
Appeal Decision

Site visit made on 17 June 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Appeal Ref: APP/R0335/W/19/3223724

Sandhurst Lodge, Wokingham Road, Crowthorne RG45 7QD

- 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 Charles of Fellbon Property Company Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 17/00774/FUL, dated 17 July 2017, was refused by notice dated 21 September 2018.
 - The development proposed is erection of 5no. detached 5-bed houses.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Charles of Fellbon Property Company Ltd against Bracknell Forest Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - The effect on the character and appearance of the area, including the effect on existing trees at the site; and
 - The effect on biodiversity.

Reasons

Character and appearance

4. The appeal site is located outside of any settlement boundary defined through the Bracknell Forest Borough Local Plan (January 2002) (the Local Plan) and is therefore defined as countryside in local planning policy terms. Policy EN8 of the Local Plan sets out that the countryside will be protected for its own sake whilst Policy H5 of the Local Plan sets out that new dwellings will not be permitted outside of defined settlement boundaries unless, amongst other requirements, there is a need for such dwellings in connection with an acceptable use as set out in Policy EN8, which, from the evidence before me, there would not be. Indeed, the supporting text to these policies confirms a commitment to maintaining the open, rural and undeveloped character of land outside settlements and the need to maintain a distinction between built-up

- areas and the countryside by controlling the spread of development outside settlements.
5. The Bracknell Forest Borough Landscape Character Assessment (September 2015) designates the area containing the application site as "Crowthorne / Sandhurst Heathland Mosaic", the key characteristics of which include large areas of woodland and a low settlement density. As set out in this document, the rural character of the landscape provides physical and visual separation and a gap function between Crowthorne and Sandhurst.
 6. The appeal site itself makes up part of a wider country estate. I understand that the main property, Sandhurst Lodge, has been part-converted into apartments and that other residential/care home uses are in existence. The appeal site and wider estate incorporate areas of woodland, which is in line with the character of the site's wider surroundings. A tree preservation order (the TPO) is in place that covers the Sandhurst Lodge estate and depicts various protected individual trees and tree groups. Even so, a significant extent of the appeal site is grassed and appears as a clearing surrounded by trees. This grassed area, I understand, is used in-part for dog agility training and associated removeable equipment was in place on the ground during inspection.
 7. The estate is accessed from Wokingham Road at the northern end of the appeal site, which is where access to serve the proposed dwellings would also be drawn. A disused access track (the disused access) exists within the appeal site. This runs from the northern end to the southern end of the site and ultimately connects to an existing private access way that bounds the southern edge of the appeal site and that connects to Wokingham Road. I understand that, from the evidence before me, the disused access formed the original access road to Sandhurst Lodge and its presence is still readily apparent on-site. It is proposed that the dwellings be constructed on either side of the disused access, which would be upgraded and brought back into active use as part of the proposal.
 8. Notwithstanding the wooded character of the site and its surroundings, only a limited number of tree removals are proposed to be undertaken. It is apparent from submitted tree survey work that the specimens earmarked for removal are of limited prominence and value. This is consistent with my own observations on-site. I also noted from inspection that specimen T60A, which both the Council's Tree Officer and Ecology Officer has specifically referred to in correspondence, had been removed. Accordingly, I must consider the appeal on this basis.
 9. It is also apparent that the Council's Tree Officer has raised specific concerns with respect to the potential effect of the proposal upon the health of tree specimens T41 and T42. Both are horse chestnut trees and are situated alongside the disused access such that proposed upgrading/resurfacing works to this access would be carried out within their root protection areas (RPAs). T41 has been surveyed as high quality, whilst T42, which is multi-stemmed, as moderate quality. From inspection, it was apparent that T42 is a particularly large and vigorous specimen readily visible from various vantage points within the site. Notwithstanding their size, I did not notice obvious features that would clearly distinguish either T41 or T42 as veteran trees. Their girths did

not appear unduly large for the species concerned and any signs of decay or bark loss, for example, were not prominent.

10. Within the RPAs of various trees, including T41 and T42, the disused access is proposed to be upgraded and further additional new surfacing would create private driveways. As set out in the appellant's Arboricultural Assessment & Method Statement (December 2017), cellular confinement systems are proposed to be used as a base layer for new surfacing works within RPAs. I note that some limited excavation would be envisaged to occur to achieve an evenly graded sub-base layer. Even though a small extent of groundwork would be anticipated, I am content that the newly proposed surfacing would be laid out in the interests of seeking to minimise its effect upon existing trees. This is particularly if the various methods and techniques outlined in the appellant's supporting documentation are implemented.
11. Whilst I am satisfied that any existing tress of notable value could be appropriately safeguarded during the act of development, the residential proposals in themselves involve a significant amount of development in the context of a site where development opportunities are constrained by the presence of wooded areas. Indeed, the proposal involves the development of five large dwellings and the setting out of individually defined private garden areas that would, in the case of all plots apart from Plot 2, involve the integration of trees into garden areas. This would be most apparent with respect to Plots 4 and 5.
12. The existing areas of woodland are of importance in defining the character and appearance of the wider area. Indeed, the grassed area where four of the proposed dwellings would be positioned forms a clearing and sits secondary to and blends seamlessly with its wooded surrounds and contributes in no small part to the predominant rural character and intrinsic beauty of the site and its immediate surroundings. This is even when noting the current presence of dog agility equipment on the ground. In contrast, the proposal would dominate its setting and weaken the wooded/rural character that is in existence.
13. I accept that the proposal, due to the wooded nature of much of the site and its surroundings, would offer limited visibility when viewed from public vantage points along Wokingham Road. Its effect upon the character and appearance of the site's wider surroundings would be tempered as a result. I do not however accept that this situation mitigates the visual effects of the development in their entirety.
14. Indeed, the appeal site is not located remote from Wokingham Road such that various views of wooded parts of it are already publicly available. The existing vegetated screen that is in place to the eastern side of the site, which I observed to be relatively substantial during inspection, could not necessarily be relied upon to provide a solid and permanent buffer to views. This is particularly as much of the buffer that is in place would appear to be provided by low-level ground cover that would not be anticipated to be afforded protection by virtue of the longstanding TPO that is in place and due, in general terms, to the ever-evolving nature of soft landscaping. The development, consisting of five large two-storey dwellings served by considerably sized associated domestic garden areas, would have a permanent presence and alter how the appeal site would be read and experienced in the context of its surroundings.

15. I note that the appellant has referred to other schemes for residential development granted planning permission at the estate. Whilst the full details of these schemes are not before me, they would appear to relate to other areas of the estate where there was/is already built development in place. It has also been raised that planning permission was recently granted by the Council for a large new house opposite the appeal site and visible from Wokingham Road, a location where I note various residential properties are already located. The full details of this permission are again not before me. In any event, I must assess the appeal proposal, which consists of the development of 5 large dwellings in a woodland setting, based on its own individual merits.
16. Notwithstanding my findings with respect to existing trees, for the above reasons the proposed development would cause harm to the character and appearance of the area. The proposal conflicts with Policy CS7 of the Core Strategy Development Plan Document (February 2008) (the Core Strategy) and with saved Policies EN8, H5 and EN20 of the Bracknell Forest Borough Local Plan (2002) (the Local Plan) in so far as these policies require that outside the defined settlement boundaries, development will be permitted only where it would not adversely affect the character, appearance or function of the land or would not damage its landscape quality.
17. Policy EN1 of the Local Plan requires that planning permission will not be granted for development which would result in the destruction of important trees and hedgerows. As only a small number of lowly categorised trees would be removed and appropriate retention/mitigation measures would be utilised with respect to specimens of value, I am satisfied that the proposal would not conflict with Policy EN1.

Biodiversity

18. An Extended Phase One Ecology Report (February 2017) (the Ecology Report) was carried out in order to highlight the possible presence on-site of protected species or habitat of conservation value. Subsequent assessment work with respect to protected species was carried out and an Ecological Walkover was undertaken in July 2018. A further Ecology Statement has been produced to support this appeal, which includes reference to additional survey work undertaken with respect to protected species. Despite the presence of a mixture of mature broadleaved trees species, it was found that there was little ground flora on account of most of the understorey being inundated with rhododendron. Precautionary mitigation measures with respect to bats, badgers, reptiles and birds have been set out in the various pieces of ecology work undertaken.
19. Notwithstanding concerns raised by the Council's Ecology Officer and reference to the loss of Priority Habitat, I am content that the proposed development would not result in the removal of any veteran trees or trees with the potential to provide significant ecological benefit. I am also content, from my own inspection, that the appellant's observations regarding ground flora are accurate. Whilst I am aware that bat activity was observed during survey work carried out, no roosts were specifically identified. I am satisfied, having considered all the evidence before me and noting that tree T60A has been felled, that a lighting condition to minimise light spill would represent commensurate mitigation with respect to bats. As would, with respect to potential badgers at the site, (a) condition(s) securing a further presence

survey (if necessary) and a scheme to minimise disturbance during construction.

20. I am also satisfied that, from a wildlife perspective, further assurances with respect to the enhancement and ongoing management of woodland habitat at the site could be appropriately secured via planning condition should the appeal be allowed. This is notwithstanding the future domestic pressures that could potentially be placed on existing trees, as discussed further in Other Matters below.
21. For the above reasons, the proposed development would not cause harm to biodiversity and would accord with Policies CS1 and CS7 of the Core Strategy in so far as these policies require that development protects and enhances the quality of natural resources including water, air, land and biodiversity.

Other Matters

22. The site lies in the proximity of the Thames Basin Heaths Special Protection Area (the SPA) and therefore I must consider the appeal against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the implications of the project in view of the relevant site's conservation objectives.
23. I note from the evidence before me that the Council, in the process of determining the planning application that is now the subject of this appeal, undertook its own appropriate assessment. This ultimately identified a total SPA-related financial contribution for the proposal of £21,315, which Natural England has raised no objection to. A completed legal agreement dated 27 June 2019, which has been signed by both the appellant and the Council, is before me which secures the relevant financial contributions set out in the Council's evidence. This has allowed the Council to formally withdraw its third reason for refusing to grant planning permission.
24. For the purposes of this appeal, I am the competent authority and must, before the grant of planning permission, undertake my own appropriate assessment prior to considering the issue of mitigation. Whilst, from the evidence before me, I have no reason to question the Council's findings with respect to the SPA, I have found the appeal proposal unacceptable for other reasons such that it is not necessary for me to pursue this matter any further as part of this decision.
25. Whilst concerns have been raised by third parties to this appeal in a highway safety context, as I have found the proposal unacceptable for other reasons it is also not necessary for me to consider such matters further as part of this decision.
26. The appellant has made reference to the Council's record of housing delivery. The most recent Housing Delivery Test measurement (2018) confirms that the Council, over the preceding three years, failed to deliver the total number of homes required to meet its housing needs. The Council has however stated that it can currently demonstrate in excess of a five-year supply of deliverable housing sites and a supply figure of 6.04 years has been quoted. This figure would be required to incorporate an additional 20% land buffer due to the

Council's delivery record. For the avoidance of doubt, there is no evidence before me to suggest that the Council's level of delivery would be defined, in National Planning Policy Framework (February 2019) (the Framework) terms, as substantially below that of their housing requirement.

27. Whilst the appellant has questioned the Council's housing land supply figure, this position has not been substantiated and I have taken the Council's position as the best available evidence. For the avoidance of doubt, I consider that the policies that are most important for determining this appeal, when taken as a whole, are not out-of-date. I have not therefore applied the tilted balance in favour of the proposal as set out in paragraph 11 of the Framework. Nonetheless, I acknowledge that the proposal would deliver five additional housings unit and that the Framework reaffirms the Government's objective of significantly boosting the supply of homes.
28. In terms of further scheme benefits, it would be expected to lead to a net-gain in biodiversity due to woodland and habitat management that would be envisaged to be undertaken, which the appellant sustains would be unlikely to be put in place without the proposed development coming forwards. This benefit would however, I consider, be tempered due to the proposed proximity of dwellings to existing trees, which would likely promote future domestic pressures that do not currently exist. For example, future works to trees could be motivated to deter shading or to provide useable garden space. I therefore afford only limited weight to the net-gain in biodiversity that the scheme would be anticipated to provide.
29. The contribution of five dwellings would be modest and would not outweigh the significant harm identified to the character and appearance of the area. The development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

30. Whilst I have found the proposal to have an acceptable effect upon existing trees and upon biodiversity, it would result in significant harm being caused to the character and appearance of the area. That harm is the overriding consideration.
31. For the reasons above, the appeal is dismissed.

Andrew Smith

INSPECTOR