
Appeal Decision

Site visit made on 28 August 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref: APP/X0360/W/19/3228974

12 Cutbush Lane, Shinfield RG2 9AH

- 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 and Mrs S C and E L Woodhead against the decision of Wokingham Borough Council.
 - The application Ref 190152, dated 18 January 2019, was refused by notice dated 8 March 2019.
 - The development proposed is the erection of two detached bungalows.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have considered the proposal on the basis of the plans that have been referred to in the Wokingham Borough Council's decision notice dated 8 March 2019.
3. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Main Issues

4. The main issues are;
 - The effect of the proposed development on the character and appearance of the surrounding area; and,
 - Whether or not the proposed development would make adequate provision for affordable housing.

Reasons

Character and Appearance

5. The appeal site is located on the southern side of Cutbush Lane within a residential area close to the junction with Hollow Lane. The site comprises a well-proportioned two storey detached dwelling with a wide frontage, set within a generously sized plot. A detached garage is positioned to the side of this dwelling.

6. Whilst there is some variety in the appearance, scale and width of houses within this section of Cutbush Lane, residential development is predominately two storeys in height arranged in a strong linear form relative to the road and forming a broadly consistent building line. To the rear of the gardens of houses on the south side of this section of Cutbush Lane, there is further residential development comprising bungalows arranged within a separate cul-de-sac known as Lane End Close.
7. The appeal proposal seeks to introduce two new dwellings to be positioned within the rear garden of the appeal property. Access to the new dwellings would be achieved by a private driveway connecting to Cutbush Lane and following the demolition of the existing garage at the site. The total area of the rear garden at the appeal property appears to be larger than that of residential dwellings to the east along Cutbush Lane, with the space and verdant nature of these gardens making a positive contribution to the character and appearance of the surrounding area.
8. Section 4.10 of the Wokingham Borough Council Borough Design Guide (the BDG) concerns proposals for development of residential gardens. The BDG provides guidance on the forms of development that are considered to be 'backland' and 'tandem' developments.
9. It has been put to me that the residential development at Lane End Close constitutes backland development and that consequently the appeal proposal would not amount to tandem development. However, it is apparent from the presence of the separate public road that serves to provide access in relation to the properties within Lane End Close, that that development is not backland. This is in sharp contrast to the appeal scheme which would provide access directly onto Cutbush Lane via a private driveway and consequently the circumstances are not comparable. I therefore consider that the appeal proposal would constitute both backland and tandem development within the context of the BDG.
10. The proposed dwellings would be of single storey height and would be positioned within the site in close proximity to each other. The height of the proposed dwellings would not reflect the two-storey arrangement of properties on this section of Cutbush Lane. However, it is maintained that the proposed dwellings would respect the building line of dwellings located within Lane End Close and would be of a comparable overall height.
11. In this regard, whilst I acknowledge the submissions of the Appellant, in my view the proposed dwellings would not reflect the building line of properties either within Cutbush Lane or within Lane End Close. The front of the proposed dwellings would be in line with the rear elevations of properties within Lane End Close and, from the evidence before me, would be larger in terms of overall height than those bungalows which are located nearest to the appeal site.
12. The appeal scheme would be visible from both Cutbush Lane and Lane End Close as well as from the surrounding gardens of nearby properties. By reason of the position of the proposed dwellings which would be squeezed in behind the appeal property, the significant portion of the appeal site which would be given over to the concrete blocked paved driveway serving both proposed dwellings, and due to their overall height, the appeal scheme would appear as a discordant feature which would draw the eye, detracting from the verdant and spacious character of the surrounding area.

13. As a consequence, whilst I acknowledge that the materials used in the construction of the proposed dwellings would be consistent with surrounding development and that the proposed dwellings would meet the accommodation standards required in terms of external amenity space, the appeal scheme would contrast with the surrounding pattern of development and would be harmful to the character and appearance of the surrounding area.
14. Furthermore, the identified harm to the verdant character of the surrounding area would be compounded by the removal of mature planting at the site. In this regard, it has been put to me that following the submission of amended plans, that the appeal scheme could be adjusted to remove the proposed garages and thereby retain a greater portion of boundary hedges and planting.
15. However, in considering the amended plans submitted within the appeal, I have had regard to the case of *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37], and in respect of whether the amended plans materially alter the proposal before me. I conclude in this case that the amended proposal is so changed, that to grant permission would deprive those who should have been consulted on the changed proposal, of the opportunity of such consultation. As stated above, I have therefore determined this appeal on the basis of the plans that were before the Council.
16. The Appellant contends that the appeal site is currently under-utilised. Paragraph 118(d) of the Framework provides that planning policies and decisions should promote development of under-utilised land. However, I do not consider that the policy requirement in Paragraph 118(d) of the Framework regarding the development of under-utilised land and buildings is relevant in this case, as the total area of the garden is proportionate in terms of the substantial family sized dwelling at 12 Cutbush Lane and the evidence before me indicates that land supply is not constrained and that the Council can currently demonstrate more than five years of housing land supply.
17. For the above reasons, the appeal scheme would conflict with Policies CP1 and CP3 of the Wokingham Borough Local Development Framework - Adopted Core Strategy Development Plan Document (2010) (the Core Strategy) and Policies CC03, TB06 and TB21 of the Managing Development Delivery Local Plan (2014) (the Local Plan). Together these Policies seek to maintain or enhance the high quality of the environment by ensuring that new developments are appropriate and integrate with their surroundings with safeguarding against the inappropriate development of residential gardens where this would cause harm to the character and appearance of the surrounding area.
18. The Appellant has drawn my attention to other appeal decisions within the Borough where backland development has been permitted. In this respect, I note that there is no absolute restriction which prevents backland development. However, such development is subject to proposals not being harmful to the character and appearance of the surrounding area. In respect of the appeal decisions cited by the Appellant, I have only been provided with a limited amount of information, and consequently I cannot be sure that the circumstances of those appeals, such as the character and appearance of the surrounding area and housing density, are comparable to that of the appeal scheme. Consequently, I have reached my own conclusions on this main issue and on the basis of the evidence before me.

Affordable Housing

19. Policy CP5 of the Core Strategy provides that, where viable, residential development of at least 5 dwellings (net) or covering a net site area of at least 0.16 hectares will provide up to 50% of the net additional units proposed as affordable dwellings.
20. There is dispute between the main parties as to the size of the appeal site. However, there is no clear and substantive evidence before me which, beyond a general assertion, confirms whether the site is smaller or larger than 0.16 hectares in size.
21. Notwithstanding the above, Policy CP5 of the Core Strategy predates the publication of the Framework and it has been put to me that this Policy is not consistent with the provisions of the Framework.
22. Paragraph 63 of the Framework states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. This reflects the guidance within the Government's Written Ministerial Statement (WMS) of 28 November 2014. There is no evidence before me which confirms that the appeal site is located within a designated rural area.
23. Major developments are defined within the glossary of the Framework as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more in relation to housing. The proposal is for two dwellings and, notwithstanding the dispute between the main parties as to the area of land which comprises the site, the scheme would not fall within the definition of having an area of 0.5 hectares or more.
24. Notwithstanding the evidence submitted within the appeal that indicates there is a need for affordable housing in the Borough, only 2 dwellings would be constructed and to meet the requirements of CP5 of the Core Strategy it would appear that one of those dwellings would need to be provided as an affordable housing unit. I consider that this would entail a disproportionate burden that the WMS was introduced to tackle.
25. Therefore, I consider that in this case the conflict with Policy CP5 of the Local Plan has little weight in the determination of this appeal and is outweighed by paragraph 63 of the Framework. For the same reasons, the appeal scheme would not conflict with Policy TB05 or Appendix 12 of the Local Plan and the Affordable Housing Supplementary Planning Document.

Other Matters

26. In the determination of this appeal, I have also considered the details submitted by interested parties. In this instance, however, I have found the proposed scheme is in conflict with the development plan, and there is no further information put forward by interested parties which outweighs the harm that would be caused by the development.
27. I note the appellants' frustrations with the Council's communication and the way in which it handled the application. However, these matters do not impact on the planning merits of the proposal.

Conclusion

28. For the reasons given above, whilst I have found that appeal scheme would provide adequate provision of affordable housing, the proposal would result in harm to the character and appearance of the surrounding area and, consequently, the appeal should be dismissed.

Andrew Spencer-Peet

INSPECTOR