
Appeal Decision

Site visit made on 2 September 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2020

Appeal Ref: APP/X0360/W/20/3252719

Foxley Farm, Foxley Lane, Binfield, Bracknell RG42 4EG

- 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 Brett O'Connor against the decision of Wokingham Borough Council.
 - The application Ref 193184, dated 25 November 2019, was refused by notice dated 5 May 2020.
 - The development proposed is described as a 'replacement dwelling following demolition of existing structures and dwelling'.
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Decision

1. The appeal is allowed and planning permission is granted for a 'replacement dwelling following demolition of existing structures and dwelling' at Foxley Farm, Foxley Lane, Binfield, Bracknell RG42 4EG in accordance with the terms of the application, Ref 193184, dated 25 November 2019, subject to the attached schedule of conditions.

Main Issue

2. The effect of the proposal on the character and appearance of the area, including the surrounding countryside and landscape.

Reasons

3. The appeal site is occupied by a bungalow and single storey outbuildings with areas of hard standing and an outdoor swimming pool to the rear. The site, accessed from Foxley Lane, has an unkempt appearance and the buildings are low profile with timber materials to the walls. It has an open and low-density character consistent with the open countryside on this side of Foxley Lane. This is identified within the Wokingham Borough Landscape Character Assessment, November 2019 as being a simple and open farmed landscape with scattered farmsteads and ribbon development.
4. Policy CP11 of the Wokingham Borough Local Development Framework, Adopted Core Strategy Development Plan Document, January 2010 (CS) sets out that replacement dwellings should bring about environmental improvements or avoid inappropriate increases in scale, form or footprint of the original building. I note that the existing dwelling on site is itself a replacement dwelling. Furthermore, my attention has been drawn to a recent dismissed

planning appeal¹ at the site for a replacement dwelling. However, whilst I am cognizant of the case and in particular the previous Inspector's findings on the site context, the specific proposal before me differs in a number of ways, including the height, design and overall size of the proposal.

5. Although the proposal would still concentrate the built form and massing within a single portion of the site, the scheme subject of this appeal would be of a notably lower height. Most of the replacement building would be single storey, and the first-floor accommodation proposed has been concentrated within the central part of the building's roof. This variation in height adds interest and variety to the built form and generates a focal point to the building. Moreover, it achieves this without generating a mass or bulk that would be at odds within the existing character and appearance of the site and its surrounding landscape.
6. The proposal would result in a greater footprint and it would increase the depth and width of the built form. However, I place some weight on the potential for extending the existing building under permitted development allowances. Despite no certificate of lawfulness having been provided in evidence, I find that there is a reasonable likelihood that development similar to that set out by the appellant could form a potential fall-back position. Even if the extent of such development were less than the appellant suggests it would still notably increase the existing built form at the site. Furthermore, it would not achieve the good-quality cohesive design that the proposal represents. The proposed development has a form that reflects the rural context through, for example, a farm courtyard like footprint, agricultural barn style proportions and a rustic elevation treatment including brick infills. I consider that this offers an environmental improvement over the existing log cabin style development.
7. The Council indicates that the footprint encroaches beyond the existing lawful residential land use. Furthermore, they raise issue with the transition between the built form and the countryside to the west. Even if the red line includes land that is not part of the lawful residential use, to the west of the proposal, this would only be a narrow strip. Given the scale, rural design and the enclosed treed landscape immediately to the west I find that the proposal would provide a suitable transition.
8. Additionally, the Council have raised concerns regarding the level of hard standing proposed and associated vehicular parking. However, whilst I note that hard landscaping would increase overall, existing areas of hard standing visible from Foxley Lane would be removed. The new areas would be less perceptible from the majority of Foxley Lane such as to avoid any visual harm. Furthermore, domestic paraphernalia, such as vehicular parking, could similarly occur now as it would if the site was redeveloped by a replacement dwelling.
9. I am mindful that landscaping cannot be considered as a permanent feature and views are liable to change. As such, it ought not be used to justify development that is otherwise inappropriate. Nonetheless, I am satisfied that the existing landscape features, which include trees and hedging along Foxley Lane would provide a screen and backdrop in order to ensure that the proposal would integrate into its context. Moreover, although larger and resulting in an increased area of hard standing, overall, I find that the style, size and design of the proposed dwelling would maintain the site and surrounding area's

¹ PINS ref: APP/X0360/W/19/3241746

distinctive, open rural character. Furthermore, it would facilitate the redevelopment of a dilapidated site such as to provide an environmental improvement without an inappropriate increase in the built form.

10. Therefore, in conclusion on the main issue I find that the proposal would not harm the character and appearance of the area, including the surrounding countryside and landscape. As such, the proposal would not conflict with Policies CP1, CP3 and CP11 of the CS; Policies CC01, CC02 and TB21 of the Wokingham Borough Development Plan, Adopted Managing Development Delivery Local Plan, Enhancing the Borough's environment and character through exceptional development, February 2014; the National Planning Policy Framework; and Sections 4 and 8 of the Wokingham Borough Council, Borough Design Guide, Supplementary Planning Document, June 2012. These policies and guidance seek amongst other aims to ensure that development is sustainable through high quality design that reflects the character of the area and the transition between the built-up areas and the countryside.

Other matter

11. Based on the evidence submitted, including the appellant's Ecological Assessment² and the consultation response from the Council's ecologist there is a likelihood of a European Protected Species (EPS), namely great crested newts, being affected by the development. This is a material consideration and based on the evidence a licence may be required from Natural England to carry out the works. However, as the appropriate decision-maker I have had regard to the relevant derogation tests. Furthermore, I consider that no offence would be likely under the Habitat Regulations, and that there is no reason in principle why a licence would not be forthcoming.

Conditions and conclusion

12. I have had regard to the suggested conditions from the Council and note that the appellant has had opportunity to comment on these. I have imposed the standard implementation and approved plans conditions in order to define the terms of the permission. Furthermore, prior to the commencement of the development I have required details of drainage, EPS licencing, and landscaping. These address matters raised in the consultation responses from Thames Water and the Council's drainage, ecology, and landscape officers. They would be in the interests of the environment, protected species, minimising flood risk and the character and appearance of the area. Furthermore, requiring the information prior to commencement would assist with the efficient and effective delivery of the development.
13. Furthermore, I have required details of the external materials in order to protect the character and appearance of the area. I have also required the provision of the parking and turning area prior to first occupation in the interests of highway safety. Additionally, I consider that it is necessary to secure the demolition work proposed by the appellant in order to protect the character and appearance of the area and given that this part of the proposal was material in exercising my planning judgement on the scheme's merits.
14. However, I find that the Council's suggestion to provide an Arboricultural Method Statement to be onerous given the lack of any relevant designations

² Foxley Farm Ecological Assessment by Derek Finnie Associates, dated July 2019

and the requirements of the landscaping condition. Finally, I am mindful of the Planning Practice Guidance that seeks to minimise the use of planning conditions and only exceptionally restrict permitted development rights. In this context I do not find sufficient evidence to support the removal of permitted development rights in this instance.

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

James Taylor

INSPECTOR

Schedule of 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:
Site Plan revision dated 10th March 2020; Proposed Site Plan 21905-3-01/E; Floor Plans and Elevations 21905-3-03.
- 3) No development shall take place until a scheme of foul and surface drainage works has been submitted to and approved in writing by the Local Planning Authority. The works shall be completed in accordance with the agreed scheme prior to first occupation of the development and maintained thereafter.
- 4) No development shall take place until a licence for development works affecting great crested newts has been obtained from the Statutory Nature Conservation Organisation (Natural England) and a copy has been submitted to the Local Planning Authority, unless otherwise agreed in writing by the LPA. Thereafter mitigation measures approved in the licence shall be maintained in accordance with the approved details. Should the applicant conclude that a licence for development works affecting great crested newts is not required for all, or part, of the works, the applicant shall submit a report to the LPA detailing the reasons for this assessment. This report shall be submitted to and approved in writing by the LPA prior to commencement of works.
- 5) No development shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of the development. Furthermore, the hard landscaping details shall include information on the surface materials.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 7) No development above slab level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 8) The dwelling hereby permitted shall not be occupied until the vehicle parking and turning space has been provided in accordance with the approved plans. Thereafter, the vehicle parking and turning space shall be retained and maintained in accordance with the approved details, the parking space shall remain available for the parking of vehicles at all times and the turning space shall not be used for any other purpose other than vehicle turning.
- 9) The dwelling hereby permitted shall not be occupied until all demolition detailed on the hereby approved plans has been carried out, and all materials arising from the demolition has been cleared from the site.