

Appeal Decision

Site visit made on 2 December 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/C1760/W/19/3235007

Land to the rear of Longacres, Ox Drove, Picket Piece, Andover SP11 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Foreman Homes Ltd against the decision of Test Valley Borough Council.
 - The application Ref 18/03289/OUTN, dated 14 December 2018, was refused by notice dated 18 February 2019.
 - The development proposed is outline planning application for residential development of up to 6 no detached dwellings and a means of access from Ox Drove.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application was made in outline form with only access detailed. As such, I have treated all aspects of the submitted plans in relation to the scale, layout, appearance and landscaping of the scheme as purely indicative.
3. Following the submission of additional information as part of the appeal, the Council indicate that subject to conditions and other necessary mitigation solutions, that the second and fifth reasons for refusal are no longer relevant. These reasons relate to the adequacy of the visibility splays and the impact of the proposal on protected habitats respectively. I see no reason to disagree and have determined the appeal on this basis.
4. Since the appeal application was determined, Natural England has updated its advice in respect of the increase in population and associated waste water implications within the zones of influence of the Solent and Southampton Waters Special Protection Area (SPA). I address this matter further below.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on protected trees;
 - The effect of the proposal on the living conditions of future occupiers with particular regard to the effects of noise from surrounding land uses; and
 - Whether the proposal would make adequate provision for foul and surface water drainage.

Reasons

Character and appearance

6. The appeal site is formed from part of an elevated sloping field to the rear of the dwelling known as Longacres, which along with its adjoining neighbours, forms a cluster of dwellings on the south-eastern side of Ox Drove. Whilst there is denser residential development to either ends, and the business park on the north-west side behind a dense landscaped boundary, the road is narrow, existing development appears to be low density and there are obvious pockets of undeveloped land rising to the ridge forming the backdrop to the urban limits of Picket Piece. Consequently, the area in the vicinity of the appeal site has a semi-rural character.
7. The appeal site has a boundary with trees to its south-west side and another treed boundary separating it from Longacres. Trees also extend alongside the boundary of Longacres with the access route to the appeal site. The north-east side of the site is generally open other than for a post and wire fence. The rear boundary of the proposed site is not defined by anything physical on the ground, and from the evidence, appears to be determined by reference to the datum point of 100 metres AOD to coincide with an adjacent planned development.
8. The appellant suggests that as the scheme is submitted in outline form, that the effects on the character and appearance of the area cannot be adjudged to be harmful. Whilst I accept that the precise form and layout of the development would be assessed in detail at the reserved matters stage, there are only a number of forms that such a scheme would take. It is possible to assume, at least at a basic level, that the introduction of six dwellings in some arrangement on site would result in a very different character and appearance than the site provides in its current undeveloped condition.
9. As such, the appeal proposal, through the introduction of six dwellings and associated infrastructure, would inevitably urbanise the open and natural character of the site and the proposal would be seen in views from local roads and footpaths. Notwithstanding the findings of the submitted Landscape Visual Summary, due to the elevated and generally exposed nature of the site, the changes would be particularly stark and the proposal would form an incongruous incursion into this semi-rural context.
10. The appellant indicates that the character and appearance effects of the proposal would be insignificant when considering that an outline approval has been granted for up to 180 dwellings some 60 metres away. Whilst that scheme, or another scheme in the future, may provide a more urbanised context for the proposal to assimilate with, I have no certainty of the submission of the reserved matters or subsequent implementation of that or another scheme and no changes have occurred on that site as yet. The appeal site would also still be separated from that particular urban extension by a pocket of undeveloped space to the rear of the adjoining dwellings which suggests that particular consideration should be paid as to how coherent such schemes would appear in context with one another in any case.

11. In view of this main issue, the proposal would harm the character and appearance of the area contrary to Revised Local Plan¹ Policies E1 and E2. Read together, these policies seek to protect, conserve and enhance the landscape of the Borough and ensure that new development integrates, respects and complements the character of the area in which it is located.

Protected trees

12. There is an existing gated access onto Ox Drove which it is intended the appeal proposal would utilise. The access route beyond this into the appeal site lines the south-western side of a field and is presently just an overgrown passage without any hard surfacing. The boundaries are formed by post and wire fences but on the south-western side, within the garden of Longacres, is a line of protected Beech trees. The trees' canopies overhang the access route and it is logical to assume the root system extends beneath it as well.
13. The Council's concerns in respect of the harm to trees is twofold: firstly, the protected trees alongside the access are considered to be at threat, and secondly, the dwelling, plot 4, is considered to be too close to the Ash tree adjacent to the boundary and therefore at risk of failure or felling. In respect of this latter point, as the layout of the development is not a detailed matter, I do not consider it necessary to assess the potential impact on the Ash tree relating to the indicative position of plot 4.
14. In respect of the protected trees lining the access drive, an updated Arboricultural Impact Assessment and Tree Survey (AIA) has been submitted. The details and indicative cross section plans indicate that the proposal could proceed in conjunction with the Council's standard highway details, ref HCC10/C/155A, to create a hardsurfaced access with specific construction methods and foundations to avoid harm to the root systems of the protected trees. Such measures, followed rigorously through the imposition of conditions, could ensure the maintenance of these noteworthy landscape features.
15. As such, subject to conditions and details provided within the AIA, the proposal could proceed without harm to protected trees. The proposal would therefore comply with Revised Local Plan Policy E2 which seeks to ensure that new development is designed and located to ensure that the health and future retention of important landscape features is not likely to be prejudiced.

Noise

16. The appeal site is located to the rear of Longacres, a dwelling which lies closer to the existing Walworth Business Park and the permitted extension thereto. The railway line lies further beyond Walworth Business Park. The B3400 road lies to the south of the site, although they are separated by a large swathe of intervening agricultural land.
17. Whilst the Council indicates that the topography of the site is a key factor in this location, the appeal proposal is particularly close to existing dwellings, even if at a modestly higher level AOD. Given this close proximity, it is presumed that the noise environment in the proposed dwellings would be similar to that at the nearest existing dwellings, including Longacres. There is limited evidence to suggest that the noise from existing and proposed business operations at Walworth Business Park and traffic from the B3400 are harmful

¹ Test Borough Valley Revised Local Plan DPD – Adopted Local Plan 2011 – 2029: Adopted January 2016

to the nearest existing occupiers. Consequently, it would seem reasonable to assume that the living conditions of future occupiers of the site would be similarly acceptable.

18. In view of this main issue, the proposal would not conflict with Revised Local Plan Policy E8, which seeks to ensure that development which is sensitive to pollution, such as noise, will only be permitted if the intended users are not subject to unacceptable impacts from existing uses.

Drainage

19. The appeal site lies in an area that has the lowest probability of flooding (zone 1). Although not directly adjacent to the site, there is a mains sewerage network in reasonable proximity of Ox Drove which the appellant suggests the proposal could connect to, notwithstanding any separate consents, capacity or nutrient neutrality issues addressed separately below. The location and general suitability for the use of a mains connection has previously been accepted in respect of neighbouring sites, subject to conditions.
20. In respect of surface water, the appellant will have noted the comments from Southern Water which highlights that no surface water or land drainage can connect to the sewerage network. This indicates that a sustainable urban drainage system (SUDs) will be required as part of any future proposal on the site to adequately manage all surface water with an allowance for climate change.
21. There is limited evidence to suggest that infiltration is typically problematic in this area. Given the range of options that could be devised to manage surface water within any fixed layout, by way of condition and/or at reserved matters stage, it could be ensured that the ground water conditions would be maintained. A similar solution would also need to be reached if it were identified for unforeseen reasons that a connection to the mains sewerage network would not be possible.
22. In view of this main issue, subject to conditions, the proposal would make adequate provision for foul and surface water drainage. The proposal would therefore comply with Revised Local Plan Policy E7 which seeks to ensure that new development does not result in the deterioration of, and, where possible, assists in improving water quality and be planned to support the attainment of the requirements of the Water Framework Directive².

Other Matters

SPA

23. The appeal site lies within the zone of influence of the SPA which is designated in accordance with the Habitats Directive as transposed in the UK by the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations).
24. Natural England (NE) has revised its advice in respect of the potential effect of an increase in population within the zone of influence of the SPA. The '*Advice on achieving nutrient neutrality for new development in the Solent Region*' is dated June 2019 and sets out that new development which includes domestic accommodation would be likely to result in additional wastewater discharging

² Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy

to the SPA which affects the balance of its nutrients and thus has the potential to harm its integrity. This issue therefore requires detailed consideration as set out in the advice note and as part of an Appropriate Assessment.

25. The appellant's calculations indicate that the proposal would result in the creation of a nitrogen surplus. Whilst the appellant suggests that there is sufficient capacity in the Fullerton Waste Water Treatment Works (WWTW) and that headroom allowances have factored in planned growth in the area, this does not provide sufficient comfort that there will be reductions from the WWTW to offset the additional nitrogen from the proposal. The NE advice note recognises that mitigation may be difficult to achieve for smaller developments and in this particular case, I do not have adequate assurance that the necessary mitigation could be secured to ensure nutrient neutrality.
26. In any case, as the circumstances that could have led to the granting of planning permission are not present, it is not necessary for me to ascertain the appropriateness of the scheme or necessity for mitigation within an Appropriate Assessment. Consequently, as I am dismissing the appeal for other reasons, I have not taken this matter further.

General matters

27. The appellant highlights that the Council did not raise all of its concerns with the scheme that it later went on to add as reasons for refusal. It is suggested that this conduct fell short of the Council's own policies and the requirement in the National Planning Policy Framework (the Framework) to work collaboratively. Notwithstanding this, I have considered the scheme before me on its own merits, and my findings in relation to the main issues are therefore unaffected by the suggested lack of dialogue between the parties.

Planning balance and conclusion

28. The appeal proposal would result in the provision of six new family homes within the defined settlement boundary, and thus, within a location considered to be suitable for such a purpose. There would be economic benefits from both the construction phase and throughout the occupation of the dwellings by future occupiers. There would be social benefits arising from the addition of new houses to the housing stock and the associated increase in choice available to families wishing to reside in the area. These benefits attract modest weight in the overall balance.
29. Whilst there are many neutral aspects of the scheme, including the ability to mitigate impacts on biodiversity and water quality through details that could be secured by condition, these factors neither weigh for, nor against the scheme.
30. In this case, I consider that the benefits of the scheme would not outweigh the harm to the character and appearance of the area, contrary to the development plan and Framework, when read as a whole.
31. For the reasons set out above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR