



Appeal Decision

Inquiry Held on 24-26 September 2019

Site visit made on 23 and 26 September 2019

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Ref: APP/R0335/W/19/3229885

Westwood House, Swinley Road, Ascot, SL5 8BA

- 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 Castleoak against the decision of Bracknell Forest Council.
 - The application Ref 18/00397/FUL, dated 12 April 2018, was refused by notice dated 22 March 2019.
 - The development proposed is demolition of the existing dwelling and the erection of 73 Assisted Living Units, together with parking, landscaping and associated works.
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Decision

1. The appeal is dismissed.

PROCEDURAL MATTERS

2. The Inquiry sat for three days. I made one unaccompanied visit to the site and surrounding area on 23 September 2019 and an accompanied visit on 26 September 2019.
3. An amended plan - 4694 (LP01) (A): Site Location Plan was submitted which shows a slight enlargement of the red line boundary to fully capture the bellmouth on the southern entrance to follow the radii of the kerb. The amended plan has been agreed within the SOCG1 and by the Council. The alteration to the red line boundary would be very minor and would not alter the nature of the proposal. I am, therefore, satisfied that no party would be prejudiced by my accepting the plan. I have therefore determined the proposal on the basis of the amended plan.
4. Several appeal decisions were submitted for consideration after the close of the inquiry and the parties have had the opportunity to comment on those decisions which are addressed in my reasoning below.
5. The appellant and Council submitted Statements of Common Ground to the inquiry. "SOCG1" (CD8.1) addresses general planning matters; "SOCG2" (CD8.2) addresses five-year housing land supply; "SOCG3" (CD8.3) addresses the need for and supply of assisted living units; "SOCG4" (CD8.4) addresses character and appearance; and "SOCG5" (CD8.5) addresses the Special Protection Area.
6. At the inquiry, the appellant submitted a Planning Agreement, dated 26 September 2019, made under s106 of the Town and Country Planning Act 1990. The "s106 Agreement" is made in the form of an agreement with the Council, and its undertaking are addressed later in this decision. In light of the s106 Agreement, the Council confirmed that it would not pursue its reasons for refusing permission

relating to the SPA and s106 Agreement (reasons for refusal two and three) and on the basis of the evidence before me; I agree. I have determined the appeal on this basis.

MAIN ISSUE

7. Taking into account the above, I consider the main issue to be the effect of the proposal on the character and appearance of the site and surrounding area, with particular reference to height, scale and mass, including the effect of the trees.

REASONS

CHARACTER AND APPEARANCE

8. The appeal site is situated to the south of the A329 (London Road) between the settlements of North Ascot and Bracknell and outside the settlement boundary. The London Road forms the northern boundary to the site and the eastern boundary is formed by Swinley Road.
9. There is a single residential dwelling (the Old Stables) situated on the eastern boundary, on Swinley Road, between the access points. The western boundary of the site is adjacent to a development which is currently under-construction. To the south of the site is a single dwelling (Pinewood Lodge) and beyond this the area is generally wooded.
10. The site lies within Landscape Character Area (LCA) F1: Chavey Down Woodland as identified within the Bracknell Forest Borough Landscape Character Assessment (LCA)¹ (CD2.2) which has been prepared in order to inform the emerging Draft Bracknell Forest Local Plan. LCA: F1 Chavey Down Woodland is influenced by suburban and edge of town development combined with a high percentage of tree cover.
11. The trees on the site are protected by an area Tree Preservation Order² and 64 of those trees are to be removed in order to facilitate the proposal. The Council is mainly concerned about the removal of the five most significant trees (T205 to T208 and T217).
12. The parties agree that London Road and Swinley Road have different characteristics, but that the trees and vegetation contribute to the character of both roads. London Road is characterised by a loose form of ribbon development with development clustered around the nodes and junctions set within a strong wooded framework. Development on London Road is generally set back from the road behind mature landscaping; however, glimpses of development can be obtained through the vegetation. Built form is generally limited to one to two storeys, along London Road although the two schools and the Brompton's have elements of three storey. The accesses serving these developments are all off London Road.
13. There is limited development on this stretch of Swinley Road consisting of two storey dwellings abutting the back of the footpath (Lavender Cottages) and two single-storey dwellings. Swinley Road is characterised by informal, narrow footpaths and an over-hanging tree canopy which creates a sense of enclosure. Overall, Swinley Road has a more open, wooded and rural character than London

¹ Bracknell Forest Borough Landscape Character Assessment, LUC 2015

² Tree Preservation Order reference 282 (CD2.4)

Road. Although there is consistency in the general pattern of development in the surrounding area, there is variety in terms of the detailed design of buildings.

14. The appeal site reflects the predominant pattern of development in the surrounding area in terms of a large property set back from the road within extensive grounds and mature planting. The dwelling is two to three storeys in height and is in a state of disrepair. The property is set within an existing lawned area which is surrounded by mature trees and vegetation in some places encroaching further into the site. The dwelling is clearly subsidiary to its landscaped setting.
15. The character of the site is derived from its openness within the central area but with a sense of enclosure due to the mature and extensive perimeter planting and as such it contributes to the continuous network of woodland and naturalistic land cover features of the LCA F1. Furthermore, the extensive grounds and trees contribute to the function that the area provides in forming a physical and visual gap between the urban area of Bracknell and Ascot as identified in the LCA. Overall, I consider that the appeal site makes a significant contribution to the character and appearance of the surrounding area.
16. The Landscape and Visual Impact Assessment (LVIA) (CD6.1) submitted by the appellant considers that the domestic use of the site and wooded character would be maintained and as such the effect on site level landscape elements and character would be neutral to minor adverse at construction and at day one of operation, moderating over time.
17. I acknowledge that the proposed building would be set back from the road and that the mature planting would be retained. However, the building would have a substantial footprint extending across the majority of the open, lawned area. Whilst the lawn to be lost may be of low landscape value; it, nevertheless, contributes to the strong, open character of the internal part of the site.
18. Furthermore, the building would be three-storey with significant four-storey elements and the north-south elevation would extend some 95m in length with two main rear projections resulting in a substantial increase in the scale and density of built form. The proposed staggered rooflines and palette of materials would do little to mitigate the significant mass and bulk of the proposed building.
19. Although the perimeter trees would be retained, the substantial footprint, scale and mass of the building would dominate the site and result in the loss of the open, spacious setting for the trees in contrast to the existing dwelling which is very clearly subsidiary to the landscape.
20. Consequently, I consider that the LVIA has significantly underestimated the effects of the proposal on the site and that the proposal would have a significant and permanent, adverse effect on the character and appearance of the site itself.
21. The LVIA considers that the proposal would be consistent with the character of Swinley Road and London Roads as the built form would be set back from the road behind mature landscaping. The LVIA, therefore, concludes that visual effects would be neutral to minor adverse at construction and day one of operation and moderating over time.
22. However, the significant footprint, height and consequent mass of the building would contrast markedly with the built form in the vicinity which is comprised of predominately one to two storey buildings with a more modest footprint. Direct

conflict would, therefore, arise with clause (i) of Policy EN20 of the Bracknell Forest Borough Local Plan which requires development to be in sympathy with the appearance and character of the local environment and appropriate in scale and mass in relation to adjoining buildings, spaces and views.

23. I acknowledge that the school sites and the Brompton's development have elements of three-storey and a larger footprint; however, these buildings are set well back from the road in much larger grounds than the appeal site. In addition, the Brompton's development is comprised of a series of buildings with gaps between the buildings which helps to reduce the perceived visual mass and bulk.
24. The parties agree that the zone of visibility is limited to Swinley Road and London Road due to the perimeter planting around the site and I share this view. From everything which I have seen in submissions and on my site visit; I have no reason to disagree. The LVIA identifies key representative views within the vicinity of the site and Verified Visual Montages (VVM's) for each of the viewpoints.
25. VVM1 at year one and fifteen shows the outline of the proposed building superimposed on the photograph below the level of the trees and vegetation. Whilst the perimeter trees and planting within the site would provide some screening of the proposal at this point, the access road would open-up glimpsed views of the significant built form.
26. VVM1 shows the prominence of Beech Tree (T217) on Swinley Road which is identified as a category B tree and is proposed to be felled. Although the branches of T217 do not overhang to the same degree as the adjacent suppressed Oak; it nevertheless, contributes to the street scene and the sense of enclosure created by the trees. Furthermore, the loss of T217 would result in the breaking of the continuous canopy along Swinley Road and highlight the formal access. The retention of T215, an English Oak may provide screening in views along the access road; however, it would not compensate for the contribution that T217 makes to the rural and verdant character of Swinley Road. The loss of T217 would, therefore, have a harmful effect on the character and appearance of Swinley Road.
27. VVM2 is taken from Swinley Road and looks towards the exit from the appeal site. VVM2 shows that there would be clear views of the proposed building which would be significantly taller than the lodge in the foreground. The height and mass of the proposed building would be readily apparent from this viewpoint particularly when the access gates are open. Existing views of landscaped grounds beyond the lodge would be replaced by views of substantial built development which would detract from the rural character of Swinley Road.
28. Although not shown, there are limited views of Westwood House when viewed from the south of VVM2 when the access gates are open. However, the property is relatively modest compared to the appeal proposal and is set at some distance from the entrance within substantial landscaped grounds.
29. I acknowledge that the proposed gates for the access and egress will reflect the style of the existing gates. However, when the gates are open views of the upgraded and formal access drives would be readily apparent detracting from the rural character of Swinley Road.
30. At the inquiry, a 'Tree Planting Note' was submitted (CD20.5) showing the potential to plant 2 extra-heavy standard/semi-mature trees (a Beech and an English Oak)

adjacent to the site exit drive. However, whilst this would assist in screening the proposal to a degree, even a semi-mature tree would take time to fully establish and provide a similar degree of screening. As such, I only place limited weight on the Tree Planting Note in my decision.

31. Trees T205-T208 are situated in the southern part of the site. At present, views of the trees from Swinley Road are limited due to their position within the site and due to the trees situated within the Old Stables. The arboricultural report identifies a number of defects with those trees; however, despite those defects the estimated life of three of those trees in the tree report is significant (T206-T208- 'greater than 40 years').
32. Notwithstanding whether the trees are 'veteran trees' or whether they are classified as category A or B, when viewed as a group, they make a significant contribution to the wooded character of the site and would continue to do so for many years. Their loss would, therefore, have a harmful effect on the character and appearance of the site itself. Public views of the trees are limited, with only T205 and T206 barely visible from the road. The harm to the character and appearance of the surrounding area arising from their removal would, therefore, be limited.
33. It is proposed to crown lift a Yew Tree (T12) to 3.5m in order to address the potential conflict with vehicles on the access road. Due to the shape of the crown which I observed on my site visit, I am satisfied that crown lifting to 3.5m would be sufficient to avoid conflict whilst safeguarding the health and amenity value of the tree.
34. Overall, I consider that the removal of the Beech Tree, the creation of wider, more formal access/egress drives and views of the substantial building through the access and egress points would, when taken together, erode the rural character of Swinley Road. This permanent and irreversible change would be experienced by residents, walkers and users of the road in addition to the staff, residents and visitors to the proposed development.
35. VVM3 is taken from the northern side of the signalised London Road, Swinley Road junction. The VVM shows that the roof line would be at the same level as the low-level vegetation; however, I note that the taller trees are sparser here, particularly in winter months and so there may be glimpsed views of the roof through the trees in Winter.
36. VVM4 four looks south from the northern side of London Road toward the northern boundary of the appeal site. Due to the height of the trees and the dense nature of the vegetation views of the proposal would be restricted to glimpsed views of the rooftops. In winter months, there may be some glimpsed views through the vegetation. VVM 5 looks south east from the northern side of London Road toward the northern boundary of the site. Again, due to the extent of trees and vegetation any views would be limited.
37. The scale of the proposal would not reflect the predominant pattern of development on London Road, which is primarily one to two-storey with elements of three storey. The retention of the perimeter trees would reduce the prominence of the building itself on London Road. However, this screening is reliant on protected trees and lower level vegetation and the composition of both may change over time. Nevertheless, the proposal would have a more limited effect on the character

and appearance of London Road compared to Swinley Road, due to its more urban nature.

38. The existing perimeter trees would help to screen the proposal; however, the nature and composition of those trees, even protected trees, may change over time and may need to be removed. Replacement planting inevitably takes time to establish. Additional landscaping is proposed; however, this would also take time to establish.
39. Furthermore, the Tree Report recognises that screening of the site is provided by off-site trees growing within the garden of the Old Stables. However, those trees are not protected by a TPO and could be removed at some point in the future. Those trees cannot, therefore, be relied upon to compensate for the loss of T217 or to screen views of the development. Moreover, landscaping is intended to integrate new development into the landscape; it is not intended to hide development which is otherwise inappropriate.
40. Policy EN8 of the Local Plan states that outside settlement boundaries development would be permitted only amongst other things, where conspicuous from the Green Belt, would not injure the visual amenities of the Green Belt. The boundary of the Green Belt lies on the opposite side of Swinley Road. Although the site is visible from Lavender Park the site itself is not within the Green Belt and there is no evidence to suggest that the proposal would conflict with the purposes of the designated Green Belt.
41. The site and surrounding area are not part of a formal gap identified in a development plan. However, the landscape strategy for LCA F1 recommends that the function that the area provides in forming a physical gap between the urban area of Bracknell and Ascot should be protected. Furthermore, the Bracknell Forest Landscape Evidence Base, Recommendations Report³ which provides part of the evidence base for the emerging Local Plan recommends at page 66 that this general area should continue to form a separation function as shown at figure 4.2. By significantly extending the footprint of the built-up area of the site it would erode the physical separation between settlements and views of the substantial building would erode the visual separation. The proposal would, therefore, undermine the contribution the site makes to this function. The proposal would, therefore, be contrary to the objectives of the LCA.

Conclusion - Character and Appearance

42. The parties agree that the proposal is situated outside of the settlement boundaries and that it does not meet the exceptions set out in clauses (i) to (v) of Policy EN8 of the Bracknell Forest Borough Local Plan 2002 (BFBLP) and the proposal is, therefore, contrary to the policies in this respect. However, for the reasons set out at paragraph 100 below, I only attach limited weight to the conflict with this element of the policy.
43. I have concluded that the proposal would have a significant and permanent harmful effect on the character and appearance of the site itself and the surrounding area, in particular Swinley Road. Moreover, the proposal would erode the visual and physical separation between settlements and increase the suburbanisation of the landscape along Swinley Road, contrary to the landscape strategy of the LCA.

³ Bracknell Forest Landscape Evidence Base: Recommendations in relation to landscape designations, gaps and green belt villages, LUC 2015

44. The proposal would, therefore, be contrary to saved Policy EN8 of the BFLP and Policy CS9 of the and the Core Strategy Development Plan Document (CSDPD) (2008) in so far as they seek to ensure that development does not adversely affect the character, appearance or function of the countryside and land outside settlements or damage its landscape quality.
45. As the proposal fails to respect existing patterns of development and fails to respect the character and appearance of the area, conflict arises with Policy CS7 of the CS and saved Policy EN20 of the BFLP. Conflict also arises with Saved policy EN1 of the BFLP which seeks to protect trees and hedgerows which are important to the character and appearance of the landscape or townscape.
46. Furthermore, conflict arises with paragraphs 124 and 127 of the Framework which seek to ensure the creation of high quality and well-designed places. Conflict also arises with paragraph 170 b of the Framework which states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

OTHER CONSIDERATIONS

47. The appellant's position is that if I conclude that the proposal gives rise to harm to character and appearance then paragraph 11d is engaged either because the development plan policies are not up to date or due to the Council's lack of a five-year supply of housing land supply.

Housing Need

48. Paragraph 11d of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Footnote 7 of the Framework clarifies that this includes where the local planning authority cannot demonstrate a five-year housing supply of deliverable sites.
49. It is common ground that the relevant 5YHLS period for the purpose of this appeal decision should be 1 April 2019 to 31 March 2024 and that the housing land requirement should be based on local housing need. Due to under-delivery in the past three years parties agree that a 20 per cent buffer should be applied. On the basis of the standard methodology parties agree that the housing land requirement for the period should be 3,690 dwellings including a buffer which results in an annual requirement of 738 dwellings over the five-year period.

Housing Supply

50. The first Housing and Delivery Test result was published in February 2019. The data for Bracknell Forest shows that between 2015 and 2018, the Council delivered a total of 1,203 homes, which was 75% of its housing requirement. The delivery of housing is not substantially below the housing requirement over the previous three years.
51. The appellant calculates that the Council has sufficient specific deliverable sites to provide 3,545 dwellings against the local housing need, meaning that it does not have a 5YHLS, but a supply of only for 4.8 years. The Council considers that it has

a supply of 4,489 dwellings, sufficient for 6.08 years. Consequently, the appellant's position is that the housing land supply falls short of the requirement by only 145 units or the equivalent of 0.2 years.

52. The parties' respective calculations are set out in SOCG 2 (CD20.6). The difference between the parties relate to the assumptions on windfall development and the delivery of 8 sites.

Windfall sites

53. Paragraph 70 of the Framework states that where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.
54. The Council has calculated the projected supply of dwellings on windfall sites based on historic data covering a 10-year period from 2009/10 to 2018/19 to determine an average windfall figure. Completions related to allocated sites identified in the Site Allocation Local Plan have then been removed to give a residual windfall figure.
55. The Council recognise that in recent years prior approval applications relating to the change of use from office to residential have made a contribution towards the windfall allowance. However, it has taken a precautionary approach to the contributions to the windfall allowance from prior approval applications reflecting that these may not continue to deliver at current rate. So only 50% of completions through prior approvals for both small and medium sites have been included.
56. A rate of 21 dwellings per annum (dpa) is included for small sites giving a total of 105 units over the five-year period. A rate of 62 dpa is included for medium sites; however, to avoid double counting with sites that are already listed as having permission, no allowance is included for the first two years of the five-year period and only 50% is included for the third year. The deduction on medium sites recognises that these sites may take longer to progress than small scale windfalls where it is not usually necessary to apply a lapse rate. This gives a contribution of 155 units from medium windfall sites. Overall, this provides a windfall allowance of 260 units for the five-year period.
57. The windfall allowance is challenged by the appellant on the basis that fewer windfalls tend to come forward in the early parts of the plan period. However, this stance is not supported by evidence relating to completions post adoption of the Core Strategy and Site Allocations Plan which shows that windfall rates have either been broadly maintained or have increased following the adoption. The Council's precautionary approach to medium windfall sites would avoid double counting and obviate the need to apply additional lapse rates.
58. Overall, I consider that the Council has taken a precautionary approach to windfalls which is robust and consistent with the advice in the Framework. Moreover, there is no cogent evidence before me to undermine the Council's approach. I am, therefore, satisfied that windfall developments will be likely to deliver 260 dwellings over the 5YHLS period. I have had regard to the advice in the Framework and Planning Practice Guidance⁴ (PPG) paragraph 07 in addressing the deliverability of

⁴ PPG: Paragraph 007 Reference ID: 68-007-20190722

the larger prior approval sites and the disputed 7 medium and large-scale sites discussed below.

Prior approvals (larger sites)

59. During the course of the inquiry, the appellant accepted the Council's position in relation to the contribution which prior approval sites will make towards the 5YHLS, other than for West of Prince Albert Drive. The dispute between the parties relates to only 5 units on this site. However, prior approval has been granted and the section 106 obligation is a single issue relating to habitat mitigation and relates to occupation rather than completion. Furthermore, there is sufficient Suitable Alternative Natural Greenspace (SANG) available which can be secured through the s106. Based on the evidence I am satisfied that the likely contribution from this source would be 245 dwellings.

Large scale sites

Amen Corner

60. The site has permission for 377 units, 117 of which are under-construction and the Council's estimate output is 60 dwellings per annum, based on information from the developer. The site is being actively marketed and the developer indicates that the site will be complete in 2021. There is no dispute between the parties that the site is "deliverable"; the dispute relates to delivery rates.
61. The Council anticipate that the site would deliver 241 dwellings over the five-year period, whilst the appellant considers that the site would deliver 120 units as the developer only sets out the anticipated output for the first two years of the period. However, the Council has continued the developers suggested build rate forward the remaining years and the developer indicates the site will complete in 2021. There is no evidence to suggest the development would suddenly cease after two years. In the absence of any cogent evidence to the contrary, I accept the Council's submission. I am satisfied that 241 dwellings are likely to be delivered on this site over the five-year period.

Blue Mountain

62. This is a site allocation in the Local Plan for 400 units and is being progressed by two housebuilders. The site is subject to various reserved matters applications and applications to vary trigger points for offsite highway work to facilitate quicker delivery. There is no dispute between the parties that the site is "deliverable"; the dispute relates to a minor difference of 15 units over the five-year period. Both developers have completed dwellings and are actively marketing them for sale. Q1 monitoring shows 58 units under-construction. The Council considers that the site would progress at around 90-100 units per annum which is realistic given that there are two developers. The Council's figures are based on information from the agent and in any event the difference between the parties is de minimis. On this basis, I am satisfied that the site will deliver 396 units.

Jennetts Park

63. The site is being developed for 137 units, with 122 units under construction at 31 March 2019. The whole site has reserved matters permission and there are two developers involved. There is no dispute between the parties that the site is deliverable; the dispute relates to a minor difference of 17 units. The appellant

considers that the build rate should be based on historical completion rates in the last two years of 24 dwellings per annum. However, the Council's position is based on information from the developers and given the presence of two developers and the number of units complete and under-construction there is no reason to doubt that the site will deliver 137 units over the five-year period.

Aspect

64. The parties now agree that the site will deliver 146 units in the five-year period.

TRL Site

65. The site is allocated for 1000 units in the Site Allocations Local Plan (2013) and the Council estimate that the site will deliver 511 units within 5 years. A single housebuilder is developing the site. It is subject to an outline permission for the whole site and part of the site has reserved matters permissions. There is no dispute between the parties that the site is deliverable. The appellant challenges the Council's forecast on the basis that it is a single outlet site and that modular methods of construction may only relate to a small number of dwellings and as such a more realistic estimate would be 50 dpa. However, the Council's figures are based on a telephone response from the developer's agent who indicates that the developers are planning two outlets hence the higher forecast figures of around 100 dwellings per annum. It is also proposed that modular methods of construction are to be employed in order to speed up delivery.
66. Furthermore, the delivery figures are supported by approved Construction and Environmental Management Plans for phases 1 and 2 which confirms that the phases will be based on a three-year delivery programme with Phase 1 commencing on 2017 and Phase 2 commencing 2018 and completed in 2021/22.
67. The site is active with over 200 units under-construction at quarter 1 (June 2019) and 100 units per annum is a realistic output with two developers on site. Taking all of the above into account, and in the absence of any cogent evidence to the contrary, I am satisfied that the likely contribution from this source would be 511 dwellings.
68. Taking into account the contribution from large scale sites not in dispute (1,533) the total contribution from large scale housing sites within the period is **2,964** dwellings.

Medium Scale Sites

Bus Depot

69. This is a former commercial site in Bracknell town centre with planning permission for the redevelopment of two blocks of 106 and 136 units. The site has planning permission and is currently being marketed. There are applications for discharge of conditions which are under consideration which demonstrates a commitment to the scheme. There is no evidence of viability or funding issues which would prevent delivery. The trajectory has been adjusted from the developers position in recognition of the need to discharge pre-commencement conditions.
70. The appellant has challenged the Council's estimated output on the basis that there are too many apartments in Bracknell and considers that only 106 units would be delivered towards the end of the period; however, no evidence has been submitted

by the appellant to support this stance. Consequently, I am satisfied that the site will deliver 242 units within the period.

L'Avenir

71. This is a conversion scheme for 69 apartments. There is dispute between the parties as to whether the site is under-construction and the appellant considers that the potential for an appeal against a subsequent application to construct an additional floor and mansard roof to provide an additional 45 apartments could slow the development down. It also considers that viability of the scheme is dependent upon the additional floors.
72. However, first hand evidence was provided at the inquiry by the Council's witness who confirms that there is evidence that the site is under-construction. The developer's agent considers that 69 units would be delivered within the period 2019/20. Furthermore, the developer is actively trying to bring forward the site by way of further applications. Part payment has also been made towards the SPA, monitoring and legal fees. The developer is actively trying to bring forward the site and so it is not unreasonable to consider that the 69 units would come forward within the five-year period. I am, therefore, satisfied that the site will deliver 69 units within the period.

Racal House

73. The site has planning permission for 69 units which is due to expire in February 2020. Demolition was completed in 2018. I note the developer's comments in their response in relation to changing market conditions; nevertheless, the developer indicates that they intend to start imminently. The building has been demolished and there is activity in relation to the discharge of pre-commencement conditions. Whilst the initial start date of September 2019 will need to be reconsidered, there is no evidence to suggest that the site would not deliver within 5 years. I am satisfied that the site will deliver 60 units within the period.
74. Considering the above and contribution from sites not in dispute (537 units), I consider that the contribution from medium scale sites would be **908** dwellings within the five-year period.

Specialist uses

75. Parties agree that the contribution from C2 and C3 specialist uses within the five-year period would be 112 units.

Conclusion on housing need and supply

76. Consequently, on the basis of the above, I find that the Council's anticipated supply of **4,489** dwellings is deliverable, equating to **6.08** years of supply.

The Need for and Supply of Assisted Living Units

77. The appeal proposal would comprise 73 'Assisted Living' units including one and two bed apartments for older people and a range of on-site communal facilities and services. Future occupiers would have access to 24/7 care and support including assistance by CQC registered staff, assistance with bodily functions and help with dressing.

78. The appeal proposal differs from standard sheltered housing (Use Class C3) which although self-contained, offers no 24/7 on-site support and fewer communal facilities. Given the level of care to be provided and secured through the Section 106 obligation parties agree that the proposal would fall within Use Class C2 (Residential Institutions). Based on the evidence before me I have no reason to disagree.
79. Parties agree that the Council's Strategic Housing Market Assessment (SHMA) details a need for an additional 1,320 specialist housing units in the Borough by 2036 (excluding institutional care). Institutional care is assessed as 319 bed spaces. On the basis of the Council's figures the need for C2 accommodation is being met whilst there is a shortfall in terms of the provision of C3 accommodation compared to the requirement.
80. Although the appellant agrees that the proposal would be classed as a C2 use; it considers that it should also be assessed as contributing to the C3 requirement in the SHMA as the definition of C2 and C3 uses in the SHMA does not reflect this specific type of assisted living scheme. The appellant has attempted to quantify the specific need for this type of C2 Assisted Living accommodation. However, notwithstanding whether the scheme should count towards the C2 or C3 requirement of the SHMA or indeed both; the SoCG confirms that both the SHMA and the Council's Housing Strategy forecast an increasing level of demand and a continuing need for C2 and C3 specialist accommodation, reflecting growth across the elderly population. Parties also agree that the appeal proposal seeks to fill the accommodation void between standard sheltered housing and registered care homes. Furthermore, the Council acknowledge that the provision of C2 Assisted Living Units is a benefit of the scheme.
81. The nature of specialised housing market is changing, and I agree that the proposal seeks to meet demand for accommodation which falls somewhere in between sheltered housing and care home provision. Whilst it is difficult to quantify the precise requirement for C2 Assisted Living units, the appeal proposal would meet a specific demand for this type of self-contained accommodation with a higher level of care and communal facilities than traditionally provided by sheltered housing. Consequently, I consider that the provision of older persons housing is a significant benefit of the scheme.

Other social considerations

82. Paragraph 91 of the Framework sees to promote social interaction and opportunities for different groups of people to meet. The communal facilities within the proposal would provide the opportunity for residents to interact with each other which is a positive benefit of the scheme. The proposal would also have benefits in terms of supporting independent living for longer. Furthermore, there may be some indirect benefits in terms of reducing pressure on the NHS and freeing up the existing housing stock as older people downsize. Nevertheless, due to the physical separation of the appeal site from existing communities in Bracknell and Ascot interactions within the wider community and access to services these benefits would be limited. I have weighed the social benefits of the scheme in the planning balance.

Economic considerations

83. The scheme would comprise a £15m project, generating jobs through the construction phase. Once the scheme is operational it would create 15 full time equivalent jobs and would generate significant investment in local services through the residents spend. The benefits during the construction phase would be generic and would arise with any development; however, the creation of 15 full-time jobs would be a clear benefit of this scheme. I have weighed the economic benefits of the scheme in the planning balance.

Environmental considerations

84. The proposal would make efficient use of previously developed land; however, paragraph 122 d of the Framework emphasises the desirability of maintaining an area's prevailing character and setting and the definition of previously developed land. Furthermore, the definition of previously developed land contained in the glossary of the Framework states that it should not be assumed that the whole of the curtilage should be developed.
85. The proposal provides for a number of biodiversity enhancements on the site; however, this would be a requirement of any development proposal. The proposal would also make a financial contribution towards mitigation and the SANG; but again, this would be mitigation, not a benefit. The site is not in a particularly accessible location; however, I recognise that there is a single, albeit limited bus service which runs along London Road. These limited benefits must be weighed against the harm which I have identified to character and appearance.

Highways

86. Concerns are expressed by local residents regarding the effect of the proposal on the free flow of traffic along Swinley Road and congestion at the junction of Swinley Road and London Road. A Transport Assessment undertaken to support the application showed that the proposal would create an additional six vehicle movements in the AM peak period and nine vehicle movements in the PM peak period. Whilst not underestimating the concerns of residents and notwithstanding congestion experienced at the Swinley Road/London Road junction the proposal would not result in a material increase in traffic movements. Consequently, subject to the conditions suggested by the highway's authority, I do not consider that the proposal would have a detrimental effect on highway safety.

Planning Obligation

87. The s106 Agreement is made in the form of a deed and includes obligations relating to Travel Plans; SPA mitigation; biodiversity enhancement contribution; care requirements; and a monitoring fee.
88. The Thames Basin Heathlands Special Protection Area (SPA) Avoidance and Mitigation Supplementary Planning Document (2012) concludes that any net increase in residential development between 400m and 5km of the SPA would be likely to have a significant adverse effect on the SPA. It is agreed by the parties that the proposal would have an impact on the SPA. An Appropriate Assessment of the proposal was carried out during the course of the application in consultation with Natural England who have no objection to the proposal as long as the relevant avoidance and mitigation measures specified in the Appropriate Assessment are

secured. Schedule 2 of the Agreement includes an obligation to secure the necessary mitigation measures in accordance with the SPD.

89. As the appeal is being dismissed on grounds of character and appearance and whilst a planning agreement has been submitted it is not necessary to look at the obligations within it in detail, given that the proposal is unacceptable for other reasons.

Appeal Decisions

90. Attention is drawn to a number of appeal decisions relating to the weight to be attached to older style countryside policies; the benefit to be attached to the provision of older persons housing; other material considerations; and how these are weighed in the planning balance.
91. Attention is drawn to two recent linked appeal decisions⁵ at Tilehurst Lane, Binfield which the appellant considers supports its position that the most important policies are out of date. In those cases, the Inspector considered that when taken together Policy CS2 and CS9 of the CS and Policy EN8 and H5 of the BFLP were out of date as they protect the countryside for its own sake. Nevertheless, the Inspector recognised that the policies when taken together allow determination of the effect of the proposal on the character and appearance of the area which would be in accordance with the requirements of paragraph 127 of the Framework. She then goes on to state, however, that it is the interaction between policies EN8 and H5 (new dwellings outside settlements) which means that the consideration of character and appearance is limited to the certain types of development appropriate in the open countryside. Policy H5 and Policy CS2 (locational principles) are not engaged in the current appeal proposal and the principle of development is not an issue. Consequently, the suite of policies which the Inspector considered and the interaction between them is different to the current appeal proposal.
92. In a recent appeal decision⁶ at Beaufort Park the Inspector concluded that Policies EN8 and H5 of the BFLP and Policy CS9 of the CS, in expressing that the countryside is to be protected for its own sake are, in that regard, inconsistent with the Framework. However, the Inspector is silent on whether the remainder of those policies are consistent with the Framework and in any event went on to apply the straight planning balance, not the tilted.
93. In an earlier appeal at Tilehurst Lane⁷ the Inspector considered changes to the proposal in relation to character and 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 Council's then worsening housing land supply situation.
94. At Satchell Lane⁸ the Inspector concluded that the benefits of the scheme outweighed the minor conflict with the countryside policies considered to be out of step with national policy. In the Beechmoor Garden Centre⁹ case the Inspector attributed very substantial weight to the provision of specialist housing for older

⁵ Appeal decisions: APP/R0335/W/19/3228697 and APP/R0335/W/19/3231875

⁶ Appeal reference: APP/R0335/W/18/3206527

⁷ Appeal reference: APP/R0335/W/15/139035 Land at Tilehurst Lane

⁸ Appeal reference APP/W1715/W/18/3194846 Land at Satchell Lane

⁹ Appeal decisions: App/AA0665/W/18/3203413: Beechmoor Garden Centre (CD5.2)

people and considered that this and other benefits would outweigh the harm to the Green Belt and conflict with locational policies.

95. The Inspector concluded in the 54 Elloughton Road¹⁰ case that significant weight should be afforded to the economic benefits directly arising from the proposal and that substantial weight should be afforded to the provision of older persons housing. At 237-259 London Road¹¹ the Inspector concluded that the development would make a significant contribution towards meeting the need for extra-care accommodation and recognised the benefit of freeing up general housing. He also concluded that the conflict with policies relating to development in the countryside would be outweighed by the absence of a 5yr supply of housing land. Overall, the Inspector concluded that other considerations outweighed the harm to the Green Belt and as such qualify as very special circumstances.
96. I have had regard to these decisions; however, I have concluded that the Council has a five-year supply of housing land. Furthermore, with regards to whether the policies are up-to-date, I consider the Decisions in the Bracknell Forest Council area differ from the current appeal proposal for the reasons stated. The appeal decisions which relate to other areas are of less relevance as the policy situation and the details of cases could be significantly different.

Planning Balance and Conclusion

97. I have found that the proposed development would conflict with Policies EN8, EN20 and EN1 of the BFBLP and Policies CS7 and CS9 of the CSDPD. Both the BFBLP and the CS were adopted prior to first publication of the Framework 2012. However, paragraph 213 of the current Framework states that existing policies should not be considered out-of-date simply because the plan predates the Framework. Due weight should be given to relevant policies according to their degree of consistency with the Framework.
98. All of the above policies relate to character and appearance and the protection of trees and hedgerows which are matters that go to the heart of reason for refusal one. Consequently, I consider that all five policies are policies which are most important for determining the application.
99. There is no dispute between the parties that Policy CS7 (Design) of the Core Strategy; Policy EN1 (Protecting tree and hedgerow cover) of the BFBLP; or Policy EN20 (Design Consideration in new development) are consistent with the Framework. From everything which I have seen in written submissions and heard at the Inquiry; I have no reason to disagree. Full weight can be afforded to the conflict with these policies.
100. It is common ground that Policies CS9 (Development on Land Outside Settlements) of the CSDPD and Policy EN8 (Development on land outside settlements) of the BFBLP are out of date with regards to the approach to land outside settlement boundaries and as they seek to protect the countryside for its own sake. Neither do these policies distinguish between the hierarchy of international, national and locally designated sites.
101. Although Policy CS9 and Policy EN8 seek to protect the countryside for its own sake parties agreed that the remainder of those policies pertinent to character and

¹⁰ APP/E2001/W/16/3157839: 54 Elloughton Road (CD5.3)

¹¹ APP/H2265/W/18/3202040 Land to the rear of 237-259 London Road (CD5.6).

appearance are consistent with paragraph 170 (b) the Framework in terms of seeking to address the character, appearance and function of the countryside. Consequently, whilst I agree that some reduction in the weight of the conflict with these policies is necessary, I consider that the conflict is still significant.

102. Furthermore, the proposal was not refused on the basis of the principle of the development. Moreover, Policy CS7 of the CS and Policies EN1 and EN20 are consistent with the Framework. Consequently, in the particular circumstances of this case, I consider that taken together, the suite of policies most important policies for the determination of this appeal are not out-of-date.
103. Although I agree that there should be some reduction in the weight of the conflict with Policies EN8 and CS9, the conflict with the suite of policies most important to this appeal carries significant weight against the appeal. Furthermore, I consider that the proposal conflicts with the development plan as a whole.
104. Consequently, 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.
105. The proposed development would cause no unacceptable harm in relation to highway safety or living conditions. Through the s106 obligation, it would include mitigation to offset the harm to the SPA as a result of additional residential population, contributions towards biodiversity enhancement the submission of a Travel Plan and contributions towards monitoring fees. These neutral factors do not weigh for or against the appeal.
106. I accept that the proposed development would increase the supply of housing and in particular the supply of assisted living units and make provision for older persons accommodation – which the Framework seeks to boost significantly. The proposal would also have other social benefits and help to support the local economy. The considerations in favour of the development collectively carry significant weight, but not sufficient in my view to overcome the statutory presumption in favour of the development plan. The conflict with Policies EN8, EN20 and EN1 of the BFBLP and Policies CS7 and CS9 of the CSDPD, justifies a decision to refuse planning permission in this case.
107. For the reasons stated, and with regard to all other matters raised, I conclude that the appeal should be dismissed.

Caroline Mulloy

Inspector

APPEARANCES***For the Local Planning Authority***

Annabel Graham Paul of Counsel	Instructed by Bracknell Forest Council
<i>She called:</i>	
Sarah Fryer, Principal Planning Officer	BA (Hons) Dip TP MRTPI
Elizabeth Alexander, Bell Cornwall Partnership	BA (Hons) MPhil MRTPI

For the Appellant

Robert Walton QC of Counsel	Instructed by CastleOak
<i>They called:</i>	
Andrew Smith, Managing Director Fabrick	BSc (Hons) MSc CMLI
Jamie Lewis, Associate at Ridge and Partners	Dip TP, MRTPI
Nigel Newton Taylor	BSc (Hons) MRICS
Ben Oates	Diploma in Arboriculture; National Certificate in Horticulture; TechArborA
Giles Brockbank, Partner at Ridge and Partners	Dip TP MRTPI

Interested Persons

Patrick Griffin	
Councillor Hayes MBE	

INQUIRY DOCUMENTS***Core Documents***

CD20.6	Revised Statement of Common Ground on housing land supply
CD20.8	Addendum to 5YHLS -Note on policies relating to housing
CD9.1	Completed Section 106 Agreement dated 8 February 2019
CD20.12	Revised list of agreed planning conditions

Documents submitted on behalf of the Council

CD20.4	Opening statement on behalf of the Council
CD20.7	Update on housing sites-Bus Station and L'Avenir
CD20.14	Closing submissions on behalf of the Council

Documents submitted on behalf of the Appellant

CD20.3	Opening submissions on behalf of the appellant
CD20.1	Revised site location plan
CD20.2	Note on site location amendments
CD20.5	Tree planting note-Fabrik
CD20.10	Note from the appellant in respect of appeal decision APP/R0335/W/19/3231567
CD20.14	Closing submissions on behalf of the appellant

Documents submitted by Interested Persons

CD20.9	APP/R0335/W/19/3231567 Land at Allsmoor Lane, London Road, Bracknell
CD20.11	Letter from Fidelma Tinney dated 25 July 2019