
Appeal Decision

Site visit made on 8 July 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 16 July 2020

Appeal Ref: APP/G2245/W/20/3247119

Beeches Farm, Burlings Lane, Knockholt, TN14 7PF

- 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 John Love against the decision of Sevenoaks District Council.
 - The application Ref 19/02362/FUL, dated 9 August 2019, was refused by notice dated 20 December 2019.
 - The development proposed is the demolition of existing buildings and erection of 8 x two storey dwellings with 16 parking spaces.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether or not the proposal provides safe and suitable access to the site for all users and the effect of the proposal on biodiversity of the area.

Reasons

Means of access

3. The appeal site is located off Burlings Lane and accesses the public highway by means of a private track, which it shares with a bungalow (the Beeches). Burlings Lane is, in the vicinity of the site, unlit and lacks footways. The road frontage around the access has mature planting which, to a degree, overhangs the carriageway, but provides a significant level of verdancy to the area.
4. The site was formerly in agricultural use. However, the site has not been in agricultural use for some time and there is no dispute between the parties that the use of the site currently falls within Use Class B8.
5. The TS provides evidence that the proposed use of the site would generate significantly fewer trips than the former agricultural use. The TS provides no surveyed or predicted trip generation for the current B8 use and the evidence does not demonstrate the trips associated with the existing B8 use exceeds that which is anticipated from the proposal.
6. From a survey of vehicular speeds provided by the appellant within a Transport Statement (TS), the Local Highway Authority (LHA) has identified the need for 33 metres of visibility for emerging drivers, measured at a point set back 2.0 metres from the edge of the carriageway to satisfy their Visibility Standards and the requirements of Manual for Streets 2 (MfS2). However, they have

indicated that, given the relatively low speeds and levels of traffic on Burlings Lane, they would be content with a visibility distance of 20 metres at the same setback, measured to a point one metre into the nearside of the carriageway. However, visibility requirements relate to vehicular speed on the through road, rather than traffic flow and I am not satisfied, on the evidence before me, that relaxation of the visibility requirement below that set out within MfS2 is justified.

7. Accompanying their statement, the appellant has provided a drawing, 1910016-01 Revision C, which demonstrates that visibility splays of 12.8m and 12m can be provided to the right and left respectively at a setback of 2 metres. However, these measurements are taken from half a metre into the carriageway, and the visibility set one metre into the carriageway would be marginally greater. Nevertheless, the visibility provided would be significantly less than either the distance required in MfS, the LHA's standards, or the relaxation that the LHA consider reasonable.
8. The appellant has suggested that visibility could be improved by trimming back vegetation overhanging the highway. The owners of the land to either side of the access, in their representations, state that they control the land.
9. The plan submitted by the appellant shows the 20m visibility splay passing through the trunks of two trees with a significant presence on the street, and this would suggest that they would need to be felled to achieve the splays.
10. The evidence before me does not demonstrate the land required to deliver the 20m visibility splay recommended by the local highway authority is within the highway or the control of the appellant and therefore I am not satisfied such a splay could be achieved, and this is notwithstanding my earlier concerns as to whether the evidence demonstrates a 20m splay would be appropriate in any event. Moreover, even if the appellant could provide the splay the removal of the foliage, including at least two trees, would have an adverse impact on the character and appearance of the area given the rural and verdant nature of the lane. The appellant has not demonstrated how any such impact could be adequately mitigated. Accordingly, for these reasons I am not satisfied that it would be appropriate in this instance to secure a 20m splay through the imposition of a planning condition.
11. Whilst the likelihood of conflict between motorists exiting the site and those in the road would be low, due to the relatively low traffic flows on Burlings Lane, the limited visibility available would be below that which would be necessary to give oncoming vehicles warning of a vehicle edging its bonnet onto the carriageway to allow egressing drivers visibility. Therefore, if they were to meet the risk of a serious accident would be high.
12. No accident history has been identified at or in the vicinity of this junction. However, this cannot be used as justification that this will remain the case given the lack of visibility at the junction and its intensification of use.
13. In conclusion, it has not been demonstrated to my satisfaction that sufficient visibility can be achieved at the access and so there would be an increased risk of harmful collision.
14. Accordingly, the development would have a safe and suitable access to the site and is contrary to Paragraph 108 of the National Planning Policy Framework -

2019- (the Framework) which seeks safe and suitable access to the site to be achieved for all users.

Biodiversity

15. A reptile survey, submitted with the application, revealed a low population of slow worms being present, which are protected under the Wildlife and Countryside Act, 1981 and are a Priority Species of Principal Importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006. The population included a number of juveniles, which would indicate a breeding population. Natural England has produced standing advice¹ which requires that mitigation measures should demonstrate that they are an appropriate way to deal with, and are effective against the predicted impact of, the proposed development on a protected species.
16. A reptile receptor site has been proposed within the site. Whilst it is proposed that the site would be fenced off, the plot boundaries show the area as being included within Plots 7 and 8.
17. Even were I to consider the area as segregated from the amenity space for the dwellings, no means of maintaining the habitat and fencing in the longer term are proposed, and no independent means of access has been identified for doing so. I cannot, therefore, be sure that a suitable habitat will be maintained in the long term following occupation of the dwellings. It has not, therefore, been demonstrated that, on the basis of the information before me, a satisfactory strategy to protect the priority species could be delivered, even if required by a planning condition.
18. I therefore find that the proposal would result in harm to the biodiversity of the area. This would be contrary to Policy SP11 of the Sevenoaks District Council Allocations and Development Management Plan -2015- which requires that the biodiversity of the District is conserved to ensure no net loss of biodiversity.

Planning Balance

19. The proposal would be at odds with the development plan as a whole for the reasons already given. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is an important material consideration.
20. The parties agree that the Council is currently unable to demonstrate a five year housing land supply. Consequently Paragraph 11 d) of the Framework is triggered and planning permission should be granted unless the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits when considered against the Policies in the Framework taken as a whole.
21. The development would provide benefits in terms of delivering an additional eight homes to boost local housing supply and address the shortfall. There would be minor benefits to the local economy in terms of short term employment in the construction industry and longer term support to shops and businesses.

¹ Protected species: how to review planning applications

22. The proposal would make productive use of a currently dilapidated site and increase the openness of the Green Belt in comparison to the current layout. However, the increase in openness would be offset, to a degree, by the more urbanising form of the buildings and the increase in activity associated with the dwellings. These are matters in the proposal's favour to which I attach moderate weight.
23. Nevertheless, I have found the proposal would not provide a safe means of access for all future users or protect the biodiversity of the area contrary to the aims of Section 15 of the Framework. Therefore, both individually and collectively these are significant factors weighing against the scheme.
24. I therefore conclude that the adverse impacts would significantly and demonstrably outweigh the moderate benefits provided by the scheme when considered against development plan policies and the Framework when read as a whole. This is not a material consideration that indicates the appeal should be determined otherwise than in accordance with the development plan.

Conclusion

25. For the reasons given, I conclude that the proposal conflicts with the development plan and there are no other considerations, including the advice of the Framework, that outweigh that conflict. Therefore the appeal should be dismissed.

I Dyer

INSPECTOR