The Planning Inspectorate

Appeal Decision

Site visit made on 12 February 2019

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2019

Appeal Ref: APP/T0355/W/18/3205117
Hope Technical Developments Ltd, High Street, Ascot SL5 7HP

- 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 D Kirkby of Kirkby Homes (Sunningdale) Ltd against the decision of Council of the Royal Borough of Windsor and Maidenhead.
- The application Ref 17/03833, dated 11 December 2017, was refused by notice dated 21 February 2018.
- The development proposed is the redevelopment of site to provide 8 no. dwellings with associated landscaping, hardstanding and parking.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was published and subsequently amended during the course of the appeal. The Council and appellant had the opportunity to comment and I have taken its contents into account in coming to my decision.

3. I note that the draft Windsor and Maidenhead Borough Local Plan has been submitted for examination but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the Framework. Consequently, I am only able to give it limited weight in my decision.

4. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 has been submitted in support of the appeal. This seeks to provide contributions toward Strategic Access Management and Monitoring (SAMM) and Suitable Alternative Natural Greenspace (SANG) in order to overcome the effect of the development on the Thames Basin Heaths Special Protection Area (SPA). I note that the Council state that this would be unsatisfactory and a draft legal agreement has been provided as an alternative, but this has not been executed. I will return to this in my main issues.

Main Issues

5. The main issues are:

   - the effect of the proposed dwellings on the character and appearance of the surrounding area;

- whether the proposed development would conflict with local policies relating to the development of "Ascot Village";
- the effect of traffic relating to the proposed dwellings on the safe and efficient operation of the highway network in the vicinity of the appeal site; and
- the effect of the proposed development on the Thames Basin Heaths Special Protection Area.

Reasons

Character and appearance

6. The appeal site is located to the rear of a public house and shops fronting the High Street in the centre of Ascot, such that this is a discrete site largely hidden from view from the High Street. The site currently comprises commercial development and two former houses. These existing buildings are substantial and take up much of the site, the commercial buildings extending to the parking and open space on land to the rear. The surrounding area comprises the commercial development fronting the High Street, with terraced and semi-detached residential properties to the rear, including those backing onto the appeal site on Course Road.

7. The proposal would provide eight dwellings in two terraces. These would be deep and substantial two storey buildings of traditional appearance. The roofs would be steep, with a flat roof above that would provide additional accommodation with dormer windows to the front and rear. This would result in two very substantial buildings that would be much larger in scale and bulk than other dwellings in the area, such as those on Course Road. Whilst the existing commercial buildings are also substantial, this scale and bulk of residential development would appear out of keeping with the surrounding area.

8. The dwellings would be set away from the rear boundary and provided with access on the existing route beside the public house, with parking to the front. The existing development is largely hard surfaced to the front and the proposals would result in the front area continuing to be dominated by hardstanding. As a result, the amount of hardsurfacing would add limited harm to that from the scale and bulk of the proposed buildings.

9. For these reasons, I conclude that the proposed development would harm the character and appearance of the area. As such, it would be contrary to Policies DG1, H10 and H11 of the Royal borough of Windsor and Maidenhead Local Plan (LP) and Policies NP/DG1, NP/DG2, NP/DG3 and NP/SS1 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan (NP) and the Framework that seek high quality design that is in keeping with the character and appearance of the area and, in the case of development within Ascot Village, that housing shall be similar in character and scale to that around Course Road.

Ascot Village

10. The appeal site is located within the centre of Ascot and forms part of a wider area known as "Ascot Village" that has been allocated for development as part of Policy NP/SS1 of the NP. This seeks a mixed use development on this site, including retail and employment uses as well as housing. It requires that a

Development Brief is prepared in advance of any application for development to ensure the comprehensive development of Ascot Village.

11. I understand that the work to prepare a Development Brief has excluded this site. The Development Brief is expected to be prepared in collaboration between landowners, developers, key stakeholders and the community. This site is clearly within, albeit on the edge of, the area designated as "Ascot Village." As set out in Policy NP/SS1 of the NP, development of the area including this site in a comprehensive manner would contribute to the centre of Ascot better than a more piecemeal development.

12. For these reasons, I conclude that development of the appeal site other than in accordance with a Development Brief would lead to a technical conflict with Policy NP/SS1 of the NP. Nevertheless, taking all the above into account and that no actual harm from this conflict has been identified, other than in relation to the character and appearance of the area, this policy conflict carries little weight in the planning process.

Highway network

13. The access to the development would use the existing access to the site, that continues to the racecourse. I understand that there is a covenant preventing closure of that access. Policy NP/SS1.3 of the NP requires new vehicle access to Ascot Village that is not off the High Street as there are serious issues with traffic congestion along the High Street, especially during race days. Nevertheless, this is an existing access and there would not be additional traffic from the proposed development over and above that generated by the previous use of the buildings.

14. For these reasons, I conclude that the use of this access for the proposed development would not affect the safe and efficient use of the highway network. As such, the proposed access to the development would not conflict with Policy T5 of the LP that seeks to avoid congestion on the highway network. I note that there would be some conflict with Policy NP/SS1 of the NP insofar as it relates to access to Ascot Village, however as I have not identified any actual harm to the safe and efficient use of the highway network this carries little weight.

Special Protection Area

15. The appeal site is located within the buffer zone of the SPA where new residential development would place additional pressure from recreational disturbance on the SPA. The proposed development, in combination with other projects, would contribute to that pressure. Taking account of recent case law, under the Habitats and Species Regulations 2017 (the Habitats Regulations) I would need to complete an appropriate assessment in relation to the effect of the development on the SPA were I to consider allowing the appeal.

16. It is unclear whether or not measures in the UU or draft legal agreement would provide adequate mitigation of any effects of the development on the SPAs, or meet the requirements of the Community Infrastructure Levy Regulations (2010) as amended. As such, it is not clear that the mechanism to contribute toward maintaining and managing the effect of the development on the SPA would be effective. On that basis, I conclude that there is an unacceptable risk of harm to the integrity of the SPA such that the proposal would conflict with

Policy NRM6 of the South East Plan and the Framework. These seek to protect nature conservation sites of international importance, such as SPAs, including requiring adequate measures are put in place to avoid or mitigate any potential adverse effects on the ecological integrity of SPAs.

Other matters

17. I understand that the Council do not have a five year supply of deliverable housing sites. Taking account of the existing dwelling on the site, the proposed development would contribute an additional seven dwellings toward that supply. Under the presumption in favour of sustainable development set out in the Framework, that would normally mean that the development plan policies that are most important for determining the application, such as those within the LP and NP, would be considered out of date.

18. Paragraph 177 of the Framework states that, as no appropriate assessment has concluded that the development will not adversely affect the integrity of the SPA, the presumption in favour of sustainable development does not apply. Consequently, the appeal needs to be considered in accordance with the development plan, including the LP and NP, unless material considerations indicate otherwise.

19. I understand that a similar form of development was approved on the site in 2004 and that this was subject of the same LP policies, but prior to preparation of the NP. I have limited information regarding that scheme and, in any event, need to consider the proposed development on its individual merits.

Conclusion

20. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the development plan. Provision of housing, even taking account of the deficit in the five year supply of deliverable housing sites, is not a material consideration of such weight in this case as to warrant a decision other than in accordance with the aforementioned development plan. Consequently, the appeal should be dismissed.

AJ Steen

INSPECTOR