



Appeal Decision

Site Visit made on 19 July 2021

by Mr James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal Ref: APP/Q3115/W/21/3273602

Beech Farm, Access Track to Beech Farm, Whitchurch Hill, Reading RG8 7NZ

- 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 & Mrs Brickhill against the decision of South Oxfordshire District Council.
 - The application Ref P20/S3358/FUL, dated 25 August 2020, was refused by notice dated 5 November 2020.
 - The development proposed is a new house with carport.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by South Oxfordshire District Council against Mr and Mrs Brickhill. This application is the subject of a separate decision.

Preliminary Matters

3. Since determination of the planning application, the South Oxfordshire Local Plan 2011 – 2035 (2020) (Local Plan 2020) has been adopted. This supersedes policies under the Council's previous Core Strategy¹ and saved policies under the Council's earlier Local Plan² which were cited in the Council's reasons for refusal. On the basis that both parties have had the opportunity to consider the implications of the updated plan, I have determined this appeal with regard to the Local Plan 2020.
4. Similarly, since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has also been superseded. Both parties have had the opportunity to comment on the changes. I have therefore determined this appeal with regard to the current version.

Main Issues

5. The main issues are:
 - whether the appeal site is in an appropriate location for the development proposed;

¹ South Oxfordshire Core Strategy (2012)

² South Oxfordshire Local Plan 2011 (2006)

- the effect of the proposed development on the character and appearance of the appeal site and the surrounding area; and
- the effect of the proposed development on the biodiversity of the appeal site.

Reasons

Principle of Development

6. The appeal site comprises an area of woodland located west of the built-up settlement of Whitchurch Hill. Further woodland surrounds the immediate vicinity of the site. To the north, south and west, the woodland is mostly flanked by open countryside, although there are a small number of dwellings just beyond its perimeter, notably Beech Farm to the west and Laundry Cottage and Keepers Cottage to the north.
7. Policies STRAT1 and H1 of the Local Plan 2020 guide residential development principally towards larger settlements within the District. This is in line with the Council's overarching settlement hierarchy, in order direct to new housing towards accessible locations which help minimise any adverse effects to the natural environment. Criteria under section 3 to Policy H1 specify certain exceptions to that overarching strategy for unallocated sites or those in lower order settlements. Specifically, criterion (iv) allows for "*infilling, and brownfield sites within Smaller and Other Villages*". Whitchurch Hill is defined as an "other village" (albeit the appeal site falls outside of its built-up area). Policy H16 goes on to define "infilling" as "*the filling of a small gap in an otherwise continuous built-up frontage or on other sites within settlements where the site is closely surrounded by buildings*". The appellants have not argued that any of the other criteria under this section would apply.
8. As noted above, whilst there are a small number of dwellings near to the appeal site, these dwellings are separated from the appeal site by substantial areas of woodland. This is true of the dwellings east of the woodland along the B471, Laundry Cottage and Keepers Cottage to the north and Beech Farm to the west. Moreover, the woodland to the south of the appeal site borders uninterrupted open countryside. The immediate surroundings of the appeal site are therefore entirely of a woodland nature, and even accounting for these dwellings, the site cannot be said to be "*closely surrounded by buildings*". As such, the proposed development would not constitute infill.
9. On the basis that the appeal site does not constitute an infill site, it cannot be considered a suitable location for the development proposed. The development would therefore conflict with Policies H1, H16 and STRAT1 of the Local Plan 2020, which seek to protect the character of the district by precluding residential development outside of built-up settlement areas, unless sites are allocated or else proposals constitute appropriate infill development. Policy H8 would not be relevant here, as this Policy specifically relates to "smaller villages", whereas Whitchurch Hill is classed as an "other village".

Character and Landscape Character

10. The appeal site is situated within the Chilterns Area of Outstanding Natural Beauty (AONB). As mentioned, it is within an area of woodland which is mostly flanked by open countryside (although I acknowledge this is punctuated by a small number dwellings as described above). The woodland and surrounding

countryside both have a strong verdant quality, which contribute positively to the rural character of the AONB.

11. The proposed development would necessitate the removal of approximately 2,000sqm of this woodland. Whilst the development would not necessarily be visible from the public realm, the introduction of a dwelling in this location would fundamentally change the character of the appeal site from unspoiled natural woodland to residential built form. This would significantly detract from the verdant quality of the landscape, which would be harmful to the rural character of the surrounding area.
12. Notwithstanding the above, the proposed dwelling has been designed sympathetically to incorporate natural materials which are reflective of the surrounding wooded setting. Given the large footprint of the appeal site, the dwelling could also be accommodated comfortably without appearing overly bulky or dominant. Nonetheless, these are neutral factors and do not outweigh the harm that the development would cause to the AONB as identified above.
13. For these reasons, the development would harm the character and appearance of the area, and would therefore conflict with Policies DES1, H1, H8, H16, ENV1 and STRAT1 of the Local Plan 2020. Together, these seek to protect and enhance the special landscape character and beauty of the Chilterns AONB. Areas of Outstanding Natural Beauty are designated for the purposes of conserving and enhancing natural beauty, and section 85(1) of the Countryside and Rights of Way Act 2000 places a duty upon me to have regard to these purposes in this decision. The development would also conflict with the Framework (2021), which is explicit that great weight should be given to conserving and enhancing landscape and scenic beauty in such areas.

Biodiversity

14. As per the Council's Ecological Report, the appeal site is located in an area of woodland which is identified as "Woodland Young Trees" in the National Forest Inventory³. The woodland covers an area of approximately 37,000sqm, and approximately 2,000 sqm of this would be removed to accommodate the proposed development. Whilst a high percentage of the woodland would therefore be unaffected, the loss of approximately 2,000sqm would still be a substantial area in itself. Irrespective of whether the woodland was originally planted to be harvested for commercial purposes, its existence is now long established, and any impact that its removal (or part removal) may have on biodiversity must be considered.
15. As highlighted in the Council's Ecological Report, young woodland, including that which is managed or coppiced, has the potential to support a range of protected species, including "*breeding birds, reptiles, badgers, bats, great crested newts (GCN) and hazel dormice*". Notably, the appeal site also falls within an amber zone on the GCN impact risk map, where there is a known increased risk to GCN. Where this is the case, Natural England's advice is clear that evidence should be provided to demonstrate that any proposed development poses no risk to GCN, or else where there is an identified risk, that this can be adequately mitigated.

³ National Forest Inventory (GB). Natural England's Multi-Agency Geographic Information for the Countryside (MAGIC)

16. The appellant has provided no evidence to corroborate its assertion that the appeal site does not support any protected species. I am therefore unable to properly consider any potential impact of the development on the biodiversity of the site, including any impact on protected species, nor can I assess whether any particular measures could be taken by the appellant in order to mitigate against any identified impact. A precautionary approach is therefore needed.
17. Circular 06/2005⁴ (Circular) is clear that the presence of protected species should usually be established before the planning permission is granted, *"otherwise all relevant material considerations may not have been addressed in making the decision"*. The Circular goes on to say that *"the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances"*. There is no evidence before me to suggest there are any such exceptional circumstances in this instance. Without knowing the effect the proposal may have on protected species, it is not possible to demonstrate that these could be adequately mitigated.
18. In the absence of any substantive evidence before me on which I can conclude otherwise, the proposal would conflict with Policies ENV2 and ENV3 of the Local Plan 2020, which require biodiversity in the district to be conserved or enhanced as part of any development proposals. The development would also conflict with the overarching objectives of the Framework (2021), which seek to ensure development does not cause a net reduction in biodiversity.

Other Matters

19. Irrespective of whether the proposed development would be a custom build dwelling, the contribution that the development would make to the Council's supply of self-build housing (or to the Council's general housing stock) would not outweigh the harm that would be caused to the character and appearance of the area nor to the biodiversity of the site. The provisions of the Self Build and Custom Housebuilding Act 2015 and of Policy H12 are each qualified, rather than enabling any such development to come forward. Similarly, whilst I note the benefits of the proposed development in terms of meeting certain economic, social and environmental objectives of the Framework (2021), again none of these would outweigh the harm identified.
20. In its evidence, the appellant mentions that the proposed new dwelling would be occupied by retired farm workers, which they claim would demonstrate an agricultural justification for the proposed development. However, there is insufficient evidence before me regarding the agricultural nature of the proposed dwelling, so I am unable to properly assess any consequential impact of this factor.
21. Irrespective of whether the woodland is protected by a tree preservation order, this does not negate any required need for a licence from the Forestry Commission to lawfully remove the extent of woodland proposed. Notwithstanding this position, the woodland is long established and a feature of the appeal site, so the impact of the development on this woodland, specifically in terms of character and appearance and biodiversity, must be assessed.

⁴ Paragraph 99, Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System

Conclusion

22. For the reasons given above, having considered the development plan as a whole, the approach in the Framework (2021), and all other relevant material considerations, the appeal is dismissed.

James Blackwell

INSPECTOR