
Appeal Decision

Site visit made on 21 October 2019

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 November 2019

Appeal Ref: APP/R0335/W/19/3226828

Land adjacent to The Elms, Warfield Park, Bracknell RG42 3RA

- 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 Warfield Park Homes Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/00647/FUL, dated 20 June 2018, was refused by notice dated 31 October 2019.
 - The development proposed is the change of use of land for the siting of 3 mobile homes and erection of detached garages, together with access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's reasons for refusal included reference to the absence of any mitigation in relation to the effects on the Thames Basin Heaths SPA. During the appeal process, a S106 Agreement has been submitted which addresses the Council's concerns in this respect.

Main Issues

3. The main issues in this appeal are:
 - The effects of the proposal in relation to its location outside any defined settlement
 - The effects of the proposal in relation to wildlife.

Reasons

The effects of the proposal in relation to its location outside any defined settlement

4. The appeal relates to this parcel of open land which is located just beyond the edge of the boundary of the Warfield Park Homes site, which itself accommodates a large number of static homes. The appeal site is outside any defined settlement boundary and so is within the countryside for the purposes of planning policy.
5. The end of the existing narrow road off The Elms serves the site and a small turning head is provided. The site is free from built development and is

covered with scrub-type plants which blend with the more mature woodland which otherwise surrounds the site. At the time of my site visit, the site had a more verdant character than indicated on the submitted photographs, no doubt as a result of the passage of time.

6. Policy CS1 of the adopted Core Strategy 2008 (CS) states that development will be permitted which, amongst other things, protects and enhances the quality of natural resources, including land, the quality and character of local landscapes and the wider countryside. Policy CS9 of the CS relates to development on land outside settlements, indicating that the Council will protect such land for its own sake and particularly from development that would adversely affect its character, appearance or function. Saved Policy EN8 of the Bracknell Forest Borough Local Plan 2002 (LP) has similar intentions to Policy CS9 but adds that some specific categories of development which need a rural location may be permitted. The appellant states that these policies are inconsistent with the NPPF and so the weight given to them should be reduced considerably, if given any at all. The Council has acknowledged that the NPPF does not seek to protect countryside for its own sake but draw my attention to paragraph 170 of the NPPF which indicates, amongst other things, that planning decisions should contribute to and enhance the natural environment and recognise the intrinsic character and beauty of the countryside. In my view the wording contained within Policies CS9 and EN8 is not absolutely consistent with the NPPF as the NPPF does not seek to protect the countryside 'for its own sake'. However, the NPPF requires recognition of the intrinsic character and beauty of the countryside.
7. Saved Policy H5 of the LP relates to development outside defined settlements and states that the construction of new dwellings (which also refers to mobile homes within the supporting text) will not be permitted unless there is a need for it in connection with an acceptable use listed in Policy EN8 or GB1 and cannot be met within a settlement. Other criteria relating to character and environmental damage are also included but these rely on it satisfying the first criteria set out above and the criteria are linked with "and". The Council indicates that 'moderate' weight should be given to this policy due to their judgement of the degree of consistency with the NPPF.
8. Policies EN20 of the LP and CS7 of the CS relate to design in general and require, amongst many other things, that development should accord with or build on local rural character, respect local patterns of development and environment, enhance landscapes and biodiversity and more. I see no conflict between these more general policies and the aims of the NPPF.
9. The appellant states that the existing site has no beneficial use in its current state. I disagree; the site has a semi-natural appearance, can be seen from the adjacent park homes site (although I accept that views are limited), and it provides a green edge to the existing built development. Although the NPPF does not seek to protect the countryside 'for its own sake' it does seek recognition of its 'intrinsic character and beauty'. In my view this does not just seek to recognise areas of special designation but also includes areas of the countryside such as this, where their open and generally green character is taken as a positive contributor to the locality. Notwithstanding the apparent fact that the site has been the subject of some degree of clearance in the past, I find that it makes a positive contribution to local character taking account of its freedom from buildings and generally green character.

10. The proposal would involve the siting of 3 mobile homes, associated garages and hard-surfaced areas. This would have a significant and negative effect on the semi-rural character that the site currently possesses. I have taken account of the fact that the submitted drawings indicate that some open areas would be retained but these would be far outweighed by the effects of the mobile homes, garages and other domestic features of the proposal. In making my judgement I have set aside the notion of seeking to protect the countryside 'for its own sake' and I have sought to recognise the intrinsic positive aspects of the appeal site. In my view these are reflected in the Council's policies as set out above and also within the NPPF. I find that the proposal would have a harmful effect on these intrinsic qualities, contrary to the policies set out and to the NPPF.

The effects of the proposal in relation to wildlife

11. The appeal site falls, at least partly, within a Local Wildlife Site (LWS). Saved Policy EN4 of the LP states that planning permission will not be granted on or near local nature reserves or wildlife heritage sites unless the proposed development will not affect the wildlife and habitats for which the site was designated or the special character of the site. Development proposals on these sites must include conservation or enhancement schemes which, where appropriate, will set out the provision for, and management of, public access to and within them ('wildlife heritage sites', as above, are now referred to as Local Wildlife Sites). There is some discussion in the submissions regarding the boundary of the LWS but on the basis of the evidence before me I am satisfied that at least the majority of the site falls within the LWS.
12. The Council indicates that the appeal site itself may not comprise the broadleaved woodland Priority Habitat for which the LWS appears to be designated, it still contains woodland edge habitat, scrub and semi-improved grassland which are of some biodiversity value. They add that the appeal site, if managed appropriately, could be improved for wildlife, in keeping with its current status as a LWS.
13. The appellant's submitted survey indicates that they have undertaken a desk study, an extended Phase 1 Habitat Survey, badger and bat surveys and an assessment of the likely effects of the proposal on these matters. These indicate that the appeal site does not display the characteristics for which the area was designated as a LWS. However, the appellant recognises that in its current state, the appeal site provides for a function which may be complementary to the main LWS but states that this is limited by the extent of the appeal site and that the appeal scheme would re-create such habitats within the site. In relation to reptiles, the site has been found to support grass snakes and slow worms. The appellant states that these are in limited numbers and that they could be displaced to adjacent suitable areas if necessary, as well as within the appeal site in suitably formed areas.
14. In relation to the effects of the recreational use of the adjacent woodland by future residents of the appeal scheme, I am satisfied that the very limited additional numbers of people involved would not pose an unreasonable threat in this respect. Therefore, in relation to the scheme, I consider that the proposal would not unreasonably affect the habitat for which the LWS was designated and that suitable alternative habitats could be ensured by conditions. The species that do exist on the site or immediately adjacent to it

could be protected during construction and relocated, if necessary. Therefore, I find no conflict with Policies EN4 and EN20 of the LP and Policies CS1 and CS7 of the CS, in this respect.

Other Matters

15. The site lies in the proximity of the Thames Basin Heaths Special Protection Area (the SPA) and therefore I must consider the appeal against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the implications of the project. The Council, in the process of determining the planning application that is now the subject of this appeal, undertook its own appropriate assessment. This ultimately identified a total SPA-related financial contribution for the proposal which the appellant has agreed with. Natural England has raised no objection in this respect. A completed legal agreement has been submitted for the appeal which would secure the relevant financial contributions.
16. For the purposes of this appeal, I am the competent authority and, if the appeal were to be allowed, I would undertake my own appropriate assessment prior to considering the issue of mitigation. Whilst, from the evidence before me, I have no reason to question the Council's findings with respect to the SPA, I have found the appeal proposal unacceptable for other reasons and so it is not necessary for me to pursue this matter any further.
17. The appellant had indicated within the documents that the Council could not demonstrate a suitable supply of housing sites. This appears to be based on figures from April 2018 (revised February 2019). The Council has submitted its latest figures in this respect which were published in July 2019. The Council's figures indicate that it can demonstrate just over 6 years supply of housing sites. The appellant has chosen not to challenge the most recent evidence submitted by the Council in this respect but relies on its original submissions. I consider that the Council's evidence represents the most up-to-date picture and I have been given no substantive reason to cast doubt on its stated position. Therefore, for the purposes of this appeal, I consider that the Council can demonstrate a suitable supply of housing sites.
18. However, the appellant points out that the settlement boundaries have been formulated some time ago when housing requirements were less than the current need. This is demonstrated by the fact that the CS requirement was of a range from 572 to 539 in the years from 2017 to 2026 and the current need as set out by the Council is 738 dwellings per annum. Although the Council is currently able to demonstrate a supply in excess of 6 years, it is clear that this position has been reached by allowing some development outside the settlement boundaries. In this respect, I consider that the policies which are most important for the consideration of this appeal can be considered to be out of date as they constrain the supply of housing, the need for which now exceeds the requirement that was assessed at the time when the policies were formulated.
19. I have also taken account of the various appeal decisions submitted by the appellant and the Council. Depending on which party submitted them, these pull in different directions in relation to the weight to be afforded to the

relevant Council policies. There is no absolutely consistent direction in these other cases and, whilst I have given them careful consideration, I find that they do not point inevitably in one direction.

20. The proposal would bring about 3 new homes which would be of some benefits; however, taking account of the very small nature of the scheme, such benefit is limited. The appellant indicates that the dwellings would be likely to provide accommodation for older residents, for which there is a need. Although I note that there is no specific requirement for older people to occupy the units, I accept the general thrust of the appellant's statement in this respect. The scheme would help in some small way to support local jobs and additional residents would be likely to spend in the local area. I find that these benefits would be of a magnitude commensurate with the size of the scheme ie, modest. I have taken account of all of the other suggested benefits set out by the appellant. With regard to paragraph 11 of the NPPF, I consider that the harm that I have identified is sufficient to significantly and demonstrably outweigh the benefits of the proposal, when assessed against the NPPF as a whole.

21. As consequence of my findings, the appeal is dismissed.

S T Wood

INSPECTOR