



Appeal Decision

Site visit made on 7 September 2020 by Ben Phillips BSc MSc MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

An appointed by the Secretary of State

Decision date: 30 November 2020

Appeal Ref: APP/X0360/W/20/3250830

Land at Chapel Green House, Chapel Green, Wokingham RG40 3ER

- 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 Riseley Heritage Homes against the decision of Wokingham Borough Council.
 - The application Ref 192411, dated 29 August 2019, was refused by notice dated 2 December 2019.
 - The development proposed is described as the demolition of existing stable block and erection of two detached bungalows.
-

Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing stable block and erection of two detached bungalows at Land at Chapel Green House, Chapel Green, Wokingham RG40 3ER in accordance with the terms of the application, Ref 192411, dated 29 August 2019, subject to the conditions in the attached Schedule of 15 conditions and the S106 undertaking referred to below.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The Council's decision notice makes it clear that the application was refused for four reasons. However, three of these reasons relate to the lack of a formal, legal agreement that would ensure a master planned approach and to secure mitigation against the impacts of the proposal. I have received a completed Deed of planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) dated 18 August 2020 (S106). Following the receipt of the S106 agreement relating to these matters, the Council have confirmed that these reasons for refusal have now been addressed and overcome. I return to the provisions of the agreement below.

Main Issues

4. As such, the sole remaining main issue in this case is whether the appeal site is a suitable location for housing with regard to the character and appearance of the area and relevant development plan policies.

Reasons for Recommendation

5. The appeal site comprises of an existing single storey flat roofed equestrian building, set within approximately 0.13 hectares of land. Whilst the site is neighboured currently to the north and west by open fields, adjacent to it are a small number of dwellings accessed by a single driveway running from Luckley Road, which extends out of the settlement. A Public Right of Way also runs to the west and north of the application site.
6. Although the appeal site is located within an allocated Strategic Development Location (SDL), as set out by Policy CP21 of the Wokingham Borough Local Development Framework, Wokingham Borough Core Strategy Development Plan Document (2010) (CS), it is located just outside of the identified development limits of the major development location which seeks amongst other matters to have a phased delivery of 2,500 dwellings, retail facilities, and social and physical infrastructure including 2 new primary schools by 2026. Accordingly, it is located within the countryside for planning purposes.
7. CS Policy CP11 is relevant in this case and seeks to protect the separate identity of settlements and maintain the quality of the environment. It states that proposals will not normally be permitted except where they meet a number of criteria including where they do not lead to excessive encroachment or expansion of development away from the original buildings or bring about environmental improvement through replacement buildings. CS Policy CP3 also, amongst other things, seeks development that is of an appropriate layout and character to the area, which contributes to a sense of place in the way it integrates with its surroundings.
8. The existing building on the site is substantial in scale, and its utilitarian appearance does not contribute positively to the character of the surroundings. The proposed two dwellings, whilst slightly taller to ridge, would be substantially smaller in volume and footprint, and would be low key in appearance. Moreover, they would be viewed in the context of the small cluster of dwellings nearby and their layout and form would be similar to nearby development. Their rear gardens would be of a modest size and likely domestic paraphernalia within them would be viewed in the context of that present at nearby dwellings.
9. The hard landscaping proposed would be limited to the off-street parking areas to the front of the dwellings and would be smaller than the existing hardstanding of the car parking area/general yard area adjacent to the equestrian building. Furthermore, the additional landscaping proposed along the site boundaries would soften the formal nature of the rear boundaries, and, subject to a condition securing appropriate planting, would represent an environmental improvement over the existing unattractive open site.
10. Although introducing further dwellings into this small cluster of development, I consider that the proposal would not result in excessive encroachment into the countryside and would result in an environmental improvement to that which exists on the site. The new dwellings would not be intrusive in the wider landscape and would respect the rural character and context of the locality.
11. I acknowledge that the stabling could be considered a rural enterprise, however there is nothing within CS Policy CP11 which sets out that such

facilities should be retained or that development outside of development limits should be a rural enterprise. Rather the policy requires that development should contribute to diverse and sustainable rural enterprises within the borough, amongst other matters. In this regard it is reasonable to assume that the occupiers of the new dwellings would support nearby enterprises, services and facilities, and whilst such a contribution would be small, I find that there would be no conflict with CS Policy CP11 in this regard.

12. Therefore, given the location and orientation of the two proposed dwellings, in addition to their low key appearance, when viewed from the access lane and/or the public right of way from north and south, I find that the proposal would not harm the informal rural character of this area. This is unlike the previously refused and dismissed scheme¹, which also included two additional dwellings located perpendicular to the highway, away from any existing built form.
13. Given my findings I conclude that the appeal site is a suitable location for housing. Consequently the proposal accords with CS Policy CP3, in terms of the effect on the character of the area and the integration with the surroundings, CS Policy CP11 in terms of maintaining the quality of the environment, and Policies TB21 and CC03 of the Wokingham Borough Adopted Managing Development Delivery Local Plan (LP) which collectively require proposals to retain or enhance the condition, character and features that contribute to the landscape and require integration with the countryside, amongst other matters. Furthermore, there would be no conflict with CS Policy CP21 which sets out the delivery expectations of the SDL. Moreover, the proposal would accord with the design and siting principles set out in section 8 of the Borough Design Guide Supplementary Planning Document. These policies and guidance are in broad conformity with the National Planning Policy Framework (Framework) which requires that development is appropriate for its location, taking into consideration the natural environment and local character.

Other Matters

14. The appeal site is situated to the north of Lucas Hospital a group of designated heritage assets including the grade I listed Henry Lucas Hospital, the grade II* listed outbuildings at Lucas Hospital and the grade II listed garden wall. I consider that the significance of these heritage assets is mainly derived from their age, function, quality of architecture and the association with notable people and institutions, as well as their visual group value. Their pastoral setting contributes to their significance and given the inter visibility, albeit limited, between the appeal site and the upper part of the Hospital I consider that the appeal site is within the setting of these designated heritage assets.
15. However, given the mature landscaping, exiting buildings between the listed buildings and the appeal site and intervening distance, I find that the proposal would have a neutral impact on the setting of the listed buildings. The proposal would be unlikely to affect the appreciation of the buildings and accordingly I find that their significance would be preserved. It is noteworthy that the Council have found similarly in this regard. The proposal therefore accords with the statutory test set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, CS Policy CP3 in terms of the effect upon

¹ Appeal reference: APP/X0360/W/18/3204457

heritage, and national planning policy relating to the conservation and enhancement of the historic environment, set out within the Framework.

16. Amongst other matters the submitted S106 would make provision for a Community Infrastructure Levy payment, in accordance with the Council's Community Infrastructure Levy (CIL) Charging Schedule (2015) document. In addition, a contribution would be made towards the 'My Journey' scheme, a Borough wide travel awareness initiative that aims to help and inspire Wokingham residents, employees and students to travel by alternative modes to accommodate increased use by the occupants of the development. This requirement is in accordance with the sustainable transport choice ambitions of CS Policy CP6.
17. Concern has been raised about damage to nearby property, the access lane and pipes within the vicinity of the site. This is outside the scope of planning considerations; however, I note that the appellant has stated that any damage caused during construction including to the plumbing/septic tank would be repaired by them at their cost. With regards to concern raised about noise and disruption during the construction process, it is likely that this would be for a short period of time and would be unlikely to result in harm to the living conditions of nearby occupiers.
18. The effect of the proposal on the value of nearby properties has not been substantiated and is not a matter that I can take into account.
19. The site is located within the buffer/mitigation zone of the Thames Basin Heaths Special Protection Area (SPA), a European designated site. The Inspector will consider this matter below.

Conditions

20. A number of conditions have been suggested by the Council. Firstly, conditions relating to the approved plans is necessary for clarity. Given the location of the development, conditions relating to nesting birds and bat and bird boxes are necessary in the interest of biodiversity. In addition, conditions regarding details of hard and soft landscaping and the external materials used for the dwellings are necessary in order to ensure that the development sits comfortably within the existing setting.
21. Further conditions are considered necessary regarding car parking areas and cycle storage, in the interests of ensuring sufficient turning space and sustainable modes of travel respectively. Details of a bin storage area are also considered necessary in the interest of ensuring an appropriate standard of living accommodation and visual amenity. A condition requiring details of a sustainable drainage system is necessary to prevent flood risk from surface water run-off.
22. Conditions relating to the construction process are also reasonable and necessary, relating to the demolition of the existing structures, the storage of plant and materials used in constructing the development, dust protection measures and land contamination watching brief, in order to protect the living conditions of the future occupants and neighbours. I have amended the wording suggested by the Council for clarity and precision.

23. The Council recommend a condition removing permitted development rights. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. In this case I find that the Council has not provided clear justification that the exercise of such rights would be harmful to the character and appearance of the area or the living conditions of nearby occupiers. As such I find that such a condition is not reasonable in this case.
24. In accordance with the Planning Practice Guidance, the appellant has confirmed that they are happy for the suggested pre-commencement conditions to be imposed.
25. The permission is also subject to the signed S106 undertaking dated 18 August 2020, to secure contributions as set out above and to mitigate the effect of the development on the SPA, in accordance with the Council's charging schedule and the requirements of the development plan. As such the undertakings are justified as necessary to make the proposed development acceptable in planning terms. They are also directly related to the development proposed and are fairly and reasonably related in scale and kind to it. Accordingly, the deed meets the tests set out in paragraph 56 of the Framework and in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

Recommendation

26. Subject to the Inspector being satisfied that the proposal would not result in an adverse effect on the Thames Basin Heath SPA and for the above reasons and having regard to all other matters raised, I recommend that the appeal should be allowed, subject to the conditions and planning obligation outlined above.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Reasons

27. I concur with the findings of the Appeal Planning Officer in respect of the main issue set out above and the Other Matters. My assessment of the impact of the proposal on the SPA is considered below.
28. The appeal site is located within 5km of the Thames Basin Heaths SPA. This area comprises a network of heathland sites which support internationally important bird species including Woodlark, Nightjar and the Dartford Warbler. The birds are particularly vulnerable to disturbance as they nest on or near to the ground. Potential adverse effects on the SPA from new residential development, such as that proposed, include recreational pressure and disturbance, including from ramblers, dogs and cats. Such matters are likely to have an adverse effect upon the integrity of the SPA. As such it is necessary to carry out an appropriate assessment (AA) as part of my decision.
29. As part of the AA it is necessary to consider whether any potential effects could be addressed through specific measures. The appellant and the Council have agreed that financial contributions towards the provision of Suitable Alternative

Natural Greenspace (SANG) at Rooks Nest Wood and the provision of Strategic Alternative Access Management and Monitoring (SAMM) would be in line with Council's strategy for the Thames Basin Heaths SPA contained within its Infrastructure Delivery and Contributions Supplementary Planning Document For the Strategic Development Locations (SDLs). As part of the consideration of the development proposal Natural England confirmed that it had no objection subject to securing mitigation measures in accordance with the above strategy.

30. The SANG contribution would offset any impact of future occupiers of the new dwellings travelling to the SPA for recreation purposes. Moreover, the SAMM element would assist with measures to better manage and monitor visitors to the SPA. I am therefore satisfied that the mitigation measures would be effective.
31. The submitted S106 secures the mitigation set out above. As such the proposal, based on the above mitigation measures would not result in a significant effect upon the SPA. Therefore, it would accord with Policy CP8 of the Core Strategy and Policy NRM6 of The South East Plan 2009 which collectively require that adequate measures are put in place to avoid or mitigate any potential adverse effects on the SPA.

Inspector's Decision

32. In light of the foregoing and having regard to all matters raised I conclude that the appeal should be allowed, with the suggested conditions and S106 undertaking.

RC Kirby

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 shall be carried out in accordance with the approved plans numbered 19-J2830 – LP A, 19-J2830-101, 19-J2830-102 and 19-J2830-103.
3. Demolition of buildings and clearance of vegetation where birds may nest, shall be undertaken outside of the bird-nesting season (March - August inclusive) or if demolition or clearance works during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist must check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no demolition, vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.
4. Prior to first occupation of the development, four bird or bat boxes, bricks, nest cups or tiles shall be installed on or around the site under the supervision of a suitably qualified ecologist in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained.
5. No development above base course shall commence until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
6. No development shall commence above base course until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include boundary treatments, vehicle parking layouts and hard surfacing materials. Soft landscaping details shall include planting plan, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetable. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.
7. Before the development is first occupied a schedule of landscape maintenance for a period of 5 years shall be submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.

8. No dwelling shall be occupied until space has been laid out within the site, in accordance with drawing no. 19-J2830-101, for 2 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
 9. No development shall commence above base course until details of secure and covered bicycle storage/parking for use by the occupants of the development has been submitted to and approved in writing by the local planning authority. The cycle storage/parking shall be implemented in accordance with the approved details before occupation of the development hereby permitted and shall be permanently retained in the approved form for the parking of bicycles and used for no other purpose.
 10. No building shall be occupied until bin storage area/ facilities have been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority. The bin storage area and facilities shall be provided and retained, in accordance with the approved details.
 11. No development shall take place until full details of the drainage system for the site have been submitted to and approved in writing by the local planning authority. The details shall include:
 - 1) BRE 365 test results demonstrating that infiltration is achievable.
 - 2) Full calculations demonstrating the performance of soakaways.
 - 3) Groundwater data confirming seasonal high groundwater levels in the area.
 - 4) A drainage strategy plan indicating the location and sizing of SuDS features, with the base of any SuDS features located at least 1m above the seasonal high water table level, as well as the package treatment plant.
 - 5) Details demonstrating how any SuDS for this development would be managed throughout the lifespan of the development and who will be responsible for maintenance.
- The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby permitted.
12. No development on the construction of the new dwellings shall take place until the existing structure(s) shown to be demolished on the approved plan have been so demolished. All materials arising from the demolition of buildings on the site shall be permanently removed from the site.
 13. Details of the storage of materials, plant, machinery, containers or equipment used in constructing the development shall be submitted to and approved by the local planning authority prior to the commencement of development. The development shall be undertaken in accordance with the approved details.
 14. Before development commences a scheme of works that sets out the measures that will be taken to minimise dust arising from the

development shall be submitted for written approval to the local planning authority. The dust mitigation measures identified in the scheme shall be carried out and maintained until construction is complete.

15. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the local planning authority. Any subsequent investigation/remedial/protective works deemed necessary by the local planning authority shall be carried out to agreed timescales and approved in writing by the local planning authority. If no contamination is encountered during the development, correspondence confirming this fact shall be submitted to the local planning authority upon completion of the development.