
Appeal Decision

Hearing Held on 17 September 2019

Site visit made on 17 September 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2019

Appeal Ref: APP/R0335/W/18/3217574

**Scotlands House, Forest Road, Newell Green, Warfield, Bracknell,
Berkshire RG42 6AJ**

- 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 Beaulieu Homes Southern Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/00047/FUL, dated 15 January 2018, was refused by notice dated 12 October 2018.
 - The development proposed is a new access road, 12 dwellings, car parking, amenity space and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to commencement of the Hearing, the Council withdrew its third reason for refusal of the appeal proposal relating to increased pressure on the local cycle network without mitigation of adverse impacts.
3. The appellant has submitted a Unilateral Undertaking in respect of the Council's second reason for refusal of the appeal proposal relating to increased pressure on local open space and a public footpath. At the Hearing, the Council confirmed that open space provision and the contribution offered in the Unilateral Undertaking would overcome the Council's concerns on this issue.
4. The Council is preparing a new Local Plan for Bracknell, but as this is at an early stage, only limited weight can be afforded to its draft policies.
5. The Warfield Neighbourhood Plan (WNP) is at examination stage; as its policies may be subject to change, only limited weight can be afforded to them.

Main Issues

6. The main issues are
 - (a) The effect of the development on the character and appearance of the area, and
 - (b) Whether the Council has a five year housing land supply and the weight to be afforded to housing need and other relevant planning policies.

Reasons

Character and appearance

7. The appeal site has an area of about 1.2ha and comprises two linked land parcels and an access from Forest Road. The smaller parcel comprises part of the garden to the dwelling at Scotlands House and is generally flat with trees to the boundaries; its southern side abuts Forest Road. The larger parcel is to the east of Scotlands House and comprises a field used for camping and recreational caravans bounded by hedgerows with trees. The access continues beyond Scotlands House northwards over the wooded course of The Cut River to Scotlands Farm, a complex of farm buildings surrounded by farmland. A post and rail fence and hedgerow separate the camping field from the adjacent Warfield Memorial Ground and play area to the east of the site. A Public Right of Way runs from the Memorial Ground diagonally across the camping field and then south along the access road to Forest Road.
8. There is a mixture of commercial and residential buildings on the southern side of Forest Road opposite the appeal site. To the east of the access are 3 houses, 2 recently constructed, with gardens backing on to the camping site and the Memorial Ground. The site and surrounding area are within Warfield. Not far to the south-east of the site is the Warfield Strategic Development Site currently under construction for high density residential development and a primary school accessed from a new roundabout on to Forest Road.
9. Two of the proposed houses would be on the smaller garden parcel. The other ten would be arranged around an extended and widened access from Forest Road. The public right of way would be diverted to follow a footpath alongside the access and then to the side and rear of the house on plot 9 to link to the Memorial Ground. An area of open space (0.22ha) would be provided on the northern part of the site, next to The Cut River.
10. Newell Green is a small village adjacent to open countryside and part of Warfield. It is a defined settlement and has a settlement boundary along the southern side of Forest Road. The appeal site on the northern side of Forest Road is outside of the settlement boundary as defined in the Bracknell Forest Site Allocations Local Plan (2013) (SALP) and in the emerging WNP. Policy CS2 of the Bracknell Forest Borough Core Strategy (2008) (CS) sets out principles to steer development to sites within defined settlements and allocated sites. The proposal would therefore be contrary to the Council's locational strategy for new housing, but the proposal nonetheless needs to be considered in the context of its surroundings.
11. The site is close to developed areas in Newell Green and to the substantial Warfield Strategic Development Site which is certainly urban in nature. However, long standing and recently planned developments tend to be predominantly on the southern side of Forest Road including ribbon development along its southern side. For much of its length Forest Road forms a hard edge to open countryside on its northern side. The two new houses adjacent to the site access on the northern side of the road are an exception to this pattern but relate to redevelopment of previously developed land.
12. The proposal would involve the introduction of a more urban form of development on to currently undeveloped land. It would result in consolidation of the relatively sparse linear development pattern on the northern side of

Forest Road and provision of a larger block extending away from Forest Road towards Scotlands Farm. There would be a significant change in the landscape character of the site from an open and expansive landscape to a relatively dense urban housing development. This would be counter to the Bracknell Forest Character Area Assessment Supplementary Planning Document (2010) (CAASPD) which describes the area as rolling landscape dissected by the Cut watercourse and which recommends retention of the looser more open and less formal development pattern on the fringes of character area A (Newell Green).

13. The appellant's supporting documents indicate the retention of trees and shrubs along the site boundaries with Forest Road and the Memorial Ground and supplementary planting in a Landscape Masterplan. Vegetation would filter views of the development to some degree, but the houses would still be glimpsed from these public areas particularly during winter months when the screening effect would be reduced due to leaf fall. Visibility of the houses on plots 7-9 would be increased by their relatively short back gardens backing on to the Memorial Ground. The development would also be open to view from the access road and from the realigned public right of way passing between plots 8 and 9 to link to the Memorial Ground.
14. Whilst retained screening would limit the visual impact and appearance of the development from beyond the site boundaries the proposal, and in particular the houses on the camping field, would nonetheless adversely affect the character of the area. The appellant has described the impact as localised and contained and has referred to The Cut as forming a buffer to the more open land to the north. However, The Cut is a relatively narrow and inconspicuous watercourse; it is bound by trees and shrubs that merge with other boundary enclosures in the landscape character of the area. The camping field is a substantial open area that is conspicuous by comparison and which makes a positive contribution to the character of the area. My finding is that the harm arising from the proposal would be significant in the context of the site itself and its relationship with adjacent open areas, agricultural fields and the Memorial Ground, on the northern side of Forest Road.
15. The Council has also raised concerns about the impact on the character of the public right of way. Part of this already has an urban character in that it follows the access from Forest Road to Scotlands House. The remainder is depicted on maps as a diagonal line across the camping field, but this is not apparent on the ground as there is not a clear path linking the entry and exit points at either end of the field. In this respect, the realignment of the public right of way would not disrupt present usage. Saved Policy R8 of the Bracknell Forest Borough Local Plan (2002) (BFBLP) seeks the protection, extension and enhancement of public rights of way and the supporting text refers to not adversely affecting their peacefulness. The public right of way would be retained and protected but not enhanced in the spirit of the policy. There would be only limited conflict with this policy.
16. In relation to other relevant local policies, the Council accepts that Policy CS9 of the CS and Saved Policy EN8 of the BFBLP are not wholly consistent with the National Planning Policy Framework (the Framework) in that they seek to protect the countryside "*for its own sake*", an aim not reflected in the Framework. The appellant has asserted that these policies, and Saved Policy H5 of the BFBLP in constraining housing outside settlement boundaries, are the policies that the Council has relied upon most, that they should be regarded as

"out of date" and that this alone should trigger the tilted balance in Paragraph 11 of the Framework. Reference is made to the Hallam¹ case to support this reasoning, a called in appeal on an outline application in which it was concluded that *"there are no protective policies which provide a clear reason for refusing the development proposal"*.

17. Whilst acknowledging this decision, each proposal needs to be considered on its individual merits having regard to the policies applied and any harm arising from the site context. The saved policies in the BFBLP and the Core Strategy policies quoted in the Council's first refusal reason were prepared prior to the Framework and the changed emphasis introduced in relation to countryside policies. However, Paragraph 213 of the Framework points out that existing policies should not be considered out of date simply because they were adopted prior to the Framework but that *"due weight ought to be given to them, according to their degree of consistency with the Framework"*.
18. The Council's first refusal reason also refers to conflict with the Framework and at the Hearing, the Council explained that this relates to Paragraph 170 (b) which states that planning decisions should contribute to and enhance the natural and local environment by *"recognising the intrinsic character and beauty of the countryside"*. The appeal site would not represent a *"valued landscape"* as set out at Paragraph 170(a) as it does not benefit from any specific designation, but to my mind there is some congruency between the Council's referenced policies and Paragraph 170(b).
19. The Council's first refusal reason also refers to conflict with Core Strategy Policies CS1 and CS7 and Saved Policy EN20 of the BFBLP in relation to sustainability and design issues and with the CAASPD and Design SPD. There would be some conflict with these policies and supplementary planning documents which expect proposals to respect local patterns of development and to protect and enhance the character and quality of local landscapes.
20. Notwithstanding the limited weight to be applied to the Council's old countryside policies, my finding is that the tilted balance at Paragraph 11 of the Framework is not triggered. Nonetheless, there remains a need to balance identified harm arising to the countryside through the appeal proposal and relevant policy considerations against findings on housing need and supply in Bracknell and to apply appropriate weight to these findings.

Housing Need and Supply

21. There is disagreement between the parties on whether or not the Council can currently demonstrate a five year housing land supply but no dispute on the Council's housing requirement for the period 2019–2024. The Local Housing Need per annum is calculated to be 615 dwellings resulting in a five year base requirement of 3,075 dwellings. In view of past poor delivery, as demonstrated in the Housing Delivery Test for Bracknell in 2018, a 20% buffer has to be added to this resulting in 3,690 dwellings with an annual average of 738.
22. The Council consider that the sites comprising its declared Housing Land Supply are deliverable (as defined by the Glossary to the Framework), and that there is clear evidence and a realistic prospect that housing completions will begin within five years. It estimates a deliverable supply of 4,489 dwellings resulting

¹ APP/F4410/W/17/3169288 Hallam Land Management and Doncaster Metropolitan Borough Council.

- in a Housing Land Supply of 6.08 years and a surplus of 799 dwellings over the requirement.
23. The appellant contests this and by removing sites considered not to qualify for inclusion within the supply and by adjusting delivery rates and timescales has reasoned that a supply of only 3,572 dwellings is deliverable. This would equate to a supply of 4.84 years, a figure close to 5 years but which would be sufficient to trigger the tilted balance at Paragraph 11 of the Framework.
 24. The base date for the supply figures is 1 April 2019. At the hearing evidence was presented by both parties to update on delivery of declared sites. Whilst a judgement has to be made on the likely delivery of sites at the time of the base date, it is nonetheless relevant to consider more recent information on delivery. The appellant's challenges are made in relation to hard commitments (large and medium sites), soft commitments and to windfall sites.
 25. At One Thames Valley House the appellant had applied a reduction of 126 units on the assumption that the site would be sold on rather than developed. The Council presented evidence to confirm that a new developer had indeed acquired the site but had also commenced construction. It would therefore seem reasonable to retain the 126 units within the Housing Land Supply schedule, a factor which by itself would result in a supply of 5.01 years.
 26. The appellant made a reduction of 221 units on the former Transport Research Laboratory site, currently under construction, based upon past delivery rates. The Council confirmed that their quicker trajectory of delivery has been informed by the developer in relation to different phases of the development and an intent to provide two outlets for sales to speed up delivery. A reduction of 122 units has been made on the Bus Depot and Offices, Coldborough House site on the assumption of later delivery in the five year period. However, the Council's dialogue with a new developer indicates intention to start work in 2019 with an estimated completion date of 2022; adjustments to delivery have also been made in respect of the anticipated timetable for condition discharge.
 27. In relation to soft commitments, the appellant's concerns relate primarily to uncertainty on delivery timescales on legal agreements associated with prior approval developments and mitigation relating to Special Protection Areas. The Council has explained that mitigation on these cases is linked to the Habitat Regulations regime rather than the planning permission and tends to be resolved prior to occupation rather than commencement of works. The buildings already exist on these cases and there is little impediment to internal alterations commencing. The Council confirm that there is sufficient Suitable Alternative Natural Greenspace (SANG) available in the borough which can be secured through legal agreements and retain confidence that the declared sites in the Housing Land Supply are deliverable.
 28. In relation to windfall sites, the appellant has made a reduction of 142 units based on past delivery rates and that the change to the definition of windfall allowances in the Framework to exclude residential gardens does not warrant the higher figure. The Council contends that its higher anticipated rate is consistent with definitions in the Framework, does not involve double counting, takes into account historic delivery rates and is compliant with Paragraph 70 of the Framework which requires "*compelling evidence that they will provide a reliable source of supply*".

29. There will remain some uncertainty on housing delivery, as the Council is not generally in control of when work commences, and developers' plans can change for a variety of reasons. However, having regard to the evidence presented on named and other sites at the Hearing and in the written submissions, my finding on this issue is that the Council's defence of its Housing Land Supply is sufficient for its declared position at the base date to be plausible, even if some of the appellant's suggested reductions were to be accepted. Accordingly, the tilted balance at Paragraph 11 of the Framework would not be triggered by this issue.

Affordable housing

30. The appellant has submitted a completed Unilateral Undertaking including an affordable housing contribution of £165,000 which it was considered at the hearing would enable provision of one small two-bedroom apartment off site in Bracknell. The Council currently only seeks inclusion of affordable housing on sites of 15 or more units in accordance with its Planning Obligations Supplementary Planning Document (2015) (SPD) linked to Policy CS17 of the CS. It indicates that future policy requirements are likely to reflect the threshold of 10 or more units for major developments set out in Paragraph 63 of the Framework. The parties concur that the appeal proposal does not trigger a requirement for affordable housing provision. The appellant's contribution is offered as a positive element in the planning balance.
31. The appellant has emphasised the importance of the contribution in relation to the Council's acknowledged poor track record of delivery on affordable housing and anticipation of the Council's continued slow erosion of an affordable housing backlog. The Council point out that its figure of 146 dwellings per annum as an affordability adjustment to its Local Housing Need figure of 615 dwellings has followed current procedures set out in Planning Practice Guidance and takes account of the backlog. At the hearing the Council acknowledged that on prior approval sites and on proposals for less than 15 units that it would not currently be able to negotiate an affordable housing element, but expressed confidence that it would nonetheless be able to deliver on affordable housing requirements citing other means such as direct negotiation on some sites for use as affordable housing.
32. The provision of affordable housing through the appeal proposal would clearly be a benefit. The appellant also contends that the benefit could be realised in the short term with the quick build out of the site. The Council contend that the weight attached to the benefit should be diminished as it would not be provided on site, a preference emphasised at Paragraph 62 of the Framework. But as this would be a benefit not triggered by a policy expediency there is not a requirement that it should be on site. The benefit would only be for only a single unit and would not make a significant contribution to meeting affordable housing need.
33. The appellant has referred to an appeal in Droitwich² in which the delivery of much needed affordable housing was a critical factor; however, that was for a much larger scheme delivering many affordable homes. Nonetheless, having regard to all relevant considerations, the benefit in this case should be afforded weight in the planning balance.

² APP/H1840/A/13/2199085 & 2199426, Land at Pulley Lane, Droitwich Spa

Planning balance

34. The appellant has brought to my attention local planning decisions weighing harm to countryside in relation to housing need to support approval of the current proposal. At Newhurst Gardens³ an appeal was allowed for up to 50 houses on land outside a settlement boundary. At that time the Council acknowledged that it did not have a five year housing land supply, a factor that was important in the planning balance in out-weighting the limited harm identified in relation to the impact on the character and appearance of the area; the Inspector considered the site “*unusually well contained*” and that its development “*would have minimal visual impact on the surrounding open countryside*”.
35. Reference is made to a report recommending approval for 19 houses at North Lodge Farm, a site on the southern side of Forest Road in Warfield; this similarly related to a time when the lack of a five year housing land supply was acknowledged and the benefit of housing supply was considered to outweigh the limited harm to the character and appearance of the area. At an appeal at Tilehurst Lane⁴ the Inspector considered changes to the proposal in relation to harm to the character, appearance and quality of the local landscape, and the setting of the village that to be “*minor in nature*” and that this would be outweighed by the Council’s then worsening housing land supply situation. At The Limes⁵ the Inspector concluded that the moderate environmental harm to the character and appearance of the area would not significantly and demonstrably outweigh the benefits of granting planning permission for 8 houses, again at a time when the Council could not demonstrate a five year housing land supply.
36. The appellant has also referred to appeal decisions elsewhere in which Councils have been able to demonstrate a five year housing land supply but which were still allowed. At Stanbury House⁶ the Inspector found that the benefits of the scheme outweighed the minor conflict with the settlement boundaries. At Satchell Lane⁷ the Inspector concluded that the benefits of the scheme outweighed limited conflict with the countryside policies considered to be out of step with national policy.
37. Having regard to all evidence presented and to these decisions, my findings are as follows. Firstly, that whilst the Council has a poor track record on housing delivery that it can nonetheless currently demonstrate a five year housing land supply. Secondly, that whilst the Council’s countryside policies quoted in its refusal reason are not wholly consistent with the Framework, that there remains a relevant policy basis to assess harm arising to the countryside context of the appeal site. As such, neither housing considerations nor the age or phrasing of the Council’s countryside policies would trigger the tilted balance at Paragraph 11 of the Framework.
38. Nonetheless the benefits of the proposal still need to be assessed in relation to harm to the countryside. The proposal would result in the benefit of 12 additional homes that would provide a windfall contribute towards housing need within Bracknell. Whilst the site is not in a particularly sustainable location

³ APP/R0335/W/17/3182713, Land north of Newhurst Gardens, Warfield.

⁴ Appeal Ref: APP/ R0335/ W/ 15/ 3139035 Land at Tilehurst Lane, Binfield, Berkshire.

⁵ Appeal Ref: APP/ R0335/ W/ 14/ 2228002 Land to the south of The Limes, Hayley Green, Warfield.

⁶ Stanbury House (Appeal ref: APP/X0360/W/15/3097721)

⁷ Satchell Lane (Appeal ref: APP/W1715/W/18/3194846)

it does benefit from a regular bus service and is not far from the Warfield major development site where a school is being constructed. Occupiers of the dwellings would not necessarily be reliant on the use of private cars to access everyday services.

39. The proposal would also include the benefit of a contribution towards affordable housing, a matter not triggered by the Council's housing policies. This would be off-site and for only a single unit, but in the context of the Council's historic shortfall in affordable housing provision, this benefit carries some weight.
40. I acknowledge other benefits referred to by the appellant including job creation during the construction period and various revenues generated for the Council as a result of the house building. However, the provision of open space at the site and retention of all existing trees and hedgerows are neutral factors as the open space is part of the currently accessible camping field and the trees and hedgerows are not under a specific threat.
41. Against these benefits is the harm to the character and appearance of the area. I have found only limited harm in relation to the changes to the public right of way through the site. The smaller lobe of the appeal site is a residential garden adjacent to the settlement boundary on the opposite side of Forest Road and to other dwellings. Although development is generally sparse on the northern side of the road, in isolation, its development would have a lesser impact on the character and appearance of the area than in association with the construction of 10 houses on the larger lobe. This area is not garden land but an open field, adjacent to another sizeable open space in the Memorial Ground. Whilst acknowledging the presence of buildings at Scotlands Farm to the north of this, the camping field nonetheless forms part of a wider open and undeveloped area that includes land around the farm buildings. The development of houses on the appeal site would be a protrusion into the countryside to the north of Forest Road away from the prevailing settlement pattern and would have a significant adverse effect on the character and appearance of the area.
42. Whilst the Framework has an objective of significantly boosting the supply of homes it also recognises the intrinsic character and beauty of the countryside. In this instance, the proposal's benefits would not significantly and demonstrably outweigh the adverse impacts in relation to the significant harm arising to the character and appearance of the area through building on open land beyond the general built up area contiguous with adjacent open areas.

Conclusion

43. For the reasons given and having regard to all other matters raised the appeal is dismissed.

Rory MacLeod

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Kevin Scott	Solve Planning (agent)
Kay Collins	Solve Planning (agent)
Simon Truvick	Intel-land (consultant)
Lloyd Antony	Beaulieu Homes Southern Ltd (appellant)
Craig Killoran	Beaulieu Homes Southern Ltd (appellant)

FOR THE LOCAL PLANNING AUTHORITY:

Sue Scott	Development Plan Team Manager, Bracknell Forest Council
Natalie Hird	Principal Planner Development Plans, Bracknell Forest Council
Matthew Miller	Senior Planning Officer, Development Management, Bracknell Forest Council
Trevor Yerworth	Planning Officer, Bracknell Forest Council