household (on completion of cycle training); a public transport incentive for residents to encourage use of bus services; and all other measures and initiatives included in the Residential Travel Plan along with the implementation of the Travel Plan Coordinator role for the duration of the Residential Travel Plan.