



---

## Appeal Decision

Site visit made on 29 June 2021

**by D Szymanski BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> July 2021**

---

**Appeal Ref: APP/R0335/W/21/3271797**

**2 Chyandour, Richmond Road, College Town, Sandhurst GU47 0RB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr C Hesse of Coworth Homes against Bracknell Forest Borough Council.
  - The application Ref 20/00708/FUL, is dated 21 August 2020.
  - The development proposed is Erection of 4no 3 bedroom dwellings and 2no 2 bedroom dwellings, following demolition of existing dwelling.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. The Council has subsequently provided an appeal statement confirming the reasons it would have refused the application and substantive evidence with respect to other concerns in relation to the proposed development. I have had regard to these in setting out the main issues below. The appellant has had the opportunity to respond to these matters through the appeal process, so would not be prejudiced by this approach.
3. Amended plans and an amended Arboricultural Survey (AS) have been submitted with the appeal. Amongst other things they show a widened access, amended parking layout, turning arrangements and tree protection plan. I have had regard to these in determining this appeal.

### Main Issues

4. The main issues are:
  - whether the development represents an acceptable form of development having regard to policies concerned with flood risk;
  - the effect of the development upon the character and appearance of the area;
  - the effect of the development upon protected trees; and,
  - whether the development could provide a safe and suitable access.

## Reasons

### *Flood risk*

5. The appeal site is understood to be located in flood zone 1 for some forms of flooding. However, a significant proportion of it is within areas of a medium and high risk of surface water flooding, encompassing the location of parts of the six dwellings, gardens, parking, and circulation areas. The development would result in a significant increase in built development and number of properties at risk from flooding. Paragraph 155 of the National Planning Policy Framework (2019) (the Framework) states inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk.
6. Paragraph 157 of the Framework seeks to apply the sequential test to the location of development so as to avoid, where possible, flood risk to people and property. Paragraph 158 states development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding, and the sequential approach should be used in areas at risk from any form of flooding. Similarly, paragraph 7-033-20140306 of the Planning Practice Guidance states the sequential approach to locating development should be applied to all sources of flooding.
7. There is no evidence that demonstrates there are not other appropriate sites reasonably available in areas with a lower risk of flooding. Therefore, the sequential test has not been passed. Drainage requirements set out in planning conditions are matters to be dealt with if the sequential test is passed. However, given the magnitude of flood risk, the submitted evidence does not demonstrate the development would not increase flood risk elsewhere or could be made acceptable through the use of planning conditions. Furthermore, this does not overcome the need to carry out a sequential test.
8. Therefore, for the reasons set out above, the development is not compliant with the Framework policies for flood risk, being in conflict with paragraphs 155 and 158, the relevant provisions of which I have referred to above.

### *Character and appearance*

9. The appeal site is a generously sized plot neighbouring a similar property (No1) which has installed some single storey mobile homes to its rear. There are generally small groups of different style and size of dwelling and some back land development in the wider area, meaning there is not one overriding architectural design or layout characterising the area. However, dwellings in the vicinity of and to the north of the appeal site are generally characterised by generous verdant rear plots with modestly sized outbuildings or parking to the rear. This forms the prevailing character and the visual context in which the appeal site is set. This large verdant plot and mature trees and hedgerow makes a positive contribution to the character and appearance of the area.
10. Whether I consider the submitted or amended layout, the provision of six dwellings with three sizeable two storey dwellings rear of the plot and a shared parking court, would be of a significantly higher density and intensity of development than the surrounding houses. These houses would have visibly small rear gardens and plots 4 – 6 would have no front gardens of note due to the dominant parking court area, appearing cramped within their plots visible

in part from the street scene and some neighbouring dwellings. Its cramped nature would be particularly discernible given the close proximity of tall trees north and east of the gardens.

11. While the appellant's AS suggests the mature hedgerow with trees on the eastern side of the site is not worthy of retention, it makes a positive contribution to the verdant character and appearance of the appeal site and area. Its loss would add to the harm I have found. The amount of development would appear significantly at odds with its lower density, verdant and spacious surrounds forming the context in which it would be viewed. Therefore, the development would be harmful to the character and appearance of the area and in this context I do not regard it as a high quality layout. Conditions could not overcome the harm I have found.
12. I have been referred to other streets, dwellings, and back land developments in the wider area, although I have not been provided with plans or details of them, so a fully reasoned comparison with this proposal is not possible. The dwellings at Academy Close appear of a lower density and do not have a large shared parking court. Gunnery Mews and The Close are of different layouts and have a differing relationship with and appear more in keeping with their surrounding pattern of development. The relationship of Alexandra Close with neighbouring buildings means the dwellings are viewed in a significantly different visual context. Therefore, the examples referred to are not directly comparable to this appeal proposal, and the evidence provided does not justify allowing this appeal.
13. For the reasons set out above the development would be harmful to the character and appearance of the area. It would conflict with Policy CS7 of the Core Strategy (2008) (the CS) and Policy EN20 of the Bracknell Forest Local Plan (2002) (the Local Plan). In combination and amongst other things these require that development is of a high quality design that is in keeping with the character and appearance of the area. It would also conflict with paragraph 127 of the Framework which expects development to add to the overall quality of the area.

#### *Protected Trees*

14. There are trees subject of a group Tree Preservation Order (TPO) within, north and east of the appeal site. Having regard to the Root Protection Areas (RPAs) of the retained trees I am satisfied that subject to the imposition of planning conditions to secure suitable protective measures, techniques during construction, and the nature of any future hardstanding areas in the rear gardens, there would not be harm to the RPAs.
15. Plots 4 – 6 would have modest north facing rear plots which would accommodate or be in close proximity to mature TPO trees, some of which are of a considerable height and spread. The Council suggests removing T2 and T4 given their condition, and replacements planted more suited to residential garden environments, and I see no reason to disagree. However, the AS confirms the mature Oak is a category A tree with 40+ years life expectancy, and so will continue to grow. Therefore, I am not persuaded by the evidence before me, that it could not intolerably overhang the garden of plot 6 in the future.

16. The presence and growth of the mature Oak would be likely to result in falling detritus such as twigs, leaves and fruits in the garden and guttering, especially for plot 6. The height, spread and orientation of this tree would also be likely to shade gardens for significant proportions of the morning at certain times of the year. Collectively these matters are likely to result in pressure to manage and prune the tree. As a consequence, it is therefore likely this appeal development would be prejudicial to the future health and the amenity value of the Oak. While I note the Council's view that a reduction in the density of dwellings would provide some degree of mitigation in relation to this matter, my assessment is confined to the scheme before me.
17. For the reasons set out above, the development would conflict with the aims of Policies EN1 and EN20 of the Local Plan and Policy CS1 of the CS. In combination and amongst other things these policies require that development protects and retains trees and the local landscape character.

### *Highways*

18. Richmond Road links two main routes through the area and is a pedestrian route for pupils and parents from a nearby school. Based on the amended plans the provision of a 4.1m wide access road would meet the Manual for Streets standards, so would be likely to provide an adequate width of access and margins to ensure that two cars can pass. The amended layout and circulation area would make adequate provision for larger vehicles such as refuse collection vehicles and fire appliances to turn and be able to leave in a forward direction. It ensures the parking spaces for plot 3 are sufficiently accessible and based upon the evidence before me, there is sufficient parking provided on the site, so in this regard would not be harmful to highway safety. On the basis of the amended scheme the access road and layout would meet the relevant standards, which are matters that could be secured by suitably worded planning conditions.
19. There is a current application on neighbouring No 1 for a 4 dwelling scheme which I am informed is proposing an access to adjoin the appeal site access. If both schemes were implemented it would result adjoining vehicular accesses, having the potential to result in conflict between vehicles entering the sites and pedestrians crossing a wide double two-way access. However, the application at No 1 has been before the Council for some time, and I am advised it is yet to be determined. Furthermore, there is an alternative application at that site, and it is by no means clear that the multi-dwelling proposal would be implemented even if approved. Therefore, its existence attracts very limited weight. On this basis, I see no reason to dismiss this appeal on highway safety grounds due to the existence of an application yet to be determined.
20. For the reasons set out above, subject to the imposition of suitable planning conditions, the development could provide a safe and suitable access. Therefore, it would not conflict with the aims of Policy CS23 of the CS which seeks development increases the safety of travel and maintains the local road network. It would not conflict with the aims of paragraphs 108, 109 and 110 of the Framework. These seek that development provides a safe and suitable access, is only refused on highway grounds if there would be an unacceptable impact on highway safety, and, should ensure any significant impacts on highway safety can be cost effectively mitigated to an acceptable degree.

## **Other Matters**

21. The appeal site is within the 400m – 5km zone of influence of the Thames Basin and Heaths Special Protection Area (the SPA). The Council's evidence sets out the reasoned justification for seeking a planning obligation to provide a contribution towards Strategic Access Management and Monitoring (SAMM) and the provision for a Suitable Alternative Natural Greenspace (SANG) of £33,928. Natural England's Standing Advice states it has no comments for applications where the required mitigation would be secured through a planning obligation. While the appellant states it was intending to provide an obligation, I have not been provided with such a planning obligation. As the obligation would have provided a contribution towards mitigating impacts on the SPA, as such, it would not have benefits that would weigh in favour of the scheme. However, in light of my findings on the main issues above, it is not necessary to look at this matter in detail, given the proposal is unacceptable for other reasons.
22. The Council has concerns in respect of access to the rear garden of plot 2 for refuse and cycle storage and referred to a mains sewer which would be built over if the development was to be permitted. However, as I am dismissing this appeal for other substantive reasons, and the evidence does not imply any overall benefit in respect of the sewer, or refuse and cycle storage, I have not investigated these matters further.
23. The Council has also raised concerns about whether this development would prejudice the proper future development of a larger area with reference to the application under consideration for No 1. I have not been provided with sufficient information in respect of the neighbouring proposal including details of any discussion between the landowners with respect to the use of the proposed access for this appeal scheme. Therefore, I am not able to reach a finding in respect of whether this development would prejudice the development of a wider area. However, as this proposal is unacceptable for other reasons, and policy compliance would be a neutral matter, I have not investigated this matter further.

## **Planning Balance**

24. I am advised that the Council cannot demonstrate a 5 year housing land supply, although the precise extent of the short fall is not clear. The development is in an area at risk of flooding. Therefore, in accordance with paragraph 11d)i) of the Framework, the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development, for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply.
25. There would be a modest temporary economic benefit during construction, and once occupied a small benefit to the local economy. Even if the shortage in housing land supply were acute, the provision of a net increase of five additional dwellings (six dwellings overall) in a location well placed to access local services and facilities would provide an overall moderate social benefit. The appellant suggests there would be space on the site to provide further planting to support the biodiversity of the site in accordance with national policy. However, there is no evidence to suggest the benefits secured by suitably worded planning conditions would be anything other than limited.

Therefore, the benefits of the development overall attract moderate weight in favour of the development.

26. If I were to agree the development were to be compliant with policies in respect of matters such as the detailed design of dwellings, materials, the living conditions of future and neighbouring occupiers, the development of wider land, and cycle and refuse storage, these would all be neutral matters attracting neutral weight. Compliance with policies in respect of highway safety would also be a neutral matter attracting neutral weight.
27. However, the development would be harmful to the character and appearance of the area, would be prejudicial to the future health and amenity value of a protected tree, and it conflicts with the policies of the Framework in respect of flooding and has not passed the sequential test. These are matters that attract significant weight against the scheme. Therefore, the policy compliance and the benefits of the development do not outweigh the harm from the development. Therefore, the appeal should not succeed.

### **Conclusion**

28. The proposed development is contrary to the development plan and the National Planning Policy Framework read as a whole. There are no material considerations advanced that indicate the decision should be made other than in accordance with the development plan and the Framework. Therefore, for the reasons given, the appeal should not succeed.

*Dan Szymanski*

INSPECTOR