



Appeal Decision

Site visit made on 2 September 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2019

Appeal Ref: APP/X0360/W/19/3227230

Land R/O 5 Alexander Close, Finchampstead RG40 3GB

- 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 & Mrs G Tranckle against the decision of Wokingham Borough Council.
 - The application Ref 182574, dated 17 September 2018, was refused by notice dated 12 November 2018.
 - The development proposed is the erection of a new low-impact 4-bed dwelling with associated car parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's statement makes reference to Policy TB21 (landscape character) of the Managing Development Delivery Local Plan document 2014 and the Wokingham Landscape Character Assessment 2004 (WLCA). Policy TB21 is not included on the Council's decision notice refusing planning permission and I have not had regard to it in determining this appeal.
3. However, given the content of the Council's statement, I allowed the appellant a short time to make final comments on landscape character matters and I have had regard to them as part of the evidence in determining this appeal.

Main Issues

4. The main issues are:
 - the effect of the proposed development in the countryside on the character and appearance of the area
 - the effect of the proposed development on the living conditions of future and nearby occupiers, with particular regard to overlooking and loss of privacy
 - the effect of the proposed development on designated natural habitat sites.

Reasons

Character and appearance

5. The appeal site is located within the Finchampstead Forested and Settled Sands¹ landscape area, which is considered to be a high quality landscape dominated by interconnected woodland, and with a strong suburban settlement character generally aligned with long and straight roads.
6. The appeal site is located immediately to the rear of a small modern housing estate, Alexander Close, to the east of the linear Kiln Ride. It is located outside the development limit, and forms part of a former woodland clearing within the countryside. It currently forms the southern part of the garden of a partly sunken, replacement dwelling known as *The Cabin*, approved at appeal² and currently under construction, with which it would share a vehicular access to Alexander Close and Kiln Ride beyond. The appeal site, amongst other things, currently contains trees and bushes, single-storey timber outbuildings, a car port and a driveway.
7. The appeal development would include a distinctive modern dwelling, partly sunken into the ground and separated from *The Cabin* to the north by an open garden area beyond the appeal site.
8. The Alexander Close estate contains detached dwellings with gardens and car parking spaces; the rear gardens of No 5 and the dwelling next door are to the immediate west of the appeal site. The estate has a mixed suburban character and appearance.
9. The position of *The Cabin*, next to the access road to Alexander Close and another dwelling, 83 Kiln Ride to its west and within the development limit, means it shares this suburban character to a much greater extent than the proposed development would.
10. The evidence³ shows that, other than the shared access to Alexander Close, the appeal site is separate from the development limits and consequently in the countryside.
11. The appeal dwelling would be surrounded by mature contiguous woodland to the south and east, and by residential gardens to the immediate west at Alexander Close and north by *The Cabin*. The backland location of the appeal site, to the rear of the Alexander Close estate, means that it would not be readily visible from Kiln Ride or public view.
12. The appellant acknowledges that the scale, design and appearance of the appeal development would be similar to the contemporary design of *The Cabin*⁴ and I would agree. From my observations on site *The Cabin* would be a substantial and prominent structure and the submitted drawings show the appeal dwelling to be akin to it.
13. Notwithstanding its position partly sunken below the ground, the design, footprint, height and massing of the proposed 4-bedroom dwelling, with associated car parking spaces, would be an incongruous and substantial

¹ Area M1 - Wokingham Landscape Character Assessment 2004

² Ref. APP/X0360/W/17/3173003

³ Development plan extract on page 4 of the Council's statement.

⁴ Under the *Character* heading in their final comments.

- development, in the countryside, outside and separate from the defined development limits.
14. Whilst the mature woodland on the eastern part of the site would be retained, several trees would be removed as part of the proposed development, and the built form in the area would increase, reducing the separation distances to other developed areas, including to the dwellings beyond the mature woodland to the south of the appeal site.
 15. A single dwelling would have only a limited impact on the identified character of the Finchampstead Forested and Settled Sands landscape area and would be largely screened from public view by nearby dwellings and woodland. However, in extending the built form into the countryside, onto land that had not previously been developed⁵, it would contribute towards the erosion of the rural character of the landscape between settlements in this local area; such erosion is identified as a key issue in the WLCA⁶.
 16. Policy CP11 of the Wokingham Borough Core Strategy 2010 (WBCS) seeks to protect the separate identity of settlements, maintain the quality of the environment and locate development where there is good access to services and facilities, by restricting development outside development limits including the countryside. The proposed development would conflict with Policy CP11 due to it being a new development, on land that is not previously developed and is outside a development limit, and which does not meet any of the exception criteria.
 17. The appellant has drawn my attention to a recent appeal decision in Wokingham⁷, where an Inspector determined that the development limits were out-of-date because they were based on an outdated housing requirement. Consequently, various policies in the WBCS, including CP11, were not considered fully up-to-date and so any conflict with them should not attract full weight.
 18. Nevertheless, the Inspector also determined that the underlying aims of Policy CP11⁸ were generally consistent with national planning policy, and that the tilted balance regarding the presumption in favour of sustainable development⁹ would not consequently be engaged in that case.
 19. I note that the Council is challenging the other Inspector's decision at the High Court. However, no evidence has been presented that would cause me to reach a different conclusion to that Inspector with regard to consistency with national planning policy, and consequently I give the conflict with Policy CP11 significant weight.
 20. Reference is made by both parties to paragraph 79 of the Framework, and to different aspects of associated caselaw¹⁰, although neither party considers the development to be 'isolated' and so paragraph 79 would not apply. Policy CP11

⁵ The National Planning Policy Framework 2019 (the Framework) glossary includes residential gardens as land that is not classed as previously developed.

⁶ Page 418 - WLCA

⁷ Ref. APP/X0360/W/18/3204133.

⁸ 'to protect the identities of separate settlements, to maintain the quality of the environment and to locate development where there is good accessibility to services and facilities' (paragraph 55 of the Decision Letter).

⁹ Paragraph 11(d) of the Framework.

¹⁰ Including *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin)*; *[2018] EWCA Civ 610*

is different from Paragraph 79 of the Framework , although I note that part 3) of Policy CP11 addresses conversions, contrary to the appellant's statement in their final comments¹¹. However, given that it is not disputed that Paragraph 79 of the Framework does not apply with regard to the appeal development, the consistency or otherwise of Policy CP11 to Paragraph 79 has very limited weight in this case.

21. The appellant makes reference to another appeal decision in Wokingham¹² from 2016 for a 5-bedroom house, said to be further outside of development limits than the appeal development before me. That appeal was allowed. However, I am not familiar with that proposal or its location, including relative to nearby development limits, and I therefore give this very limited weight. Each proposal should be considered on its individual merits, with appropriate regard to the development plan and any material considerations, which is what I have done in this case.
22. For these reasons, the proposed development would be an unacceptable encroachment into the countryside and would have an adverse impact on the character and appearance of the area. It would therefore conflict with Policy CP11 of the WBCS, to which I give significant weight, as set out above.

Living Conditions of future and nearby occupiers, with particular regard to overlooking and loss of privacy

23. The appeal dwelling would be of a similar partly-sunken design and orientation to *The Cabin*, some 12.5 metres to the north. The parties are in dispute about whether there are windows in the side elevations of the two dwellings that would face each other. However, the Council's second reason for refusal only concerns reciprocal overlooking between the roof terraces of the two dwellings and with consequent loss of privacy for future occupiers of both.
24. From the evidence the roof terrace of the appeal building would include glazed fencing on its northern elevation facing *The Cabin*, which would be set back from the northern edge of its curtilage. From the limited information before me and my observations on site, it is likely that the roof terrace of *The Cabin* would be similar to that of the appeal dwelling.
25. There is no substantive evidence before me to demonstrate that the roof terraces are the main primary amenity spaces for either dwelling and given the size of the respective plots, this seems unlikely. The Council's Borough Design Guide 2012 (BDG) provides guidance on privacy, including a table of separation distances¹³. However, the table does not include side-to-side separation distances.
26. The proposed separation distance between the two dwellings, together with the proposed height of the terraces means that in this case there would not be unacceptable overlooking and loss of privacy. I also note that the design of the dwellings and the size of the plots would allow for screening vegetation to be provided, if considered necessary.
27. For these reasons, the proposed development would have an acceptable impact on the living conditions of future and nearby occupiers, with particular regard

¹¹ Under the *Principle* heading.

¹² Ref. APP/X0360/W/16/3154876

¹³ Page 47 of the BDG

to overlooking and loss of privacy. It would not, therefore, conflict with Policy CP3 (general principles for development) of the WBCS and guidance contained in the BDG.

Designated natural habitat sites

28. The Thames Basin Heaths Special Protection Area (TBHSPA) spans a number of local authorities including Wokingham. The appeal site is to the north east of the TBHSPA, which in this area shares a common boundary with the Bramshill Site of Special Scientific Interest (SSSI), 2km east of Longmoor Bog SSSI and 2km west of Heath Lake SSSI.
29. The Council has not directly considered the effect of the proposed development on the SSSIs but has indicated that the appeal development could have a likely significant effect (either alone or in combination) on the TBHSPA. In accordance with Policy CP8 (TBHSPA) of the WBCS, proposals such as the appeal development would need to demonstrate that adequate measures to mitigate such harm can be delivered. To this end, contributions to Strategic Access Management and Monitoring (SAMM) measures, together with the provision of Suitable Alternative Natural Greenspace (SANG) are referenced. The Council states that this is normally secured through the signing of a legal agreement to provide a contribution to its mitigation strategy.
30. At the time the Council refused planning permission, such an agreement, or other comparable mechanism for mitigating harmful impacts of the appeal development was not in its possession. Since that time a legal agreement has been signed which addresses the Council's third reason for refusal.

Conclusion

31. The appeal development would have an acceptable impact upon the living conditions of nearby and future occupiers. However, the unacceptable harm to the character and appearance of the area caused by a new dwelling in the countryside would outweigh this.
32. If I was minded to allow the appeal, I would need to seek further information and potentially undertake an appropriate assessment of the appeal development in relation to the TBHSPA and assess the likely impact of the proposed development on the notified special interest features of the SSSIs. However, as I am dismissing the appeal for other reasons, I do not need to consider these matters further.
33. Therefore, for the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Andrew Parkin

INSPECTOR