



Appeal Decision

Site visit made on 16 July 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/T0355/W/19/3221751

Hill House, Cross Road, Sunningdale, Ascot SL5 9RX

- 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 Dudley Mills of Kebbell Development Ltd against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/00624, dated 28 February 2018, was refused by notice dated 10 September 2018.
 - The development proposed is erection of 10 no. apartments with basement parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A draft agreement under section 111 of the Local Government Act 1972 was submitted by the appellant to address the effects of the proposal on the Thames Basin Heaths Special Protection Area (TBHSPA). I shall return to this later.

Main Issues

3. The main issues are:
 - The effect on the character and appearance of the area, including the effect on trees.
 - Whether the development should make a contribution towards affordable housing.
 - The effect on the TBHSPA.
 - Whether there has been adequate pre-application consultation.

Reasons

Character and Appearance

4. The appeal site houses a large detached dwelling known as Hill House, set in mature vegetated grounds which includes trees subject to a Tree Preservation Order (TPO). It is located within an area identified as a 'leafy residential suburb' in the Council's Townscape Assessment and as such is characterised by large residential plots with verdant surroundings. The site is located on the edge of Sunningdale Heath golf course, the single storey club house for which

is located adjacent to the site. As the club house is set back from the road the site forms a dominant view when approached from the south east on Cross Road.

5. I note that there have been a number of amendments to the scheme since a previous proposal was dismissed at appeal¹. However, whilst the proposal before me would have a similar height to neighbouring properties Queenswood and Fairways on the opposite side of the road, the width and depth of the development would be greater creating a significantly larger footprint. The impact of the scale and massing would be exacerbated by the location of the development on elevated ground. This along with the design of the scheme, with a deep bulky roof, would create an incongruous dominating development despite being set further back into the site than the previous scheme. The development would be at odds with the wider street scene which has a lower density character that is fitting of the 'leafy residential suburb' categorisation, irrespective of the distance of the development from its immediate neighbouring properties. The retention of the wooded back drop would do little to mitigate the harm.
6. In support of their case the appellant says that since the previous planning application was dismissed at appeal, an apartment block has been granted planning permission. I have limited details in which to make a comparison with the case before me. I note though that the scheme is not located in the same road as the proposal and so the context will be different. This also applies to the appellant's reference to Dormy House, an existing apartment block in the area. The apartment blocks that do exist in Cross Road are located in a more densely developed part of the road and in any event, each case is determined on its own merits.
7. Trees on the site that are subject to a TPO include T17, a tall mature common oak and T27, a cedar tree that sits on the south east boundary in close proximity to the existing building. Both trees have high landscape value and make a positive contribution to the verdant character of the area.
8. Even if the trees were not affected during the proposed construction works, in the case of both trees although the lounge/ dining/ kitchen area of affected apartments would have a dual aspect, it remains the case that there would be openings on the side elevation of the properties. As such, in the case of both trees there remains, as with the previous scheme, a risk of pressure to prune the trees following occupation of the development. This is even if the openings looking down the length of the garden are considered to be the main source of outlook. It also remains the case, as with the previous proposal, that bedrooms would rely on the side windows as their only source of outlook.
9. The design of the scheme before me would also not overcome the pressure to prune the trees that would be generated by the perceived nuisance generated by issues such as blocked gutters from falling leaves, roosting birds and fears associated with dominance. As such, there remains a risk of long term decline of both of the trees as a result of the development. This would result in a detrimental impact on the verdant character and appearance of the area given the positive contribution made by the trees. The presence of the TPO designation would not overcome the pressure that would be placed on the trees.

¹ Appeal reference APP/T0355/A/14/2213014

10. The proposal would harm the character and appearance of the area and as such would conflict with saved Policies H10, H11 and DG1 of the Royal Borough of Windsor and Maidenhead Local Plan (Local Plan) the relevant parts of which require new development to display high standards of design and be of a scale and design that is compatible with the character and amenity of the area. The development would also conflict with the part of saved Policy N6 of the Local Plan which requires new development to allow for the retention of existing suitable trees. The scheme would also conflict with the parts of Policies NP/DG1, NP/DG2 and NP/DG3 which require new development to respect the character and appearance of the surrounding area, be of a similar density, footprint, separation, scale and built form to surrounding buildings, and in areas designated as 'leafy residential suburbs' retain and enhance the sylvan, leafy nature of the area. Similarly, the scheme would not reflect the provisions made in Policies NP/EN2 and NP/EN3 of the Neighbourhood Plan which requires that proposals for new dwellings on private residential gardens should not result in an unacceptable impact on the landscape and environmental value of the site and should seek to retain mature or important trees.

Affordable Housing

11. Saved Policy H3 of the Local Plan seeks 30% affordable housing on suitable sites of 0.5ha or over or schemes of 15 plus net dwellings. Policy HO3 of the Borough Local Plan 2013-2033 Submission Version states 'if a site allocated or identified for housing is subdivided to create 2 or more separate development schemes, one or more of which falls below the threshold of 10 units or 1000m² floor area, the Council will seek an appropriate level of affordable housing to reflect the provision that would have been achieved on the site as a whole had it come forward as a single scheme for the allocated or identified site'. This is to seek to ensure that landowners do not take an incremental approach to development to avoid the provision of affordable housing.
12. At some 0.63ha in total, and when considered in conjunction with an application approved for 5 apartments granted elsewhere on the site², the Council is of the view that the threshold for the provision of affordable housing has been met. Whilst the appellant says affordable housing was not sought on the scheme for 5 dwellings the Council say it was sought on 2 other applications on the site and that the area covered by the site for 5 apartments and the current scheme should be treated as one site.
13. There is a clear linkage between the development in terms of historically forming part of the grounds of Hill House which was in a single ownership. However, in the evidence submitted to me there is little to substantiate that the scheme before me forms part of a wider phased scheme. The developments would not be served by the same shared access and landscaping separates the sites rather than it appearing as a single development. In addition to this, through the appeal process the appellant has also submitted evidence disputing the viability of the development when both schemes are considered together. This has not been assessed by the Council.
14. In any event, even if I were to find that both schemes should be treated as a single site the current status of the emerging policy limits the weight I can attach to the requirement.

² Council planning reference 16/02220

Thames Basin Heaths Special Protection Area

15. The site is located within 5km of the TBHSPA and as such the scheme is likely to have a harmful effect on Chobham Common, part of the Special Protection Area. The Thames Basin Heaths Special Protection Area Supplementary Planning Document allows new housing development within the 400m to 5km zone of influence subject to appropriate mitigation measures secured by either a financial contribution or the provision of a Suitable Alternative Natural Greenspace (SANG) and a financial contribution to Strategic Access Management and Monitoring (SAMM).
16. There is dispute between the parties regarding the type of mitigation required to address the likely effects of the scheme proposed. The appellant is of the view that a financial contribution towards Allen's Field SANG and SAMM is required, while the Council say that when considered in conjunction with the scheme for 5 apartments there should be a contribution towards an alternative SANG or provision of their own SANG.
17. I have already found that it has not been adequately demonstrated that the proposal forms part of a wider phased scheme. This, in conjunction with the fact that separate mitigation measures have already been secured for the 5 apartments already granted planning permission leads me to take the view that the impact of the proposal can be mitigated through a financial contribution towards the SANG and SAMM.
18. A Section 111 Agreement has been prepared and signed by the appellant through the appeal process. However, the financial contributions identified in the document differ to those presented by the Council³. I also do not have a copy that has been signed by both main parties and therefore cannot be satisfied that the payments would be secured for the identified purposes and therefore that the integrity of the TBHSPA would not be harmed as a result of the development.

Consultation

19. Policy NP/H1 of the Ascot, Sunninghill and Sunningdale Neighbourhood Plan requires that development proposals of 10 or more dwellings on sites larger than 0.4ha should submit a development brief and actively engage with the community prior to a planning application being submitted. The appellant acknowledges that, in terms of a scheme specific development brief, this did not occur.
20. The appellant cites the significant number of planning applications and appeals that have been made on the site over the last 6 years which they say involved community engagement as the reason for the lack of engagement on the latest proposal.
21. However, whilst the planning application may focus on 2 issues associated with the previous appeal, they cover matters raised in objections made by interested parties in response to the proposal. Irrespective of the number of objection letters received, this indicates that engagement with the community at the pre-application stage may have been productive even if it may have not

³ Schedule 1 of the draft agreement identifies a SANG contribution of £79,436 and a SAMM contribution of £5,988. The Council in their comments on the agreement identify a SANG contribution of £77,524 and a SAMM contribution of £5,576.

led to the objections being overcome. The appellant says the provision of drawings and supporting documents with the planning application would mean the local community would be able to understand the proposal. However, such documentation does not obviate the need for meaningful engagement with the community.

22. It has not been demonstrated that the views of the community have been taken into account and as such the development conflicts with Policy NP/H1 of the Neighbourhood Plan which seeks to ensure meaningful engagement with the community on new housing development of the scale identified above.

Other Matters

23. Through the appeal process the Council has forwarded comments by the Lead Local Flood Authority dated 15 March 2018. However, it was not available to the Council prior to the determination of the planning application. The comments raise objection to the development in the absence of adequate information to enable the authority to be satisfied that the development would not increase flood risk elsewhere. As I am dismissing the appeal there is no need for me to consider the matter further.
24. The Council is unable to demonstrate a 5 year housing land supply. In such circumstances paragraph 11(d) of the NPPF would ordinarily be engaged. However, footnote 6 states that paragraph 11(d) is not applied where 'policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed'. This includes habitat sites and as I have found that the scheme is likely to have a harmful effect on the TBHSPA the tilted balance does not apply.
25. The appellant has identified a number of benefits of the scheme. This includes meeting a housing need for the provision of homes for smaller households on previously developed land in a location accessible to services and facilities. The windfall site would be available immediately and brought forward by a small scale housebuilder. There would also be economic gain during construction of the development and occupation of the properties thereafter. However, this would be muted to some extent by the small scale of the development.
26. In addition, I have found harm to the character and appearance of the area, including to trees, there would be harm to the TBHSPA and there was no community pre-application engagement. I find this harm to significantly and demonstrably outweigh the benefits of the scheme.

Conclusion

27. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR