



Appeal Decision

Site visit made on 23 June 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2020

Appeal Ref: APP/V3120/W/19/3240852

Land at Plot 5, Reading Road, Harwell, Didcot OX11 0LW

- 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 Mr Daniel Ede of Ede Homes against the decision of Vale of White Horse District Council.
 - The application Ref P18/V1949/FUL, dated 31 July 2018, was refused by notice dated 19 June 2019.
 - The development proposed is the replacement of the 6-bed (347sqm) dwelling known as Holloway House approved on plot 5 (Approval Ref P17/V3134/RM) with two smaller 4-bed dwelling houses of identical cumulative size and referred to as Barrow House – Plot 5A (158sqm) and Chilbrook House – Plot 5B (189sqm).
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of the 6-bed (347sqm) dwelling known as Holloway House approved on plot 5 (Approval Ref P17/V3134/RM) with two smaller 4-bed dwelling houses of identical cumulative size and referred to as Barrow House – Plot 5A (158sqm) and Chilbrook House – Plot 5B (189sqm) at Land at Plot 5, Reading Road, Harwell, Didcot OX11 0LW in accordance with the terms of the application, Ref P18/V1949/FUL, dated 31 July 2018, subject to the conditions set out in the attached schedule.

Procedural matters and background

2. Since the Council made its decision the Vale of White Horse District Council Local Plan 2031, Part 2, Detailed Policies and Additional Sites (LP2) has been adopted in October 2019. This replaces saved policies in the Vale of White Horse Local Plan 2011, July 2006 and forms part of the development plan together with the Vale of White Horse District Council Local Plan 2031, Part 1, Strategic Sites and Policies, December 2016 (LP1). No development plan policies are cited on the decision notice. Furthermore, both parties have had the opportunity to refer to the LP2 as part of the appeal process. Therefore, I am satisfied that neither party would be prejudiced by this change in policy circumstances.
3. Outline planning permission (reference P15/V1074/O) was granted on land at Reading Road for 16 dwellings, followed by permission for reserved matters (reference P17/V3134/RM). At the time of my visit construction was well underway on this residential development. The appeal proposal concerns the area denoted as plot 5 in that development, which permitted a detached 6-

bedroom house. Notwithstanding the references to the planning history in the description of development and the Council's appeal questionnaire¹, the application before me is not a reserved matters application made under the outline permission. Rather, it is a full planning application for two houses, and I have determined the proposal on this basis.

Main Issue

4. The main issue is whether the proposal is suitable having regard to the planning history, and local and national planning policies.

Reasons

5. Planning Practice Guidance (PPG)² recognises that new issues may arise after planning permission has been granted, which require modification of the approved proposals. However, where such modifications are fundamental or substantial, a new planning application will need to be submitted rather than seeking a non-material amendment or an application to vary the conditions on the existing permission. The Council consider that the outline and reserved matters permission set the number of dwellings at the wider development site at Reading Road at 16 and that an amendment to increase that number would be a fundamental change that would require a new planning application.
6. The submitted information indicates that the appeal proposal was made in full, albeit that it only pertained to part of the land consented under the 16 dwelling scheme. Therefore, it accords with the PPG advice that a new planning application should be submitted. Given that it is a standalone application for two dwellings to be determined on its own planning merits, it is not constrained by the parameters of the outline consent. It follows that the case law to which I am referred³, relating to the variation of conditions under an outline permission is of little weight in these circumstances.
7. There is no dispute between the parties of the existence of a permission for a 6 bedroom house upon the appeal site that arises from the outline and reserved matters consents already referred to. Accordingly, irrespective of the outcome of this decision, such a dwelling may be constructed and, in the event that this appeal fails, given that construction is underway on the wider development site, it is reasonable to suppose the appellant would be likely to do so. As such, this is a fall-back position of considerable weight and relevance to the proposal before me.
8. By substituting the consented dwelling with a standalone proposal for two dwellings, a total of 17 dwellings would result on the wider development site overall. Based on the evidence before me, there would be no procedural obstacle to such an outcome. Moreover, the Council have not explained how any planning harm would result as a consequence of the modest increase in density or change in housing mix by reference to development plan policies. Furthermore, Core Policy 23 of the LP1 requires a minimum density of 30 dwellings per hectare on new housing developments and states that higher densities will be encouraged in locations where it will result in the optimum use of land.

¹ Question 4, Appeal Questionnaire indicates the appeal relates to an application for reserved matters

² Paragraph 001, Reference ID 17a-001-20140306

³ Appendix 6 of Appellant's Statement of Case - R (on the application of Wet Finishing Works Limited) v Taunton Deane Borough Council 2017 EWHC 1837 (Admin)

9. This is consistent with the general approach advocated in the National Planning Policy Framework (the Framework), with paragraph 122 stipulating that planning decisions should support development that makes efficient use of land. In comparison to the fall-back position for plot 5, by providing two smaller units, the proposal would make more effective use of the land in addressing housing supply.
10. The Council does not raise other substantive concerns regarding the planning merits of the proposal, rather their concern appears to be that the two houses proposed might proceed in isolation and in advance of the remaining land consented under the outline and reserved matters permissions⁴. Since the Council took its decision, significant progress on the construction of the dwellings adjacent to the appeal site has taken place. Therefore, even if I were to accept the Council's assertion that two dwellings in isolation would have been an unacceptable form of development, such an outcome is most unlikely and therefore, attracts limited weight.
11. The refusal reason on the decision notice states that the proposal would require a variation to the section 106 contribution calculations. I understand this to be a reference to a section 106 agreement associated with the outline permission reference P15/V1074/O. I have not been provided with a copy of that agreement and so have no information before me as to the planning obligations it required, nor whether its terms would cover subsequent planning applications on the land to which it pertained. Therefore, based on the limited evidence before me, it is not shown that the appeal proposal would be subject to the terms of an existing section 106 agreement.
12. Paragraph 56 of the Framework indicates that planning obligations must only be sought where they meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Accordingly, planning obligations must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. No evidence is provided to demonstrate that the proposal for two dwellings requires any planning obligations to mitigate against its impacts in order to make it acceptable in planning terms. Neither is it shown that the proposal would provide a means to circumvent or reduce specific existing planning obligations.
13. Moreover, the Council have a Community Infrastructure Levy (CIL) charging regime in operation⁵. Although the matter of CIL liability lies outside of the scope of my determination, this suggests that there is a mechanism in place to generally address the funding of infrastructure arising from new development in the district.
14. Therefore, based on the evidence before me, I have no basis to find other than that the proposal would be suitable having regard to the planning history, and local and national planning policies.

Other matters

15. The site falls within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Paragraph 172 of the Framework stipulates that great weight should be given to conserving and enhancing the landscape and scenic beauty

⁴ Paragraph 6.1 Council Delegated Report

⁵ Council Final comments dated 3 March 2020

of AONBs. It further states that planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. I have had regard to the concerns raised by a local resident that increasing the density at the appeal site, when taken together with the already consented residential development would constitute a major development that should be prevented. Nevertheless, the proposal for two dwellings does not of itself constitute a major proposal, and it would substitute an existing approved large detached dwelling with a similar floorspace. Although there would be changes to the form of the buildings, in comparison to the previously approved dwelling, these would be modest. As a result, the context and its relationship to the surrounding scenic qualities of the AONB would not be altered in any meaningful way. Accordingly, the proposal would conserve the scenic beauty of the AONB.

16. I have also taken account of the objection raised by Harwell Parish Council who mention that extra traffic might result as a consequence of the proposal. Nevertheless, given the modest nature of the proposal, and in comparison to the fall-back position, any increase in traffic is not likely to have a significant impact. This is reinforced by the comments of the local highway authority⁶ who raised no objection to the proposal. As such this matter attracts limited weight.

Conditions

17. I have had regard to the conditions suggested by the Council and considered them against the six tests set out in paragraph 55 of the Framework. The three year period in which the planning permission may be implemented is a statutory requirement but I also consider that it is necessary to specify the plans that are approved and that the development shall be undertaken in accordance with these, as this provides certainty. However, I have clarified that the composite plan drawing for garages and car ports is approved only in relation to the double garage details for Barrow House.
18. A condition requiring the external materials to be as indicated or as agreed is necessary given the need to integrate with and maintain the design quality of the surrounding residential development.
19. The evidence indicates that some provision for biodiversity enhancements was made for the 6 bedroom house already approved at Plot 5. I accept it is necessary to ensure that at least an equivalent level of provision is secured for the appeal proposal and have had regard to the detailed suggestion of the Countryside Officer in imposing such a condition.
20. Given the context of recent major development, I accept that broad details of a foul and surface water drainage scheme should be established. However, as no specific concerns are raised by the Senior Flood Risk Engineer there is no compelling reason why this must be established prior to the commencement of any development. I have therefore amalgamated and revised the wording as the PPG states that it is good practice to keep the number of conditions to a minimum and that pre-commencement conditions should only be used where there is a clear justification.

⁶ Local Highway Authority Consultation response dated 30.8.18

21. Details of the parking arrangements are shown on the submitted plans and therefore, it is only necessary to require their provision before the dwellings are occupied.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

Schedule of Conditions (6 conditions)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 775 L01 Rev A; Site Layout 755 P01 Rev B; Barrow House (Plot 5a) Plans and Elevations 775 P100; Chilbrook House (Plot 5b) Plans and Elevations 775 P101; Boundary Treatments 755 P02 Rev A; Parking and Refuse 755 P03 Rev A and Garages and Carports Plans and Elevations 679 P110 (only in relation to details of double garage for plot 5a, Barrow House).
- 3) The exterior of the development hereby permitted shall only be constructed in the materials specified on the plans hereby approved or in materials which shall previously have been approved in writing by the local planning authority.
- 4) No dwelling shall be occupied until:
 1. A bird nest box, such as the Schwegler 1SP, has been provided on the southern elevation of the garage associated with the dwelling shown on plan as Barrow House. The exact position of the box shall be informed by a suitably qualified ecologist and installed in accordance with best practice guidance.
 2. An integral bat box, such as the Habibat 001, has been provided on the south eastern rear elevation of the dwelling shown on plan as Chilbrook House. The exact position of the box shall be informed by a suitably qualified ecologist and installed in accordance with best practice guidance.

This condition will be discharged through the receipt of a letter from the project ecologist providing evidence and confirming that the biodiversity enhancements have been provided in accordance with this condition.
- 5) No dwelling shall be occupied until a foul and surface water drainage scheme has been implemented in accordance with a scheme previously approved in writing by the local planning authority.
- 6) No dwelling shall be occupied until the car parking spaces, turning spaces and cycle parking provision have been provided in accordance with drawing reference 755 P03 A. For the avoidance of doubt the garage for Plot 5a shall be in accordance with the double garage plan and elevations shown on drawing 679 P110. Thereafter, the car parking spaces and cycle parking provision shall be kept available for this use.