



Appeal Decision

Hearing held on 9 & 10 December 2020

Site visit made on 11 December 2020

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2021

Appeal Ref: APP/R0335/W/19/3242594

Land to the north of Tilehurst Lane, and north of Tile House and Honeysuckle Cottage, Binfield, Reading RG42 5JL

- 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 Machray & JPP Land Limited against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/00765/FUL, dated 20 July 2018, was refused by notice dated 10 June 2019.
 - The development proposed is the erection of 9 dwellings (including 2 affordable dwellings) together with parking, landscaping and provision of an attenuation pond with access to Tilehurst Lane.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are
 - a) whether this would be inappropriate development in an area of flood risk;
 - b) its effect on the character and appearance of the countryside;
 - c) whether it would harm the setting and significance of nearby listed buildings;
 - d) if any of the above issues mean the scheme would conflict with the development plan whether material considerations indicate permission should nonetheless be granted and
 - e) the effect on the Thames Basin Heaths Special Protection Area (SPA).

Procedural matters

3. I confirm my decision is based on the site layout shown on Drawing 01F, which was submitted during the appeal to include revisions to the intended drainage.

Reasons

Background

4. The appeal concerns a relatively small rectangular piece of overgrown and unused land to the north of Tilehurst Lane. It is separated from the lane at its

western end by the long curtilages of Tile Cottage and Honeysuckle Cottage, and at its eastern end by part of a larger undeveloped and unkempt site on which planning permission for 53 dwellings was granted on appeal in 2019 (the adjacent appeal) but is, as yet, unimplemented. The 9 dwellings before me would be accessed through the scheme subject of the adjacent appeal. Binfield village is to the south of Tilehurst Lane, while open countryside lies to the north.

Drainage

5. The site suffers from surface water flooding associated with the 1 in 100-year event. Most of the time rainwater from the predominantly urban catchment upstream (the identified catchment) drains under the site through 2 sewers. However, when, for whatever reason, these are unable to cope, then surplus water flows mainly across the centre of the site from south to north, discharging onto the fields beyond.
6. The appellant had calculated the drainage requirements of the identified catchment for a 1 in 100 year event plus an allowance for climate change, and then, knowing the capacities of the sewers, proposed a swale to carry the rest through the site and around the houses to the point of existing discharge on the northern boundary. However, I was told the sewers do not serve this catchment alone, but also drew an unknown amount of water from elsewhere. Therefore, they would be carrying additional run-off to that of this catchment, which, as its amount is not known at this stage, has not been included in the calculations. Consequently, putting aside any debate as to whether the sewers and the swale together would be adequate to drain the identified catchment, I cannot be confident that the combined capacity of the existing sewers and the proposed swale would be large enough to take the drainage from the identified catchment plus whatever the sewers brought in from elsewhere. Therefore, it has not been shown the appellant's drainage strategy would be sufficient to avoid on-site flooding.
7. In coming to this view, I accept that not all the water from the identified catchment that cannot now be accommodated in the sewers drains across the middle of the site, but some appears to flow along the drive to Binfield Park and then runs across the site's north-west corner. Again though, I have no evidence to show that alternative flow allows for sufficient spare capacity in the sewers and proposed swale to accommodate the unknown amount of additional water from outside of the identified catchment.
8. Accordingly, I conclude it has not been demonstrated that this would not be an inappropriate development in an area of flood risk, and so it would conflict with Policy CS1 in the Council's *Core Strategy Development Plan Document* and the *National Planning Policy Framework* (the Framework).

Effect on the countryside

9. Policy CS9 in the Core Strategy seeks to protect the countryside for its own sake, particularly from development that would adversely affect the character, appearance or function of the land. Policy EN8 in the *Bracknell Forest Borough Local Plan* similarly protects the countryside for its own sake, accepting development may be permitted where it would comply with certain specified criteria. Local Plan Policy H5 says new dwellings will not be permitted in the countryside unless they are for certain purposes, none of which apply to this

scheme. More generally Local Plan Policy EN20 and Policies CS1 and CS7 in the Core Strategy aim to protect, respond to and enhance the character and quality of local landscapes, with Policy EN20 expressly seeking to retain '*beneficial landscape*'. Core Strategy Policy CS2 outlines a sequential approach to the allocation of housing sites, which lists extending settlements as the lowest level.

10. When compared to the development plan, the Framework offers a more nuanced approach to proposals in rural areas, stating that the character and beauty of the countryside must be recognised.
11. The site lies outside of the settlement boundary, which runs along Tilehurst Lane, and so sits in the countryside. Despite this the Council has raised no concern in relation to access to services or the effect on its housing strategy. Moreover, at the Hearing the Council made clear it was not seeking to resist the development purely because it was beyond the settlement boundary. Rather, its basis for objection rested on the scheme's effect on the character, appearance and function of the countryside. Given this, I see no basis to assess whether there is a conflict with Core Strategy CS2. The locational sequence has not been challenged, and while the policy then seeks development that is consistent with the character '*within the settlement*', as this site is not within a settlement that second arm of the policy is not applicable.
12. In the *Bracknell Forest Borough Landscape Character Assessment* the development would be in the Landscape Character Area (LCA) C1: Binfield and Warfield Clay Farmland. This LCA is an area of small woods, medium/large fields and remnant parkland, having a rural and open character that provides a buffer to the settlements of Binfield and north Bracknell.
13. The site makes some positive contribution to an appreciation of Binfield by being an open, undeveloped piece of land that, even in its unkempt state, adds to some degree to the settlement's countryside setting.
14. Balanced against this, the site is relatively small and contains little appreciable landscaping, much of which could be retained in the development. It also lies in a partially constrained context with a block of woodland to the north and an extensive complex of buildings to the east, so its contribution to the expansive openness of the wider character area is limited. Moreover, it would be set against the scheme subject of the adjacent appeal (with a condition suggested to say what is before me could not be developed in isolation), would be of a relatively low density, and would maintain a 'softer' edge to the neighbouring field than the scheme subject of the adjacent appeal with there being no intention or need for lengthy solid fencing or hard development close to its northern boundary. Having regard to the wording of Local Plan Policy EN20, it has not been shown this is part of a '*beneficial landscape*'. Therefore, taking these points together, the site at present makes little contribution to the character and appearance of the countryside or its function. As such, while the scheme would cause some harm to the countryside as a consequence of its loss, in the light of the above factors I consider this would be limited in its extent and nature.
15. In coming to this view, I accept that many countryside sites are against housing development. I also appreciate that given their broad nature there will be pockets and corners of any LCA that do not fully accord with their overall

character, whilst its current state is an issue of maintenance rather than arising because of any specific agricultural inadequacies. Therefore, these aspects have not been decisive of themselves, but they have nonetheless added weight to my findings above.

16. I also accept that from the public domain views of the scheme would be limited, being restricted primarily to the cul-de-sac to be formed in connection with the adjacent appeal. Honeysuckle Cottage, Tile House with its boundary fence and the development associated with the adjacent appeal, would together significantly restrict and impeded views of the scheme from Tilehurst Lane itself and from the houses on the south side of that road. However, I consider the countryside should not be protected from the public domain only, and the development would be apparent to varying degrees in private views from Honeysuckle Cottage and Tile House, as well as from the field to the north and from the new houses built as part of the adjacent appeal.
17. Accordingly, I conclude there would be some slight adverse effect on the character and appearance of the countryside and so the scheme would conflict with Local Plan Policies H5, EN8 and EN20, Policies CS1 and CS7 in the Core Strategy and the Framework.

Listed buildings

18. Under section 66 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* (the 1990 Act) when considering a planning application regard is to be given to the desirability of preserving the setting of any listed buildings. Moreover, the Framework states that when considering an asset's significance great weight should be given to its conservation.
19. Honeysuckle Cottage is a Grade II listed building, and its special architectural and historic interest and significance lie, in part, in the way it still reflects its origins as a relatively simple rural home through its scale and its detailing. This is enhanced by its large rear garden that extends an appreciable distance back and gives it a spacious setting, seemingly divorced from an urban context. Although the country estate of Binfield Park lies immediately behind, I was told of no link between the cottage and that estate. However, the awareness of the countryside beyond the back garden makes a contribution to the cottage's rural setting by adding to the feeling of openness. That contribution though is extremely limited as the various large outbuildings in the cottage's rear garden obscure, dilute and sever the visual connection to a great extent. Therefore, to my mind although the building has rural origins this severance means the countryside beyond (which includes the appeal site) makes only a very slight contribution to its significance as a designated heritage asset.
20. The development would result in the private gardens to 2 houses running across the rear of this property, with the new houses themselves just to one side. The outbuildings mean the new gardens would not be readily apparent at ground level when in Honeysuckle Cottage or indeed when next to the cottage on the drive to the west. The upper parts of the houses would be visible, but they would not be directly behind the dwelling, and would be set back from the boundary. Taking these factors together, there would be some limited loss of the sense of openness experienced as a result of the current state of the appeal site. Therefore, the development would have a very minor adverse effect on the slight contribution this open area of countryside makes to the

setting of the cottage. As such, it would cause harm, albeit less than substantial, to its significance.

21. Next door to Honeysuckle Cottage is the Grade II listed Tile House, which dates from the 19th Century. Its special architectural and historic interest lie to some extent in its detailing and scale, which portray it as a suburban villa with a more formal architectural style than its neighbour. Although always in the countryside, given its suburban nature I see no reason why its rural location adds to its significance as a designated heritage asset and again no link with the Binfield Park estate was highlighted. Rather, its significance appears to lie in its detailing and scale that reflect its age and status, with its ample curtilage providing the house with a spacious verdant context that befits this status and allows the dwelling to be appreciated. To this end, I am not satisfied that the presence of the fields behind (including the appeal site) contributes to its significance. Consequently, mindful too that some views through the development would remain along what is termed the '*cone of vision*', the scheme would not harm the significance of the property as a designated heritage asset or compromise its setting.
22. In assessing the impact on these 2 properties the Council referred to Historic England guidance concerning the effect of a development on the amenities of residents in a listed building. The separation involved and the residential nature of the proposal mean I have no reason to consider the scheme would cause harm in this regard. Moreover, I have no evidence to show that tranquillity would be unacceptably disturbed or, because of the development, the viability of these houses or their optimum use as residential accommodation would be compromised.
23. Someway to the north-east of the site is the Grade II* listed Binfield Park, the significance of which is partly that it was originally a large country house standing in an extensive estate. Although this scheme would be developing a small portion of that estate, given the scale of the development, the nature of the land and the intervening distance, I consider it would not cause harm to that building's significance.
24. Next to Honeysuckle Cottage are the Grade II listed gateposts on the drive to Binfield Park. Their significance lies, to some degree, in their design detail and location as they mark the entrance to a house of high status. However, they are experienced very much in the context of the driveway and, as the scheme would be set back behind Honeysuckle Cottage, this would not be affected. The proposal would therefore cause no harm to the significance of these assets.
25. The Framework states that heritage assets should be conserved in a manner appropriate to their significance. Moreover, any harm to the significance of a designated heritage asset and its setting should require clear and convincing justification. If less than substantial harm is identified to a designated heritage asset it should be weighed against the scheme's public benefits (the heritage balance).
26. The Council cited Policies CS1 and CS7 in the Core Strategy in relation to this issue, but as it stands those policies do not make reference to the heritage balance, with the Council stating that would be provided by section 38(6) of the *Planning and Compulsory Purchase Act 2004* (the 2004 Act). Therefore, I find them to be inconsistent with the Framework, so the scheme falls to be

considered, in this regard, against Policy BF2 in the *Binfield Neighbourhood Plan*. In any event, it was agreed at the Hearing that if the scheme was found to comply with Policy BF2 and the Framework concerning the heritage impact then there would be no conflict with the Core Strategy policies.

27. I have found less than substantial harm to the significance of Honeysuckle Cottage only, due to the effect on its setting, and I have given this considerable importance and weight. However, assuming the development was acceptable in other respects, the scheme would be boosting the supply of housing in line with Government guidance, and would be delivering additional affordable accommodation. I appreciate these contributions would be numerically small. Despite that, I consider them to be public benefits sufficient to represent a clear and convincing justification for the harm to the significance of Honeysuckle Cottage, given the nature and extent of that harm.
28. Accordingly, having regard to both the 1990 Act and the Framework, I conclude that although there is less than substantial harm to the significance of Honeysuckle Cottage that harm is outweighed by the public benefits. Moreover, I also conclude that the proposal would not fail to preserve the settings of other listed buildings or cause harm to their significance. As such, the proposal would not be in conflict with Policy BF2 in the Neighbourhood Plan, which seeks to resist schemes that would have a harmful effect on the setting of a listed building that is not justified by public benefits, or the Framework.

Other matters

29. As they would be built in conjunction with the development on the adjacent appeal, I consider these additional 9 dwellings would not have a harmful residual cumulative effect on the road network. Similarly, the adjacent appeal was subject to conditions that required the improvements of the carriageway and pavements around Church Lane's junctions with Tilehurst Lane and Forest Road, and I have no reason to find the safety of pedestrians, and particularly school children, would be compromised there because of the traffic associated with the extra houses now before me.

Planning balance

30. As I have found the application of policies in the Framework provides a clear reason for refusal in relation to drainage, then paragraph 11(d)(i) of the Framework applies, and the balancing exercise in paragraph 11(d)(ii), often known as 'the tilted balance' is not engaged.
31. Notwithstanding that, section 38(6) of the 2004 Act says development must be in accordance with the development plan unless material considerations indicate otherwise (the planning balance).
32. In relation to the above issues, I have found conflict with Local Plan policies and with policies in the Core Strategy concerning the impact on the countryside and concerning drainage issues.
33. Concerning countryside matters, the most important policies appear to be Core Strategy Policies CS7 and CS9, along with Local Plan Policies EN8, EN20 and H5. The Council also highlighted Policy CS1 in the Core Strategy, but I agree with the Inspector who determined the adjacent appeal and consider, insofar as it relates to countryside impact, Policy CS1 to be general in nature. As a result, it would be applied to most if not all developments, and its application

- would rarely be in isolation but would invariably be in association with other policies that are more focussed on the specific development. I therefore do not accept it is one of the most important policies for determining this appeal.
34. However, the requirement of both Core Strategy Policy CS9 and Local Plan Policy EN8 to protect the countryside for its own sake does not reflect the Framework's more balanced approach of recognising the character and beauty of the countryside in decision-making. Moreover, the cited policies do not distinguish between different types of landscape, while, unlike Local Plan Policies EN8 and H5, the Framework does not specifically exclude or support certain types of development. Consequently, when Core Strategy Policies CS7 and CS9 are taken together with Local Plan Policies EN8, EN20 and H5 they allow the impact on the countryside to be assessed, but I nonetheless consider they are not consistent with the Framework, and this reduces the weight I should afford to any development plan conflict.
35. I recognise that while some Inspectors considering appeals elsewhere might have come to similar findings to me on this point, others have reached different views. However, I am unclear as to what evidence was before them and the cases presented, and so have reached my view in the light of the points raised by the parties in this appeal.
36. I have found that the development would have some slight adverse effect on the character and appearance of the countryside. Balanced against this, and as identified above in the heritage balance, if allowed the scheme would be boosting the supply of housing and would be providing 2 affordable properties. Certain economic benefits, although limited, would also flow from the construction and occupation of the scheme. I am mindful too that the weight I have afforded the development plan conflict is reduced because of the inconsistency between the development plan policies and the Framework. Therefore, even assuming the Council can demonstrate a 5-year supply of deliverable housing land, in undertaking the planning balance I consider these benefits constitute material considerations that outweigh the development plan conflict concerning this issue.
37. However, if I took these stated benefits, included the various other ones listed by the appellant, and even accepted its contention that there is under 5 years housing land supply, I consider these do not constitute material considerations sufficient to outweigh the harm resulting from the failure to show the site could be adequately drained and flood risk avoided. This is because of the impact that flooding would have on the future residents and because I am not satisfied that any benefits this scheme delivers from the supply of housing could not be achieved on sites that were not subject to such flooding issues. For this reason, I conclude the appeal must be dismissed.

Impact on the SPA

38. Due to its proximity to the Thames Basin Heaths SPA, the parties accepted that, when taken with the scheme subject of the adjacent appeal, a financial contribution to mitigating impact on that SPA would be needed. This has been agreed in a legal agreement. As I am dismissing the case for other reasons, there is no need for me to consider the implications of the development on the SPA further.

Conclusions

39. I conclude the appeal should be dismissed

JP Sargent

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr D Bond	Planning consultant
Mr C Onions	Drainage consultant
Mr A Smith	Landscape consultant
Mr J Smith	Heritage consultant
Mr J Young	Drainage consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mr B Cafferkey	Drainage consultant
Mrs J Greene	Senior Engineer (Flood Risk & Drainage)
Mrs N Hird	Principal Planning Officer
Mrs J Male	Development Manager (Major Sites)
Mr J Mullis	Historic Buildings consultant

INTERESTED PERSON:

Mr D Phillips	Local resident
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DOCUMENTS SUBMITTED DURING OR AFTER THE HEARING

SUBMITTED BY THE APPELLANT

APP1	Email to the Planning Inspectorate concerning SPA payments (dated 10 December 2020)
APP2	Letter to the Planning Inspectorate concerning pre-commencement conditions (dated 14 December 2020)

SUBMITTED BY THE LOCAL PLANNING AUTHORITY

LPA1	Plan of Binfield Sewer Catchments
LPA2	Plan of Terrace Road Highway Drainage Connection
LPA3	<i>Rebuttal Appeal Statement of Bracknell Forest Council submitted in response to appellant's additional written representations appeal statement</i> (dated September 2020)
LPA4	<u>Peel Investments (North) Limited v Secretary of State for Housing, Communities and Local Government & Salford City Council</u> [2020]EWCA Civ 1175
LPA5	<i>Thames Basin Heaths Special Protection Area Supplementary Planning Document</i> (dated April 2018)
LPA6	<i>Planning Obligations Supplementary Planning Document</i> (dated February 2015)
LPA7	Housing Trajectory 2020-21
LPA8	Drawing No 2409-01 Rev D