



Appeal Decision

Hearing Held on 27 April 2021

Site visit made on 28 April 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2021

Appeal Ref: APP/K0425/W/20/3260726

Revola, Clay Lane, Booker, Marlow SL7 3DJ

- 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 Wesley McCarthy of Nicholas King Homes against the decision of Buckinghamshire Council - Wycombe Area.
- The application Ref 20/05024/FUL, dated 3 January 2020, was refused by notice dated 30 June 2020.
- The development proposed is for the demolition of existing bungalow and outbuilding and the construction of 9no. dwellings (7no. three-bedroom and 2no. four-bedroom dwellings).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The advertisement of the appeal was discussed at the Hearing, including the nature, time and date of the event. Whilst, there are some misgivings on the Council's notification letters, I am confident given the response from interested parties that nobody would have been prejudiced through the Hearing taking place. Additionally, at the event it was confirmed by the appellant that a site notice was displayed adjacent to the site, which I observed during my visit.
3. It was clarified at the Hearing by the appellant that the proposed development as submitted to the Council involved the proposal to fell a protected tree, contrary to evidence contained within the Arboricultural Impact Assessment (AIA)¹. I have dealt with the appeal on this basis.

Main Issues

4. The main issues of this appeal are:
 - i. whether or not the Council has an adequate supply of land for housing;
 - ii. the character and appearance of the appeal site and surrounding area; and,
 - iii. the effect on trees, including trees subject of a Tree Preservation Order (TPO).

Reasons

Supply of housing

5. The evidence provided by the Council prior to the hearing sets out a housing

¹ AIA undertaken by Mark Welby Arboricultural Consultant, dated 28 December 2019

requirement of 3120 dwellings from 2020 to 2025, taking into account the 2020 Housing Delivery Test result of 124%. It identified a supply of 4778 houses, or around 7.7 years. This supply figure was reduced to 7.6 years during the course of the Hearing.

6. There are sites which the Council have identified for the 5-year period from 1 April 2020 that are accepted as being deliverable by the appellant. However, there is a dispute about whether there is clear evidence regarding the deliverability of a number of sites which are mainly allocations or have an outline permission. The appellant initially believed the housing land supply position to be lower at 4.48 years. However, following discussions during an adjournment to the Hearing, where the main parties could discuss the revised Appendix 1 to the Statement of Common Ground (the revised Appendix 1) that was issued by the Council prior to the start of the event, but on the same day, a revised supply figure of 4.9 years was presented by the appellant. Accordingly, it is necessary to examine whether the Council can demonstrate a 5-year housing land supply.
7. The National Planning Policy Framework (the Framework) states that where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. Further guidance is provided on what constitutes a deliverable housing site in the Planning Practice Guidance². Both main parties have submitted information on a list of individual sites that are in dispute, and I heard evidence on these at the Hearing.
8. It was agreed at the Hearing that the revised Appendix 1 would be used as a starting point for discussions on this matter, thus ensuring that the appellant could provide oral comments. Within this submission, a breakdown of the disputed sites is presented. Although, the areas of dispute between the appellant and the Council lacked detail, but this detail eventually followed during the associated discussions. I have carefully considered the appellant's comments and concerns with each site in dispute and that it is argued, amongst other issues raised, that for many sites at 1 April 2020 there was no or insufficient clear evidence to meet the definition of a deliverable site.
9. The revised Appendix 1 lists some 1643 dwellings, which are in dispute from the purported housing supply. At this stage it is important to recognise that if all of the disputed sites were removed from the Council's figures, the 5-year supply of housing would exceed the requirement by 15no. dwellings. Upon examining the sites in dispute, I consider that there is, in the majority of these cases, sufficient clear evidence to determine that they meet the realistic prospect of being delivered as specified in the definition. However, I do agree with the appellant that a number of sites do not meet the definition, primarily because no permissions have been granted³ or permissions have lapsed⁴. Additionally, in the case of site HW9⁵, I note that whilst it was recommended for approval by the Officer, it was refused by the Council's Planning Committee.

² Paragraph 007 Reference ID:68-007-20190722

³ HTYLER152 - Oakingham House; HW8- Land off Amersham Road; PR4 - Bloor South; HW6 - Gomm Valley and HW7 - Land at Terriers Farm.

⁴ SHW033 - Collins House and SMA0044 Foxes Piece

⁵ Part of Greens Farm, Glynswood

10. A number of sites have also been highlighted as being completed after the 2020 base date. Whilst this may be the case, they are still relevant in terms of the housing supply period from 2020 to 2025. They will only likely cease to have relevance in any future figures using 1 April 2021 as a base date. In any event, even if I removed the completed sites, given the number of disputed sites where there is sufficient certainty that they meet the definition of being deliverable, on top of the agreed sites, the Council would have a housing land supply in excess of 5 years. Therefore, based on all the information before me at the present time, I conclude that sufficient sites have clear evidence to demonstrate that there would be a realistic prospect of the housing being delivered within the 5-year period as specified and that a Framework compliant 5-year housing land supply can be demonstrated.

Character and appearance

11. The site currently comprises a detached bungalow and ancillary structures and extends to approximately 4239m² in area. The site is located at the end of a row of 5no. properties, and adjacent to the access to the High Heavens Waste Complex. The site is now located within the settlement boundary of High Wycombe, since its removal from the Green Belt following the adoption of the Council's Local Plan in 2019 (LP). Beyond the southern boundary of the site is land that forms part of the wider designated Green belt and Area of Outstanding Natural Beauty. Beyond this strip of land is another settlement boundary, which includes a New Local Employment Area⁶.
12. I undertook an extensive site visit, incorporating the site, Clay Hill and Claymoor Park, and the areas that comprise the housing and employment allocations in the LP, particularly those around, and to the south of the M40, which I find to be more relevant, given their proximity to the site. There was general agreement at the Hearing between the main parties that the effects of the proposed development would be generally limited to closer views, particularly along Clay Lane and that the site benefitted from a notable amount of trees and vegetation on its boundaries, thus would restrict views of the proposed development.
13. I acknowledge that Booker will experience considerable change over the coming years due to its planned growth, particularly from 4no. LP allocations⁷. I also recognise the residential development on Claymoor Park and Clay Hill, which is in proximity to the site. The proposed development would be in the form of a cul-de-sac and would comprise 9no. houses in total, 4no. would be detached and 3no. would form a terrace. All of the houses would have 3-bedrooms, apart from the 2no. houses at the rear of the site that would have 4-bedrooms. The existing access would be utilised following additional works and the majority of the development would be set behind 2no. 3-bedroom detached houses that would be handed in appearance
14. Whilst noting the residential development on Clay Hill and Claymoor Park, I find that the site has a more direct relationship with Bay Tree Cottage and the other dwellings to the north of the site, as they all are properties notable in size, with access taken from Clay Lane. The plot sizes of the appeal scheme in this location appears significantly smaller than the neighbouring properties on Clay Lane. These properties are all situated in generous plots, with long rear

⁶ HW16

⁷ HW10, HW11, HW15 and HW16

gardens and positioned in an orderly arrangement fronting Clay Lane. This gives a distinct sense of spaciousness and ordered pattern of development to the immediate surroundings. The generous plot sizes contribute to a regular rhythm of development, making a positive contribution to the surrounding area. In the context of the area surrounding the appeal site, the appeal scheme would be distinctly at odds with the character of neighbouring dwellings, as it would appear discordant in its location and more cramped in its appearance.

15. The appellant has drawn attention to an appeal decision⁸, which I have noted. Nonetheless, whilst I do not have the full details that were before the Inspector, I accept that there are some similarities between this scheme and the case before me, albeit limited. However, I do not consider it to be directly comparable, as it involves less development, amongst other things. Therefore, I conclude that the decision illustrates that every proposal has to be considered on its own particular merits. Accordingly, I find little within this case which would lead me to alter my conclusions in this instance.
16. For all of the reasons given, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. As a consequence, it would conflict with the design, character and appearance aims of LP Policies CP9, DM35, the Council's Residential Design Guide Supplementary Planning Document 2017 (SPD1), the Housing Intensification Supplementary Planning Document 2005 (SPD2) and the requirements of the Framework.

Trees

17. The Council have raised concerns regarding the trees surrounding the site from the proposed development, which includes a number subject to a TPO. On the evidence before me and from discussions during the Hearing the concerns of the Council were mainly surrounding the areas of no-dig style surfacing proposed in the AIA. A total of 4 no. areas within the site would be the subject of the no-dig style surfacing and would be in some instances, particularly between plots A1/A2 and B1 to B3, sizeable in area.
18. The Council acknowledged the credentials of the author of the AIA and clarified that its concerns mainly surrounded a lack of detail surrounding proposed levels. I accept that the lack of such specific detail is a misgiving, along with no details of the car shelter for vehicles that would occupy parking spaces no's 12 to 14, which was suggested by the appellant at the Hearing. Nonetheless, in the absence of any substantive evidence to the contrary, I find that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable on this issue.
19. For all of the reasons given, I therefore conclude that the proposed development would not significantly harm surrounding trees, including trees subject of a TPO. As a consequence, it would comply with the environmental and amenity aims of LP Policies CP9, DM34, SPD1, SPD2 and the requirements of the Framework.

Other Matters

20. There is significant ambiguity surrounding the protected highway tree⁹ (T1) and

⁸ APP/K0425/W/19/3233054

⁹ T1 on 01/20212 Tree Preservation Order

its role in the proposed development. Whilst it has been clarified that for the purpose of this appeal the tree is to be felled, it nonetheless is situated outside the site edged red. Thus, T1 falls outside the scope of the application under consideration in this appeal. Even if, T1 was to be retained as indicated in the AIA, it would still fall outside the site edge red. Therefore, given the lack of clarity on this matter, especially from the Highways Development Management Officer, I cannot be certain that the technical circumstances surrounding T1 have been taken into consideration. However, as I am dismissing the appeal in any event, I have not needed to consider this matter further.

21. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, particularly in respect of the AIA, but this does not affect the planning merits of the case. I have considered this appeal on its own merits and concluded that the proposed development would be unacceptable for the reasons set out above.

Planning Balance

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the local planning authority can demonstrate a 5-year supply of deliverable housing sites and therefore the policies concerning the strategy for delivering housing are up-to-date.
23. The provision of what is likely to be family homes would generate notable additional social benefits. In addition, there would be notable economic benefits for the locality, both during construction and occupation of the dwellings. However, given my findings on the main issues, the proposed development would result in significant harm to the character and appearance of the appeal site and the surrounding area.
24. Whilst I acknowledge the factors in favour of the proposed development, including the effect on trees, those considerations do not outweigh or overcome the harm that I have identified on the main issues. Consequently, the scheme would not accord with the development plan when considered as a whole and the evidence does not indicate a decision other than in accordance with the development plan would be justified.

Conclusion

25. For the reasons set out above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Wesley McCarthy B.Econ M (TRP) MRTPI of Nicholas King Homes (Appellant)

Stephen Dale DipLA CMLI

FOR THE LOCAL PLANNING AUTHORITY:

Stephanie Penney Buckinghamshire Council

Chris Schmidt-Reid Buckinghamshire Council

Sally Clark Buckinghamshire Council

DOCUMENTS SUBMITTED AT THE HEARING:

- 1) Revised Appendix 1 to the Statement of Common Ground
- 2) Housing Intensification Supplementary Planning Document 2011 UPDATE