
Appeal Decision

Site visit made on 13 June 2017

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

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

Decision date: : 29 August 2017

Appeal Ref: APP/X0360/W/17/3169773

Land to the rear of 5 and 7 Rowan Drive, Crowthorne RG45 6RY

- 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 Mr A and Mr R Sergison against the decision of Wokingham Borough Council.
 - The application Ref 161569, dated 6 June 2016, was refused by notice dated 19 August 2016.
 - The development proposed is the erection of detached dwelling to the rear of 5 and 7 Rowan Drive, to include new access from Old Sawmill Lane and associated parking.
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Decision

1. The appeal is dismissed.

Procedural matters

2. An amended site plan was submitted with the appeal, which the appellants indicate more accurately ties the site to the land owned by the appellants. The site is thus somewhat smaller than originally shown. I consider that the amended plan does not materially alter the nature of the development, or prejudice anyone's interests. I shall therefore take it into account in my decision.

Main Issues

3. The appellants have submitted a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990. It provides a mechanism to pay financial contributions to mitigate the effect of the proposal on the Thames Basin Heaths Special Protection Area (SPA). The Council accepts that the obligation overcomes the relevant reason for refusal, and I consider that the undertaking is necessary and otherwise satisfies the Community Infrastructure Levy Regulations 2010. I shall therefore not deal with this further.
4. Accordingly the main issue is the effect of the proposal on the character and appearance of the surrounding residential area, including the effect on trees.

Reasons

5. The site lies in the northern part of Crowthorne, where Policy CP9 of the Wokingham Core Strategy (CS) provides that modest growth may occur. Thus,

in principle, there is no objection to new residential development in this location.

6. The appeal site forms an unkempt open area of land at the rear of gardens of houses on Rowan Drive, fronting onto Old Sawmill Lane, which runs between Old Wokingham Lane and Pinewood Avenue. The lane has a mixed character; for the first 65m or so, it forms a residential street, occupied by terraced houses on one side and detached houses on the other, with access via a metalled road with footways. Beyond these houses, the lane continues for a couple of hundred metres, unsurfaced and enveloped by the canopies of tall trees, mainly oaks, which line the lane. The lane gives access to intermittent garages and the rear gardens of dwellings which back onto the lane on either side.
7. Although the site lies within the development boundary of this part of Crowthorne, I consider that the lane, because of its relatively narrow width, rough surfacing and overhanging trees, has a distinctive semi-rural character which provides an attractive interlude to the otherwise suburban form of development in the area. The proposed dwelling would front onto this unsurfaced part of the lane, and would erode the special quality of the lane that I have described.
8. The large size of the dwelling would not be out of keeping with the mix of dwelling types in the Old Sawmill Lane enclave, where there are larger dwellings on the south side of the road, and its design would fit in with the those found in the wider area. However, its size and closeness to the site frontage would make it a dominant feature, which would emphasise the discordant nature of the development in this semi-rural context.
9. A previous appeal decision for a dwelling on the site was dismissed in 1997, with the Inspector finding that the proposal would have an adverse effect on the character and appearance of the area because of the erosion of the semi-rural character of this part of Old Sawmill Lane. The houses at the eastern end of Old Sawmill Lane and the single house at the end of the lane adjacent Pinewood Avenue existed at that time, and in my view, there have been no material changes in site circumstances which would justify a different view being taken now. I also share the previous Inspector's concerns that if the appeal were allowed it would make it difficult for the Council to resist further incursions, leading to the loss of a distinctive feature which I consider it is important to protect.
10. It would not be possible to provide any substantive mitigation through tree planting. The eastern part of the site would be given over to parking, access and turning, and the remainder of the frontage would be too shallow and too close to windows of habitable rooms to allow any significant planting to occur. This adds to my concerns that the proposal would neither maintain nor enhance the environment as required by Wokingham Borough Core Strategy(CS) Policy CP3.
11. The site is adjacent to two oak trees which are located in the rear garden of 9 Rowan Drive, the trunks of which are close to the boundary and the canopy overhangs the appeal site. These trees are protected as part of an area Tree Preservation Order. I consider that the trees provide an attractive amenity feature, which complements the other tall trees which line the lane fronting the site.

12. Whilst I accept that the position of the proposed dwelling would not pose an insuperable risk to the health of the trees in terms of the closeness of the canopy to the building, I am more concerned about the impact of the dwelling on the root system of tree T3 in particular. The proposed dwelling would be sited within its root protection area (RPA). BS 5837:2012 *Trees in relation to design, demolition and construction – Recommendations* indicates that the default position should be that structures are located outside of the RPA, but where there is an overriding justification, structures within the RPA may be possible subject to it being demonstrated that the tree can remain viable and the area lost to encroachment can be compensated for elsewhere, contiguous with the RPA and that mitigation to improve the tree's soil environment can be provided.
13. Most of the contiguous area of the RPA is within neighbours' gardens, over which the appellants have no control. The Council raises the possibility that development may occur within the offset RPA, thereby counteracting the effect of the offset. Permitted development rights exist to construct outbuildings and other incidental structures, and whilst there is no evidence that such development is likely to take place, as it is beyond the appellants' control, it cannot be discounted. Moreover, there is little scope to improve the soil environment; the area of garden immediately adjacent to the proposed house is that which is likely to be the most intensively used, and the appellants have no ability to improve the soil environment in the remainder of the RPA which is in other ownership. I therefore find that the proposal is likely to pose a threat to the health of trees which make a contribution to the amenity of the area, and this adds to my concerns.
14. I have taken into account that the current nil use of the site is likely to result in it being left in an untended and overgrown state. However, mindful of the powers available to the Council under Section 215 of the Act, this prospect does not outweigh the harm that I have found. The appellants also claim benefits to biodiversity, but compared to an untended overgrown site which in itself provides a habitat for wildlife, I consider that any benefits would be limited.
15. I therefore conclude on the main issue that the proposal would result in material harm to the character and appearance of the surrounding residential area and would conflict with Wokingham Core Strategy Policies CP1 and CP3, which respectively deal with sustainable development and general development principles. It would also conflict with Managing Development Delivery Local Plan (LP) Policies CC01 and CC03, which, in turn, concern the presumption in favour of sustainable development, and green infrastructure, trees and landscaping.
16. The Council has alleged a conflict with LP Policy TB06 which deals with the development of private residential gardens, and provides that inappropriate development of residential gardens where development would cause harm to the local area will be resisted and that proposals for new residential development that includes land within the curtilage or the former curtilage of private residential gardens will only be granted planning permission where criteria are met.
17. The appellants argue that the policy does not apply to the appeal site as it does not form part of a residential garden, but is land with a nil use. However, the

northern-most part of the site was shown as forming part of the garden of 5 Rowan Drive in a planning application dated 2015. This is not an immaterial part of the site, and therefore I consider that the policy does apply here, and the proposal would conflict with the aim of ensuring that development of residential gardens does no harm the local area.

18. It would also conflict with the aim contained in the Council's Borough Design Guide Supplementary Planning Document (SPD) which aims to ensure that development should contribute positively to the historic or underlying character and quality of the local area.
19. The proposal would bring with it economic benefits from the construction and occupation of the dwelling. It would contribute to the housing stock, which would have some social benefit. However, these benefits would be modest, and do not outweigh the environmental harm that I have found. Accordingly the environmental dimension of sustainable development is not fulfilled, and when looked at in the round the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including those of the National Planning Policy Framework.

Conclusion

20. For the reasons given the proposal is unacceptable and the appeal should fail.

JP Roberts

INSPECTOR