



Appeal Decision

Site visit made on 12 January 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2021

Appeal Ref: APP/R0335/W/20/3260242

Don Beni Restaurant, Winkfield Row, Bracknell, RG42 6NH

- 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 and Mrs Beni against the decision of Bracknell Forest Borough Council.
 - The application Ref 19/00857/FUL, dated 10 February 2020, was refused by notice dated 20 July 2020.
 - The development proposed is the redevelopment of the site to the rear of Don Beni to form 1 detached 4 bedroom dwelling with associated parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the site to the rear of Don Beni to form 1 detached 4 bedroom dwelling with associated parking and amenity space in accordance with the terms of the application, Ref 19/00857/FUL, dated 10 February 2020, subject to the conditions in the conditions annexe at the end of this decision.

Procedural Matters

2. The above description of development is taken from the appeal form, which tallies with the decision notice.
3. Subsequent to the Council's decision, the site (as denoted by the red line) was amended by the deletion of a small area of highway verge and the Council had no objection to its submission, stating it was inconsequential. I agree that the deleted area does not materially change the proposal. Consequently, no interested parties would be prejudiced and accordingly I have accepted the revised plan.
4. A signed planning obligation has been submitted for a financial contribution in respect of mitigation for the Thames Basin Heaths Special Protection Area. The Council has subsequently advised that it withdraws its objection on this ground.

Main Issues

5. The main issues are:
 - whether the proposal would lead to more on street car parking and if so the safety implications and;

- whether the occupants of the proposed dwelling would put extra pressure on the Thames Basin Heaths Special Protection Area and if so whether the impact could be mitigated.

Reasons

Car parking

6. The site is on a corner formed by the junction of two roads, Winkfield Row and Chavey Down Road. It is within Winkfield Row village and there are long established houses fronting both these roads and a school. Some of the surrounding houses lack or have inadequate off-street car parking. Consequently, both the roads aside the restaurant are used for parking. The roadside pavements are narrow leading to pedestrians walking in the road.
7. The restaurant building is towards the front of the site, with an associated outdoor sitting area. To the rear is a gravel car park and the new dwelling would be sited in its far corner.
8. The Council's Parking Standards Supplementary Planning Document (Parking SPD) requires 24 parking spaces on the basis of the restaurant having 120 sqm usable floor area. However, the site has been the subject of a previous appeal decision¹, dated 28 January 2020. The Inspector agreed with the submissions which indicated the car park could reasonably accommodate 22 vehicles.
9. The proposal would leave 21 car parking spaces, one space less than the existing capacity (as accepted above). However, the existing car park has no formal demarcation of spaces. Consequently, visitors will park in an arrangement according to their own behaviours, whereby alignment and distancing are likely to be variable. They may well be inclined to park away from another vehicle to allow themselves more room to exit their vehicle, or may park inefficiently due to being in a rush or pre-occupied; such poor parking could happen on any or all of the 3 sides of the car park. Consequently, there will be times when poor parking prevents the 22-space capacity and could even be several spaces adrift.
10. The proposal includes the parking, formalising and demarcation of the parking spaces. This would dictate the parking spacing, alignment and arrangement, thereby ensuring that all the 21 spaces are available. Accordingly, this would at least counter-balance the loss of the one parking space.
11. Furthermore, the formalised parking ensures that vehicles would be readily able to manoeuvre and exit/enter the car park. The availability or not of spaces would also be apparent. This would reduce the likelihood of congestion around the car park entrance and obstruction of the highway, and the potential for ameliorating reversing movements.
12. The previous Inspector noted the parking surveys were in April 2018 and January 2019, which are quieter times of year as the outside seating would not have been used. I note that these surveys have not been updated and I saw on my site visit that this sitting area was laid out with tables. Similarly, I note the photographs from third parties which show the parked cars. However, the above reflects the existing situation and this proposal would only remove one space which would be at least compensated by the formalised arrangements.

¹ APP/R0355/W/19/3237448

13. The previous appeal was dismissed as it only left 11 spaces at the car park, which is substantially different to this proposal for 21 spaces.
14. I note that in relation to this proposal the highway officer has submitted a drawing to indicate the existing car park could theoretically accommodate 25 cars, although this would only be achieved with perfect parking and if the spaces were demarcated. Consequently, I do not consider this capacity would be likely.
15. There is a car park nearby associated with the adjacent recreation ground. I note from the third-party comments that it is unavailable after dusk and I saw the padlock and chain during my site visit. I have therefore discounted this facility.
16. There is a school nearby. However, the pressure for on street parking is likely to be outside mainstream school hours. I have not been advised about evening activities and therefore cannot come to a view on whether these would be significant.
17. The proposal would reduce the existing car parking capacity by one, but this would be at least compensated by the car park demarcation. I therefore conclude that parking provision would be adequate and that the proposal would not harm highway safety.
18. Policy CS23 of the Core Strategy Development Plan Document, Policy M9 of the Bracknell Forest Borough Local Plan and Parking SPD seek to increase the safety of travel and ensure satisfactory parking for vehicles. Paragraphs 108 and 109 of the National Planning Policy Framework (the Framework) promote highway safety. The proposal would not be in conflict with any of these.

The Thames Basin Heath Special Protection Area

19. The site lies within the zone of influence of the Thames Basin Heaths Special Protection Area. This area is noted for its ground nesting heathland bird population and is protected under the Conservation of Habitats and Species Regulations 2017.
20. Having regard to the evidence provided by the Council I consider that the development could, in combination with other development in the area, have a significant adverse effect on the Special Protection Area through added recreational pressure causing disturbance to the bird population. It is therefore necessary to assess whether the potential adverse impact could be adequately mitigated so as to avoid any significant adverse effect on the conservation objectives of the Special Protection Area.
21. The Council, in partnership with neighbouring councils and conservation bodies, including Natural England, has developed an approach to mitigation based on the provision of suitable alternative natural greenspace and a strategic access management and monitoring plan. Residential development between 400m and 5km from the Special Protection Area can mitigate its potential adverse impact by making a financial contribution towards these initiatives.
22. The appellant has provided a unilateral undertaking to make a financial contribution to the management plan. A separate contribution towards the provision of suitable alternative natural greenspace would be made as part of the Community Infrastructure Levy. I am satisfied that these contributions

would result in suitable mitigation such that the development would avoid having any significant adverse effect on the Special Protection Area.

23. The Council has withdrawn their objection on this ground following the signing of the planning obligation covering the above mitigation.
24. I therefore conclude that the development would not harm the Thames Basin Heaths Special Protection Area and would comply with Policy NRM6 of the South East Plan, Policy EN3 of the Bracknell Forest Borough Local Plan and Policy CS14 of the Core Strategy Development Plan Document, which seek to protect sites of nature conservation importance. It would also accord with the Thames Basin Heaths Avoidance Strategy and Conservation of Habitats and Species Regulations for the reasons set out above.

Other matters

25. The site is within the Winkfield Row Conservation Area. The dwelling would follow the characteristic pattern of building and is sufficiently distanced from the main restaurant building not to look cramped. It would not spoil any views. The Council did not consider the proposal would be harmful to heritage and I concur.
26. Appropriate surveys for bats were undertaken and no roosts have been found. The Council had no objection in this regard, and I concur.
27. The proposed new dwelling would contribute to housing land supply. The new dwelling would also have economic benefits.

Conditions

28. Paragraph 55 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. The Council has suggested conditions, which reflect the committee report. The appellants have confirmed their agreement.
29. The approved plans condition provides clarity and certainty and is therefore warranted. The requirement to clearly demarcate 21 spaces is reasonable because it seeks to compensate for the loss of a current space and is necessary due to on street parking pressures. It is a direct consequence of the development and is therefore relevant. The condition confirms the submitted plans and requires implementation. The requirement for the demarcation methodology to be approved has been added, to ensure that this is meaningful and has longevity. The timing of the condition is as agreed by both parties. The cycle parking is necessary to encourage non car use. This is targeted at pre-occupation rather than the outset of works to allow space for construction operations. Materials, levels and landscaping and details would help the appearance particularly as the site is within a Conservation Area. The requirements on survey for bats and lighting are necessary to safeguard protected species and the biodiversity enhancement reflects paragraph 175 of the Framework. The removal of permitted development rights on the car parking, the retention of parking for the house and prevention of gates are to avoid on street parking pressure. A number of the conditions are required to ensure highway safety, including site operatives' car parking and wheel washing and visibility. Similarly, this is warranted as a pre-commencement condition. The limitation on deliveries to the restaurant is not reasonable as it is an existing and unfettered operation.

Conclusion

30. I therefore conclude that the appeal should be allowed subject to the conditions in the annexe below.

John Longmuir

INSPECTOR

Conditions Annexe

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2) The development shall be carried out in accordance with the following plans and details received by the Local Planning Authority:

Location Plan P101 Rev A

Proposed Block Plan P102 Rev D

Proposed ground floor plan P201 Rev D

Proposed first floor plan P202 Rev D

Proposed Roof Plan P203 Rev D

Plans and Elevations P204 Rev D

3) No construction works of the dwelling hereby permitted shall commence until all the parking spaces shall have been clearly marked out, in a permanent demarcation first approved by the Local Planning Authority, of the restaurant car park so that 21 vehicles can be parked with turning and the loading and unloading of refuse and delivery vehicles, wholly in accordance with the approved plan (Proposed Block Plan P102 Rev D). The 21 spaces shall not thereafter be used for any purpose other than parking for the restaurant.

4) No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority, to accommodate:

(a) Parking of vehicles of site personnel, operatives and visitors

(b) Loading and unloading of plant and vehicles

(c) Storage of plant and materials used in constructing the development

(d) Wheel cleaning facilities

(e) Temporary portacabins and welfare facilities for site operatives.

Each of the above facilities shall be retained throughout the course of construction of the development, free from any impediment to its designated use. The approved scheme shall be performed, observed and complied with. No other areas on the site, other than those in the approved scheme shall be used for the purposes listed (a) to (e) above

5) Tree protective fencing shall be erected in accordance with the relevant British Standard prior to the commencement of any development works, including any initial clearance, and shall be maintained fully intact and (in the case of the fencing) upright, in its approved locations at all times, until the completion of all building operations on the site. Where phased protection measures have been approved, no works shall commence on the next phase of the development until the protective fencing barriers and other protective measures have been

repositioned for that phase in full accordance with the approved details. No activity of any description must occur at any time within these areas including but not restricted to the following: -

- a) No mixing of cement or any other materials.
- b) Storage or disposal of any soil, building materials, rubble, machinery, fuel, chemicals, liquids waste residues or materials/debris of any other description.
- c) Siting of any temporary structures of any description including site office/sales buildings, temporary car parking facilities, porta-loos, storage compounds or hard standing areas of any other description.
- d) Soil/turf stripping, raising/lowering of existing levels, excavation or alterations to the existing surfaces/ ground conditions of any other description.
- e) Installation/siting of any underground services, temporary or otherwise including; drainage, water, gas, electricity, telephone, television, external lighting or any associated ducting.
- f) Parking/use of tracked or wheeled machinery or vehicles of any description

6) The dwelling shall not be occupied until 4 secure and covered cycle parking spaces have been provided in the location identified for cycle parking on the approved plans (drawing number 1641/P201 revision D) within the development. The cycle parking spaces and facilities shall thereafter be retained.

7) Prior to the construction of the external surfaces of the dwelling hereby permitted samples of the walling and roofing shall be submitted to the Local Planning Authority for approval. These details shall demonstrate the brick type, colour, face bond, mortar mix and pointing. The development shall be carried out in accordance with the approved details.

8) The dwelling hereby permitted shall not be begun until details showing the finished floor levels of the building and surrounding hard surfaces hereby approved in relation to a fixed datum point have been submitted to and approved in writing by the Local Planning Authority. The dwelling shall be constructed in accordance with the approved details.

9) Prior to the construction of the walls of the house, detailed elevation drawings, of all new windows and doors at a minimum scale of 1:20 shall be submitted to and approved in writing by the Local Planning Authority. Details shall include materials, and any brick detailing over the openings. The development shall be carried out in accordance with the approved details.

10) No works shall commence until samples of the materials for the hard landscaping, including details of the surfacing of the car park serving the Don Beni, have been submitted to and approved in writing by the Local Planning Authority. The proposal shall be implemented in accordance with the approved details.

11) The dwelling shall not be occupied until visibility splays of 2.0 metres by 2.0 metres have been provided at the junction of the driveway and the adjacent footway. The dimensions shall be measured along the edge of the drive and the back of the footway from their point of intersection. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres measured from the surface of the carriageway.

12) The dwelling shall not be occupied until the associated vehicle parking and turning space has been surfaced in accordance with the approved plans (Proposed

Block Plan P102 Rev). The spaces shall thereafter be kept available for parking at all times.

13) Notwithstanding the approved plans, prior to the construction of the dwelling, details of the appearance and location of any fencing to be erected around the restaurant bin store shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected in accordance with the approved details prior to the first use of the car park, and thereafter retained.

14) No development shall commence on the dwelling house until a scheme for the provision of biodiversity enhancements (not mitigation), including a plan or drawing showing the location of these enhancements, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved prior to the first occupation.

15) The dwelling shall not be occupied until a scheme depicting soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a 3 year post planting maintenance schedule. All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved scheme, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development or prior to the occupation of any part of the approved development, whichever is sooner. All hard landscaping works shall be carried out and completed prior to the occupation of any part of the approved development. As a minimum, the quality of all hard and soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of Practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.

16) The existing shed as annotated on Proposed Plan 102 Rev D for car parking shall be retained solely for the use of the parking of vehicles at all times and, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no enlargements, improvements or alterations shall be made to the structure , and no gate or door shall be erected to the front of it

17) No gates shall be provided at the vehicular access to the dwelling with access from Chavey Down Road or the restaurant accessed from Winkfield Row

18) The parking and turning areas shall incorporate surface water drainage that is SuDS compliant and in accordance with DEFRA "Sustainable Drainage Systems - Non-statutory technical standards for sustainable drainage systems" (March 2015). It shall be operated and maintained as such thereafter.

19) If more than 12 months elapse between the previous bat survey and the due commencement date of works, an updated bat survey shall be carried out by a suitably qualified ecologist. A report confirming the results and implications of the assessment, including any revised mitigation measures, shall be submitted to the Local Planning Authority before construction works commence on site.

20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any Order revoking and re-enacting that order, no external lighting shall be installed on the site or affixed to any buildings on the site except in accordance with the details set out in a lighting design strategy for biodiversity that has first been submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a. identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can clearly be demonstrated that areas to be lit will not be disturbed or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy, and these shall be maintained thereafter in accordance with the approved strategy.