



Appeal Decision

Site visit made on 23 September 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/X0360/W/19/3231789

Land at Oak Apples, Oaklands Lane, Crowthorne RG45 6JX

- 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 Goldfinch Estates (Ascot) Ltd against the decision of Wokingham Borough Council.
 - The application Ref 190101, dated 10 January 2019, was refused by notice dated 5 March 2019.
 - The development proposed is planning application for the demolition of existing dwelling and erection of 9 no dwellings, associated access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a Highway Technical Note and revised Drainage Statement. The Council indicates that these documents address the matters raised in the fourth and fifth reasons for refusal. I shall proceed on this basis.
3. The appellant has submitted a signed legal agreement made under Section 106 of the Town and Country Planning Act 1990 to secure contributions towards affordable housing and mitigation towards the Thames Basin Heaths Special Protection Area (TBHSPA). I return to the TBHSPA below but will also proceed on the basis that the sixth and seventh reasons for refusal no longer apply.
4. The appellant has also submitted two revised plans: a revised site layout plan and soft landscaping plan (Refs. 2422-18C and CSA/4300/100). In considering amended proposals, regard should be had to the 'Wheatcroft'¹ principles. As the plan detail very minor amendments, I do not consider that the interests of third parties would be prejudiced if I take them into account. I shall therefore determine the appeal on the basis of the plans referred to on the decision notice, as well as the submitted amended plans.

Main Issues

5. The main issues are:
 - The effect of the proposal on protected trees;
 - The effect of the proposal on the site's biodiversity value; and
 - Whether the proposal would provide an adequate living environment for future occupiers, with particular regard to sunlight and daylight.

1. ¹ Wheatcroft Ltd V SSE [1982]

Reasons

Protected trees

6. The appeal site, despite being a large curtilage associated with a derelict property, is a dense woodland and is covered by a woodland tree preservation order (TPO). The dense tree coverage is apparent from public viewpoints around the site and in particular along Oaklands Lane where there is little sense of being in a suburban environment, in contrast to the built up area further south-west along Oaklands Lane. The woodland has suffered with a lack of management. However, it is a large block of woodland that contributes to the semi-rural character of the area and is linked by substantial tree belts to other areas of woodland in the wider area, including at Hatch Ride School.
7. The proposal involves retaining the most significant trees around the periphery of the site which have been categorised in the submitted tree reports as falling into categories A and B. The proposal would involve the removal of approximately 145 trees falling into categories C and U. The trees to be removed are predominantly within the inner edge and central space but also form the southern boundary with the recently constructed housing estate.
8. The acceptability of the proposal in terms of its retention of trees as an integral feature is premised on the retention of the northern and western boundaries and other more significant trees to be 'celebrated' through their incorporation into areas of public open space, where feasible. However, the extent of tree removal would nonetheless be significant.
9. Whilst I appreciate that some trees have defects that would make their retention challenging, there appear to be some instances where the poor condition of the trees has been overstated in order to justify their removal for the convenience of the density and layout of the scheme. This is the case for some specimens in the inner eastern boundary and along the southern boundary. As a consequence of such a large extent of tree removal, there would be a far greater extent of visibility into the site, undermining its woodland character. This would have consequent impacts on the character of the area which, despite comments to the contrary, does not appear to have suffered from blight and nor will it be markedly changed through the surfacing of Oaklands Lane should that take place in the future.
10. Whilst I understand the aspiration to maximise the efficiency of the site and developable area, the current proposals would do this at the expense of the site's characteristics and the positive contribution it currently makes to the wider area. The reduction of some canopies and the use of 'no-dig' solutions in a limited number of areas may be necessary to reach an acceptable compromise, but the current proposal, even with the proposed soft landscaping, would not strike the right balance.
11. In view of this main issue, the proposal would result in harm to protected trees and would therefore conflict with, in particular, Policy CP1 of the Core Strategy² and Local Plan³ Policy CC03. Amongst other things, these policies seek to protect and retain existing trees, hedges and other landscape features and maintain or enhance the high quality of the environment.

² Wokingham Borough LDF Adopted Core Strategy Development Plan Document (January 2010)

³ Wokingham Borough Managing Development Delivery Local Plan (February 2014)

Biodiversity value

12. From the submitted ecological report and statement, it would appear that a lack of management has allowed the site to establish into a woodland habitat as defined in the JNCC Handbook⁴ for Phase 1 Habitat Survey. The Council's position is that this qualifies as a UK Biodiversity Action Plan habitat and its removal is contrary to local and national policy. The appellant's position is that the physical survey work has found the site to be of low ecological value with limited ground flora.
13. Despite its modest size, its relative immaturity and lack of diversity in its structure, the site still comprises a woodland and currently offers an extent of habitat that is otherwise found in limited quantities in the wider surroundings. The loss of such a large number of trees and selective understorey vegetation from the site would therefore undermine the integrity of the woodland as a habitat type.
14. The proposal would retain approximately 17 mature trees predominantly within the northern and western boundaries. In addition, an ecological management regime would be proposed, including the provision of bat and bird boxes and additional planting of immature trees and shrubs. Whilst these measures may play a role in retaining some degree of biodiversity value, I am not persuaded that they are sufficiently robust to offset the impacts of such a largescale clearance of trees and vegetation, the value of which should at least be preserved, not least to maintain its role as a site used by a protected species.
15. In taking a precautionary approach in relation to this main issue, the proposal would harm the biodiversity value of the site and would therefore conflict with, in particular, Core Strategy Policy CP3, which, amongst other things, requires that development maintains or enhances the ability of the site to support flora and fauna, including protected species.

Living conditions of future occupiers

16. The proposal would result in the provision of nine new dwellings, largely surrounded by retained trees. The estate road would be a continuation of that recently constructed to serve the estate to the south and appears to have dictated this aspect of the layout. The individual dwellings would be arranged to face onto the estate road, thus having principal elevations broadly facing south, east or west, albeit not all containing principal habitable room windows.
17. Notwithstanding that many dwellings in the surrounding area are also close to mature trees, I consider that the proposal would be more compromised in terms of the likely shading effects of trees but also through the siting, orientation and design of the proposed dwellings. In this sense, it would not maximise opportunities to take advantage of passive solar gain or avoid potential pressure on works to protected trees. However, the submitted Daylight/Sunlight and Internal Illuminance Analysis indicates that all dwellings would achieve compliance with the BRE Second Edition (2011) in terms of the daylight and sunlight levels in the dwellings and gardens. This would render the proposal policy-compliant in terms of its achievement of at least minimum technical requirements against nationally recognised standards to which the Design Guide Supplementary Planning Document (2012) refers.

⁴ Joint Nature Conservation Committee (JNCC) Handbook for Phase 1 habitat survey: a technique for environmental audit (2010)

18. In view of this main issue, the proposal would achieve an adequate living environment for future occupiers, with particular regard to sunlight and daylight. The proposal would therefore comply with, in particular, Core Strategy Policy CP1, which, amongst other things, seeks to minimise consumption of resources, energy and water by measures including the use of appropriate layout, orientation, building form, design and construction.

Other Matters

TBHSPA

19. The appeal site is within the buffer zone of the TBHSPA. The addition of a net increase of eight residential units, considered in combination with other plans and projects within this area, would be likely to have significant effects on the internationally important interests and features of these sites. In accordance with Core Strategy Policy CP8, development will not be permitted within the buffer zone unless an appropriate assessment has been undertaken and if found to be necessary, mitigation measures have been secured.
20. The appellant has submitted a signed Section 106 agreement to deliver financial contributions to offset the impact of the proposal on the TBHSPA. However, as I am dismissing the appeal for other reasons, the likely significant effect will not occur in any event and this matter does not therefore need to be considered further.

Planning balance and conclusion

21. I am mindful that the existing condition of the site may attract issues of anti-social behaviour, however, to afford its redevelopment weight as a benefit for this reason alone may encourage purposeful decay of sites elsewhere. The attainment of minimum living standards for future occupiers is a neutral aspect, neither weighing for or against the proposal.
22. The proposal would remove further vehicles from Oaklands Lane but would increase pedestrian and cycle links thereto, which would be a public benefit. I note that the proposal would also remove an invasive plant species from the site. The proposal would also result in the provision of nine dwellings in a sustainable location, making efficient use of land that is considered to be part previously developed. This has obvious social and economic benefits for the wider area. The most notable benefit would be its contribution towards affordable housing, in an area where there is a high level of need.
23. I afford the benefits of the scheme modest weight in the overall balance.
24. However, the proposal would cause harm to protected trees and to the biodiversity value of the area. In these respects, it would conflict with the policies of the development plan considered as a whole. The 'tilted balance' set out in the National Planning Policy Framework is not applicable and there are no other material considerations to indicate that a decision should be taken other than in accordance with the development plan.
25. For these reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR