
Appeal Decision

Inquiry held on 13 and 15 June 2017

Site visit made on 15 June 2017

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 29 June 2017

Appeal Ref: APP/X0360/W/16/3155455

Land to the rear of 328b - 334 Barkham Road, Wokingham, Berkshire RG41 4DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by CALA Homes (Thames) and Vortal Properties against the decision of Wokingham Borough Council.
 - The application Ref 160732, dated 17 March 2016, was refused by notice dated 4 July 2016.
 - The development proposed is the erection of 10 N^o dwellings with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 10 N^o dwellings at land to the rear of 328b – 334 Barkham Road, Wokingham, Berkshire RG41 4DE in accordance with the terms of the application, Ref 160732, dated 17 March 2016, subject to the conditions set out in the attached schedule.

Background and Procedural Matters

2. Following the Council's decision, amended plans were subject to discussion between the appellants and the Council. On the amended layout plan some of the proposed dwellings have been re-positioned but the overall layout would remain broadly the same as in the original proposal. The size of the dwellings proposed on plots 1 to 4 have been increased slightly and garden sizes and parking arrangements have been adjusted. The appellants wrote to local residents who had been previously notified of the application and those that had made comments enclosing the amended plans. That letter was dated 19 May 2017 and gave until 1 June 2017 for comment. I have been provided with the responses to that exercise which reiterate representations made in respect of the original proposal but do not raise any specific objection to the proposed amendments or to the method of consultation.
 3. The amended scheme would be very similar to that originally proposed and would remain the same in terms of the description of development. Interested parties have been given an opportunity to comment on the amended plans. The Council considers that there would be no prejudice to those parties if I was to consider the amended plans in my decision and I take the same view.
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4. Shortly before the Inquiry opened the appellants submitted a Gardens Sunlight Analysis¹ which supersedes an earlier similar analysis. This is based on the amended layout plan and updated and more accurately drawn tree canopies than those shown on the original tree survey. The Council advised following its consideration of the further information, discussion between the parties and a site visit that the amended plans and the Gardens Sunlight Analysis adequately addressed its reasons for refusal concerning the floorspace of the proposed dwellings, the proposed layout and garden areas and the shading effects of the trees on the dwellings and their gardens. This overcomes the fourth, and part of the second reasons for refusal.
5. A Unilateral Undertaking was submitted at the Inquiry. This secures provision of 40% affordable housing or 4 units, each of 2 bedrooms. Two of the units would be social rented and two would be shared ownership thereby providing a mix of tenures. This provision would accord with policy CP5 of the Core Strategy (CS)² and policy TB05 of the Managing Development Delivery Local Plan (MDDLDP)³ in terms of the number of affordable homes and their mix of tenures. This would also accord with the Supplementary Planning Document⁴ and overcomes the Council's third reason for refusal.
6. The Council decided not to contest the first reason for refusal which concerns prematurity of the development in relation to planning policy and over-provision of dwellings. The only reason that remains in contention between the main parties is the effect of the proposal on protected trees. The Council did not present any evidence on this or any other matter at the Inquiry and neither did the appellant. Because the reasons for refusal had been largely overcome the Council decided not defend its decision at the Inquiry. I shall consider the remaining issue between the main parties as a main issue and shall then consider the points made by interested parties.

Main Issue

7. The main issue in the appeal is the effect of the proposed development on the character and appearance of the area with specific reference to its effect on trees.

Reasons

Planning Policy

8. The appeal site forms part of an allocation which is identified as a reserve site in policy SAL03 of the MDDLDP. That policy requires that the site shall not be developed until 1 April 2026 but provides for exceptions to this. These include circumstances where the Council would be unlikely to achieve its overall planned housing requirement or where there is a deficit in the 5 year supply of housing land. The allocation is identified in the policy as being in a limited development location and the policy envisages development for around 25 dwellings. The adjoining part of the allocation has already been developed for that number.

¹ By Eight Associates

² Wokingham Borough Core Strategy (2010)

³ Wokingham Borough Managing Development Delivery Local Plan (2014)

⁴ Wokingham Borough Council Affordable Housing Supplementary Planning Document (2011)

9. The National Planning Policy Framework (the Framework) requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. The Framework requires authorities to boost significantly the supply of housing. The Council's latest Housing Land Supply Statement⁵ shows that it has 5.27 years' supply of housing land although the appellants say that the supply is less than 5 years. Irrespective of this question the Council advised at the Inquiry that it considers that the site should be brought forward for development now taking into account the need to boost significantly the supply of housing and the limited demonstrated margin above the required 5 years supply.
10. In addition to the reference in policy SAL03 to the allocation accommodating around 25 dwellings, policy CP17 of the CS also states that sites in Limited Development Locations should generally not exceed 25 dwellings. The proposal would result in a total of 35 dwellings on the allocated land but policies CP17 and SAL03 do not impose an absolute restriction on the number of dwellings.
11. Although there appear to be few or no local facilities within reasonable walking distance of the site there are frequent bus services along Barkham Road and facilities are within cycling distance although I note the comments of interested parties about the intensity of traffic along that road. Shopping facilities and means of employment would be accessible by sustainable means. Furthermore there is a railway station about 2 km from the site. While the occupants of the development would be reliant on the car to a significant extent the site is reasonably accessible by alternative means. On this basis there is insufficient justification to restrict the overall number of dwellings on the basis of accessibility. The proposal would accord with policy CP9 of the CS which requires the scale of housing development to reflect accessibility.
12. For the reasons given I concur with the Council regarding the bringing forward of the site for development and find that the overall number of dwellings to be built would be justified. I find that the proposal would not conflict with the overall requirements of policies CP17 and SAL03.

Effect on Trees

13. The site is an open former paddock which is largely surrounded by trees most of which are protected by a Tree Preservation Order (TPO). The majority of those trees would be retained within the gardens of the proposed dwellings but three mature trees would be removed in order to accommodate the development, consisting of two oaks and an ash tree. Those trees are protected by the TPO, this having been amended to include the ash. The appellants' survey categorises those trees as being of moderate quality.
14. In the Landscape Character Assessment⁶ (LCA) the area is described as J2: Arborfield Cross and Barkham Settled and Farmed Clay. This is an area of rural farmland with small nucleated villages including Barkham and modern development adjacent to Wokingham. Fields are separated by hedgerows but many of these are declining with gaps. There are trees in field boundaries and along roads and small areas of woodland. Barkham Road has built up

⁵ Wokingham Borough Five Year Housing Land Supply Statement at 31 March 2017 (published 6 June 2017)

⁶ Wokingham District Landscape Character Assessment

frontages but nonetheless a generally verdant character. The trees proposed to be felled are partially visible between houses from the road and are also visible from the recent adjacent estate.

15. The trees proposed to be removed are seen as part of a group rather than being particularly prominent in their own right. Their removal would diminish the value of the group of trees as a landscape feature to some extent but this would still remain as a significant feature in the landscape. It would screen the proposed dwellings from wider view across the adjacent countryside to a great extent and thus enable transition between the built form and the open countryside. The proposed gardens would for the most part be of good sizes and would also contribute to such transition. The degree to which the proposal would conflict with the requirements of the LCA in terms of retention of trees would be limited and considered in overall terms the value of the group of trees as a landscape feature would be retained.
16. It has been demonstrated in the Gardens Sunlight Analysis that the gardens of the proposed dwellings would not be unduly overshadowed by the trees and the Council accepts this. On this basis and given that future residents would be aware of the trees and their protected status when moving into the dwellings there would not be likely to be undue pressure to carry out works to the trees. Having said this, over time the proximity of the dwellings would be likely to lead to works being carried out to the trees, particularly in crown raising given the low canopies that I saw on my visit to the site. I noted that such works have taken place to trees T19 and T20 whose canopies overhang a garden on the adjacent development. However such works need not be detrimental to the form of the trees or their longevity if properly controlled. The Council would retain control over such works.
17. It has also been shown that the proposed development would not adversely affect the trees in any other way and protection measures during construction can be secured by means of a condition. Unprotected trees would also be removed but their contribution to the character of the area is limited. Their removal would be more than compensated for by planting of new native species trees. For these reasons I find that the effect of the proposal on the protected trees and the landscape would be limited.
18. I conclude on the main issue that the proposal would have a limited adverse effect on the character and appearance of the area and I give limited weight to this matter. Development plan policies require that there is no detrimental impact on landscape features. The provision of new native planting and transition between the built up area and the countryside are policy requirements as is the retention of important landscape features including trees. Policy CP3 of the CS and policies CC02, CC03 and TB21 of the MDDL P have these requirements. Policy CP1 of the CS requires that environmental quality is maintained or enhanced. For the reasons given the proposal would accord with those requirements in terms of retention of the landscape value of the group of trees considered as a whole as well as in terms of providing transition and new planting. It would however not accord with the policies in terms of the removal of the protected trees. While the proposal would not entirely accord with the detailed requirements of those policies it would accord with their overall requirements when considered in total.

Other Considerations

19. The proposed development would be of benefit in two main respects, namely in terms of the provision of additional housing units to help address housing need and in terms of the provision of affordable housing. The number of proposed housing units is modest but nonetheless would be of clear benefit in the context of the Council's identified housing supply and the need to boost the supply of housing. For these reasons I give moderate weight to the benefit of the proposal in terms of the provision of new housing.
20. The Council and interested parties have referred to the generally low level of affordability of market homes in the area. In this context the four affordable houses to be secured by the planning obligation would provide a further benefit to which I give further moderate weight.

Other Matters

21. Interested parties have referred to a number of other matters which include the effects of the development on traffic congestion, existing infrastructure in the area, drainage, ecology and concern about effects on living conditions in terms of privacy and loss of light.

Traffic

22. Interested parties have concern about the existing volume of traffic on Barkham Road and the impact of additional traffic in conjunction with that arising from other development in the area. The access road leading to the site and its junction with Barkham Road has previously been found to meet the Highway Authority's standards in relation to the application for the first phase of development. The Highway Authority has accepted that the additional traffic arising from the development could be accommodated without any harm to highway safety or undue congestion. The Highway Authority also considers the internal layout to meet required standards. While I note the concern of local residents I see no reason to take a different view to the Highway Authority on this matter.

Infrastructure

23. The development would be liable for contributions towards local infrastructure under the Council's Community Infrastructure Levy and therefore proportionate funding would be in place for any additional infrastructure that may be required from this and other developments.

Drainage

24. The appellants' drainage report has demonstrated to the satisfaction of the Drainage Authority that the proposal would not result in excessive surface water run-off or localised flooding. The site is in an area of low flood risk. Measures can be secured by a planning condition to restrict the rate of run-off.

Ecology

25. Grass snake has been recorded on adjacent land and the trees may provide habitat for nesting birds and potentially support bats. Apart from those species the site is of little ecological value. The appellants' report recommends mitigation and enhancement measures including provision of bat and bird boxes and precautionary measures during construction work. Those measures

can be secured by a condition. The recommended measures are compatible with the future residential use of the site including the incorporation of the trees within gardens given the sizes of the proposed gardens.

Living Conditions

26. Concern has been expressed by nearby residents about potential overlooking and over-shadowing. However the dwellings would be sufficient far away from the dwellings on Barkham Road to avoid any such effects. Their siting and layout would represent a continuation of the adjacent estate development and there would be no harmful effect on the residents of that estate.
27. Noise and general disturbance from the development has been raised as a matter of concern but the area is already developed with housing and the proposal would not be out of character in this respect. Noise and other effects during construction can be controlled by a suitable condition.

Overall

28. Although I have found there to be some conflict with detailed requirements of planning policies in terms of retention of trees, when considered overall the proposal would accord with those policies and with the development plan as a whole, including policy CC01 of the MDDLDP which presumes in favour of approval where this is the case. This weighs in favour of the proposal as do the moderate weights that I have given to the benefits in terms of market and affordable housing provision. The limited weight that I have given to the identified harm does not outweigh the weights attached to the benefits and the overall accordance with the development plan.
29. The proposal would accord with the social and economic dimensions of sustainable development by providing housing including affordable housing thereby meeting local need. The proposal would assist the economy through construction of the dwellings and subsequent contribution to local businesses by the future occupants. The removal of three protected trees would weigh against the environmental dimension but this would be to a limited extent while the new tree planting would weigh in favour of that dimension as would the overall retention of the trees as a landscape feature. For these reasons when considered in total the proposal would be a sustainable development.

Conditions

30. I have imposed the conditions as suggested by the Council and agreed between the main parties with some alterations as discussed and with one exception. In doing so I have had regard to the tests as set out in paragraph 206 of the Framework. I have confirmed that my decision relates to the amended plans and a condition specifying those plans is necessary to provide certainty.
31. Conditions requiring details of facing materials and a landscaping scheme are required to ensure the appearance of the development is acceptable. A landscape management plan and protection of the trees to be retained, including those not protected under the TPO are necessary to ensure the trees are properly protected and managed. An amended Arboricultural Impact Assessment and Method Statement is required because the submitted document relates to the originally proposed layout. A condition removing permitted development rights which would allow for the erection of extensions and outbuildings is necessary in respect of those plots where protected trees

- are within or adjacent to their rear gardens such that they may be damaged by any extension or outbuilding that would otherwise be permitted.
32. The maximum permitted discharge rate for different storm events is a matter which requires further discussion with the Drainage Authority. I have included a condition to this effect. A condition requiring details of external lighting is necessary to safeguard wildlife, particularly bats and to avoid excessive levels of lighting. It is also necessary to restrict construction work during the bird breeding season in order to avoid disturbance to those species.
33. Mitigation measures for reptiles and stag beetles are recommended in the appellants' Ecological Appraisal and I have included a condition with this requirement. The appellants have provided a survey of small ponds adjacent to the site for Great Crested Newt which concludes that this species is likely absent. The Council has agreed that there is no requirement for mitigation measures for amphibians.
34. An archaeological investigation is required on the basis that the site is identified as potentially being of archaeological interest. A condition requiring reporting and remediation of any contamination found during development is necessary to ensure safety of future occupants. Conditions are also required to safeguard living conditions of nearby residents and ensure highway safety during construction. These include a Construction Management Plan, limitation on hours of working and measures to control dust emissions. The Council's suggested conditions 16 and 17 have similar requirements in terms of hours of working and I have combined these into a single condition.
35. Finally conditions are required to ensure that the access road is constructed to the necessary standard and that provision for sustainable means of transport in terms of bicycle facilities is made. The Council said that its suggested condition 22 should be modified to relate to garages instead of car ports. That condition would require that garages are kept free for parking purposes. However I find insufficient justification for this as each of the dwellings with garages would also have 2 parking spaces.

Conclusion

36. For the reasons given and having regard to all other matters raised I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL.02 Rev P, BRW_PLN_101 Rev A, BRW_PLN_102 Rev A, BRW_PLN_104 Rev A, BRW_PLN_105 Rev A, BRW_PLN_106 Rev A and BRW_PLN_SC Rev B.
- 3) No development shall take place above slab level until details / samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No development shall take place above slab level until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping including details of boundary treatments and a landscape management plan. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate. The scheme shall include indications of all existing trees and hedgerows on the land, and identify those to be retained.
- 5) The approved hard landscaping measures shall be carried out before the development is occupied and shall thereafter be retained. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction/widening or any other operation involving use of motorised vehicles or construction machinery) until an amended Arboricultural Impact Appraisal and Method Statement has been submitted to and approved in writing by the local planning authority and the approved tree protection works are in place. The development shall be carried out in accordance with the approved Arboricultural Impact Appraisal and Method Statement. No excavation, storage of materials or machinery, parking of vehicles, deposit of soil or rubble, lighting of fires or disposal of liquids shall take place within the protected areas as defined in the approved scheme. The protective fencing shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site.
- 7) No tree, shrub or hedge which is shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the previous written consent of the local planning authority. Any tree, shrub or hedge which is removed

without consent, dies, is severely damaged or becomes seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with tree, shrub or hedge plant(s) of similar size and species unless the local planning authority gives written consent to any variation.

- 8) Notwithstanding the provisions of Classes A and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building, enlargement or alteration of the dwellings on plots 5, 6, 7, 8, 9 and 10 as permitted by those Classes shall take place.
- 9) No development shall commence until further details of a scheme of surface water drainage including details of maximum discharge rate(s) have been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in full and thereafter retained.
- 10) A scheme of external lighting shall be submitted to and approved in writing by the local planning authority before its installation and no further lighting shall be installed without the written consent of the local planning authority. The approved scheme shall be carried out and thereafter retained. The scheme shall include lighting contours and technical specifications and identify any areas or features that are used by bats as part of their territory or as breeding or resting places. The scheme shall demonstrate that lighting will not disturb bats or prevent them from using the areas or features identified.
- 11) Vegetation removal shall only take place outside the bird breeding season, from March to August inclusive, or within 48 hours of a suitably qualified ecologist confirming in writing the absence of breeding birds, such confirmation to be submitted to the local planning authority immediately.
- 12) No development shall commence until a detailed strategy and mitigation measures for reptiles and stag beetles, maintenance of habitat corridors and biodiversity enhancements have been submitted to and approved in writing by the local planning authority. The strategy and mitigation measures shall be prepared by a suitably qualified ecologist and shall be appropriate to the local ecological context. Development shall take place in accordance with the approved strategy and mitigation measures. The measures for biodiversity enhancement shall be provided and thereafter retained.
- 13) No development shall commence until a programme of archaeological work has been secured in accordance with a scheme of investigation which has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved scheme.
- 14) Any contamination that is found during the course of construction shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the

- local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued.
- 15) No development shall commence until a scheme for minimisation of dust during construction works has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved scheme.
 - 16) No noise-generating activity relating to the development hereby approved, including operation of machinery, demolition or site preparation works shall be carried out before 08:00 hours or after 18:00 hours on Mondays to Fridays, nor before 08:00 hours or after 13:00 hours on Saturdays. No machinery shall be operated and no noisy processes shall be carried out on Sundays or public holidays.
 - 17) No development shall take place above slab level until details of secure and covered bicycle parking and storage facilities for the occupants of and visitors to the development have been submitted to and approved in writing by the local planning authority. The approved facilities shall be provided before the dwellings to which they relate are occupied and shall be retained thereafter for the approved purposes.
 - 18) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoardings;
 - v) measures to prevent the deposit of materials on the highway and details of wheel washing facilities;
 - vi) measures for traffic management including arrangements for HGV deliveries and HGV routing; and
 - vii) a programme of works.
 - 19) No development shall commence until full details of the construction of roads and footways, including levels, widths, construction materials, depths of construction and surface water drainage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Saira Kabir Sheikh, of Queens Counsel instructed by Lyndsay Jennings of Shared Legal Solutions

FOR THE APPELLANTS:

Andrew Tabachnik, of Queens Counsel instructed by Douglas Bond of Woolf Bond Planning LLP

INTERESTED PERSONS:

Allan Wrobel	Local resident
Mrs S McComb	Local resident
Mrs Pamela Stubbs	Barkham Parish Council
Chris Heyliger	Barkham Parish Council
Graeme Dexter	Barkham Parish Council
John Castle	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

SUBMITTED BY THE APPELLANT

- 1 List of Appearances
- 2 Correspondence from Douglas Bond dated 12 June 2017
- 3 Unilateral Undertaking dated 15 June 2017

SUBMITTED BY THE LOCAL PLANNING AUTHORITY

- 4 Correspondence from interested parties from consultation on the amended plans
- 5 E-mail and photographs from Michelle Cameron

SUBMITTED JOINTLY

- 6 Statement of Common Ground

DOCUMENT SUBMITTED AFTER THE INQUIRY CLOSED

SUBMITTED BY THE APPELLANT

- 7 Technical Briefing Note – Results of Survey for Great Crested Newt