
Appeal Decision

Site visit made on 24 August 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2021

Appeal Ref: APP/X0360/W/21/3274461
12 Coningham Road, Shinfield RG2 8QP

- 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 Edward Mather of Colony Architects against the decision of Wokingham Borough Council.
 - The application Ref 202984, dated 4 September 2020, was refused by notice dated 23 December 2020.
 - The development proposed is the erection of two semi-detached dwelling houses with parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised proposed site block plan numbered 616 02-10 Revision D has been submitted as part of the appeal. This differs from the version¹ upon which the Council made its decision in that it shows four parking spaces rather than two, and a tapered front hedgerow to allow for a visibility splay. As these alterations are of a minor nature, I am satisfied that they do not make fundamental changes to the development proposed and therefore, no one would be seriously prejudiced by my determination of the proposal having regard to the revised plan.
3. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The main parties had had the opportunity to comment on the revised Framework as part of the appeal process.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area including the impact on the protected oak tree at the site.
 - The effect of the proposal on the living conditions of the occupants of 10 Coningham Road with particular regard to privacy within their rear garden.

¹ Numbered 616 02-10 Revision B

- Whether the arrangement of proposed plots 1 and 2 would create satisfactory living conditions for future occupants, including consideration of the provision of garden space.
- Whether satisfactory and safe arrangements would be made for access and parking.

Reasons

Character and appearance

5. Coningham Road is an established residential street. Although there is some variety in house type and form, coherence is nevertheless derived from the regular set back of dwellings arranged to face the street, and the prevalence of similar materials. The area to the front of dwellings is generally open or set behind low boundary treatments which conveys a sense of spaciousness. The presence of street trees, grass verges and garden planting add considerably to the qualities of the area, and results in a pleasant suburban residential neighbourhood.
6. The appeal site lies between 10 and 12 Coningham Road. It was formerly part of the grounds to No.12, which remains a detached two storey house with a generous garden. Although somewhat overgrown and housing an electricity sub-station, the appeal site is otherwise free of built form. The extent of the gap provided by the appeal site is notably greater than otherwise seen between houses to the west of No.12 along Coningham Road. In addition, and in contrast to many of the nearby domestic frontages, a relatively tall hedgerow adjacent to Coningham Road encloses and screens views into the site. Nevertheless, views of the canopy of the oak tree that is covered by a Tree Preservation Order² and situated to the rear of the site are possible from surrounding roads. Overall, although somewhat different to its immediate surroundings, the generally verdant character of the site, and the protected oak in particular, contribute positively towards the character and appearance of the area.
7. The proposal would introduce a pair of semi-detached two storey houses onto the site. These would be modestly sized and respect the building line established along the road. As such, the development would be an appropriate response transitioning the gap between the larger two storey No.12 and the lower height of No.10.
8. Furthermore, the amount of space that would remain either side of the proposed pair is comparable to that generally seen in the pattern of development along Coningham Road to the west of No.12. The Council point out that the density of the development would be considerably higher. Be that as it may, density is not necessarily an accurate indicator of how a proposal will affect the character and appearance of an area. Neither is it listed as one of the ten characteristics of a well-designed place in the National Design Guide, September 2019 (NDG).
9. The use of similar brick and tile to that used elsewhere in the road would provide visual consistency. Although the proposal would reduce the degree of greenery at the site overall and replace it with additional built form, hardstanding and parking area, a hedgerow could be retained to the front to

² Tree Preservation Order No. 1802/2021, T1

soften the impact. This would be broadly in line with the frontages of dwellings in the vicinity. The modest nature of the development would not have a notable impact that would undermine the backdrop of mature trees at the Shinfield Park and Nore's Hill Local Wildlife Site, referred to by the Council.

10. The Council consider that the proposal would be out of keeping with residential development to the east of No.12, and specifically at corner plots with spacious gardens. I observed the ordered arrangement of large detached two storey houses in the block encircled by Salmond Road, Coningham Road, Pattinson Road and Pendred Road. However, I disagree that No.12 forms part of that layout as it is on the other side of Salmond Road and has a somewhat different form with a greater assortment of dwellings close by. Given that the appeal site is situated to the west of No.12, I observed that it has a greater affinity and proximity with housing to the west. On that basis, the proposal would be broadly consistent with the surrounding pattern of development and would reasonably respond to the established rhythm and spacing in evidence.
11. Even so, I have concerns regarding the likely impact of the development on the protected oak tree to the rear of the site. The tree survey³ provided categorises it to be of moderate quality. It states that it is in good condition, with at least 40 years remaining life expectancy. It further indicates that it is approximately 12 metres in height. This was generally consistent with my observations and I noted the even canopy and pleasant shape of the tree. The size, visibility and remaining life span of the oak tree means that it makes a positive contribution to the character and appearance of the wider area.
12. Drawing number 2020105/TPP001 shows the canopy of the tree would overhang approximately half the rear garden area provided for Plot 1, as well as some of the garden for Plot 2. Situated to the southwest of the houses, it would affect the levels of sunlight reaching the modest garden areas for the proposed dwellings. Essentially the parties disagree as to the degree of this impact.
13. The appellant has provided an analysis of the shadow impact of the oak tree which reviews the guidance given in the British Standard BS5837:2012, Arboricultural Practice's Note 5 and the Building Research Establishment's Digest 209, 'Site Planning for Daylight and Sunlight: a guide to good practice'. However, the analysis provided is based on the present size and shape of the tree. It is stated that the tree is mature, and an opinion is given that it does not have much potential for future growth. Nevertheless, little indication of the age of the tree is given nor on what basis this conclusion was reached. In general terms, oak trees can be large, long-lived trees with broad and spreading canopies. As such, I am not assured that sufficient account has been given to the possible growth and/or changing shape of the tree in the analysis provided.
14. In any event, the Tree Shadow Overlap Graph provided⁴ indicates that the shadow overlap would reach 51-75% for around 3-4 hours during spring and summer afternoons. This would coincide with periods when future occupants would be more likely to seek to enjoy their gardens. It also seems likely that this will impact upon the patio areas of the dwellings, which are more likely to

³ Arboricultural Report prepared by Harper Tree Consulting, dated 29 September 2020, T2

⁴ Preliminary Arboricultural Report dated January 2021; Appendix 1 Tree Shadow Assessment prepared by Harper Tree Consulting

be intensively used as they are where residents would want to sit out. This is reinforced by the tree shadow assessment provided for 15:00 hrs on 21 March⁵ which shows both patio areas as entirely shaded. Even if other parts of the garden received sunlight, the limited size of the rear gardens provided would restrict options for suitable alternative sitting out areas.

15. In these circumstances, notwithstanding that specific consent would be required, it is foreseeable that there would be pressure from future residents of both plots 1 and 2 to reduce the crown and branches to prevent overhang in order to improve the functionality and levels of sunlight to the available garden space. This is especially so given that the tree would comprise part of plot 1. This would be likely to have harmful consequences for the overall shape, long term future and visual qualities that the tree contributes towards the character and appearance of the wider area.
16. The appellant considers that concern regarding such pressure is speculative as many people like to be near to trees. Be that as it may, it could not be guaranteed that this would be the case for all future occupants of both dwellings for the remaining lifetime of the oak tree.
17. I accept that it would be technically possible to take measures to protect the tree during construction, and that as a rear portion of the dwellings would be single storey, this would assist in gutter clearance. Nevertheless, these factors would not overcome the concern I have identified. The relationship of the tree with 43 Mylum Close is brought to my attention, which the appellant states has not led to pressure for tree works. However, the orientation of the tree with the larger garden area in that case is considerably different to the proposals before me. Therefore, it would not lead me to a different view.
18. The appellant also refers to the general tidying of the appeal site which he states has been neglected. I acknowledge that some tidying would be beneficial, but this would not justify development that would be harmful to a protected tree. Nor would general maintenance of the site be dependent on the development proposed going ahead. Therefore, it does not carry weight in favour of the proposal.
19. Overall, I am not assured that there would be no unacceptable harmful effects on the oak tree. On that basis, although the proposal would in other respects be sympathetic to local character, this would not be the case in relation to the oak tree, which is an important landscape feature. Therefore, it would fail to meet the requirements of paragraph 130 c) and 131 of the Framework. For similar reasons it would run counter to the guidance in principle R2 of the Borough Design Guide Supplementary Planning Document, June 2012 (SPD) which states that new housing should respond to its context, and take opportunities presented by the physical characteristics of the site, including incorporating existing features of value into the proposals, such as existing trees.
20. Accordingly, due to the likely impact on the protected oak tree the proposal would have a harmful effect on the character and appearance of the area. Therefore, it would conflict with policy CP3 of the Wokingham Borough Local Development Framework, Core Strategy, January 2010 (CS) and policies TB06 and CC03 of the Wokingham Borough Development Plan, Managing

⁵ Drawing 2021006/TSA001, Preliminary Arboricultural Report dated January 2021, Appendix 1

Development Delivery Local Plan, February 2014 (MDD). These policies, amongst other matters, seek development of a high quality design that avoids detrimental impact upon important landscape features such as protected trees. In addition, it would not fully adhere to the general design principles listed in policy 2 of the Shinfield Parish Neighbourhood Plan, Made February 2017 (NP) which refer to the allowance of appropriate space for hard and soft landscape works.

21. Refusal reason 6 on the Council's decision notice also cites policy 6 of the NP. Whilst the policy relates to trees, hedgerows and woodland, it refers to specific scenarios, none of which are shown to apply in this case. As such, I find no conflict in this regard.

Living conditions of existing residents

22. The Council are concerned that the development would result in unacceptable overlooking to the rear garden of No.10. However, the dwellings proposed would broadly align with the position of No.10 in the street. The first floor windows in the side elevation of Plot 2 that would face towards No.10 would serve a bathroom and stairwell. Moreover, they would align with the building of No.10 rather than look towards the rear garden. It follows that there would be no conflict with the guidance given in principle R15 of the SPD which refers to reasonable levels of visual privacy to habitable rooms.
23. The oriel window serving bedroom 2 of Plot 2 would have one facet angled to the south west which would afford some views of the gardens of No.10 and 43 Mylum Close. Nevertheless, given the configuration of the angled rear garden for plot 2, the window would primarily overlook this. In addition, the window would be a reasonable distance from the boundary such that the relationship would be broadly typical of suburban residential development.
24. Details of boundary treatments and landscaping for plot 2 could be secured by condition to prevent unreasonable intervisibility from ground floor windows of the proposed dwellings. Taking these factors together, the development would not result in intrusive views to the rear garden of No.10 such that the residents' ability to enjoy their garden would be materially compromised. As such, the development would broadly align with paragraph 123 of the NDG which describes well-designed homes as, amongst other things, relating positively to the private, shared and public spaces around them.
25. Accordingly, I find that the proposal would not be unacceptably harmful to the living conditions of the occupants of 10 Coningham Road having particular regard to privacy within their rear garden. Therefore, I find no conflict in this respect with policies CP1, CP3 of the CS, policy TB06 of the MDD or policy 2 of the NP which, amongst other matters, seek to maintain the privacy and amenity of adjoining land users.

Living conditions of future occupants

26. Refusal reason 2 on the decision notice refers to the development resulting in an overbearing impact on the occupants of one of the proposed dwellings. In addition, refusal reason 5 states that the amount of amenity space for Plot 2 would be inadequate.
27. In relation to the first concern, the Council refers to the relationship of the projecting single storey rear elements for Plots 1 and 2, whereby the south

east facing kitchen/dining room wall of Plot 2 would form part of the boundary with Plot 1. They raise concerns that in the event of ball games being played against this wall, it would be overbearing for the occupants of Plot 2, presumably due to noise disturbance.

28. Notwithstanding that ball games might be possible, it would be disproportionate to prevent the development based on this concern for the following reasons. Firstly, the adjacent area would be the private garden for Plot 1, so only the occupants or people associated with that dwelling would be using the space. By comparison with a public space, this would reduce the number and scale of ball games. In addition, the space is limited, and it forms a patio next to a large glazed area. This is also likely to curtail or prevent habitual activity or at least inhibit it from becoming boisterous. Finally, if disturbance did occur, it is a matter that could be reasonably managed through normal neighbourly relations.
29. Therefore, I am not persuaded that for this reason the proposal would conflict with the general advice in paragraph 123 of the NDG in relation to the provision of good quality internal and external environments. It follows that I find that the configuration of the development would not have an overbearing effect on the occupants of Plot 2.
30. Principle R16 of the SPD states that new housing must provide easy access to some form of amenity space. It further states that the Council's minimum garden length of 11m is a generally accepted guideline for private garden space, provided the space is usable. The Council refer to the rear garden to Plot 2 being under 8 metres in length. On that basis it would not accord with the guidance. Nevertheless, whilst of relevance, the guidance does not establish a mandatory requirement as part of the adopted development plan. Accordingly, it attracts moderate weight.
31. Furthermore, the length of the garden is not the only relevant factor in considering its adequacy. The shape of the proposed rear garden for Plot 2 is cranked, and so allows additional space to the rear of the electricity sub-station. Both proposed dwellings would have a rear garden area which would be reasonably private with an area of lawn that would be usable for a range of outdoor activity. Furthermore, a patio would be provided to allow for sitting out. As such, the amount of garden space proposed for both two bedroom homes would be satisfactory.
32. Even so, it will be seen from my comments above that the existing oak tree would have an impact upon the garden and patio areas for both dwellings, and would dominate the modest garden provided for Plot 1. Notwithstanding that some light may filter through the canopy of the tree when in leaf, it still would result in large parts of both gardens being cast in shade for significant parts of the year. In particular the tree shadow overlap graph shows this would affect warmer months when most occupants would look to use their gardens more intensively. Based on the information before me, my judgement is that the degree of shading would be likely to significantly affect the range of planting that might be successful within the proposed gardens and reduce opportunities for sitting out in the sun. This would unacceptably compromise the enjoyment of the gardens, and therefore, the living conditions of future residents.

33. I have had regard to the analysis referring to the Building Research Establishment guidance⁶ which suggests the level of sunlight would be adequate. However, paragraph 130 f) of the Framework stipulates that development should ensure a high standard of amenity for future occupiers. Likewise, paragraph 123 of the NDG refers to a good quality external environment for users as comprising part of a well designed home. Similarly, policy CP3 of the CS refers to planning permission being granted for schemes with a high quality of design. For the reasons outlined, the garden areas provided in this case would fail to achieve the necessary threshold.
34. Accordingly, I find that the proposed garden spaces would not create satisfactory living conditions for future occupants of the dwellings. Therefore, the proposal would conflict with policies CP1 and CP3 of the CS, policy TB06 of the MDD and policy 2 of the NP. These policies taken together and amongst other things, seek to support development of a high quality design with a suitable site layout that provides amenity space for future residents of new development.
35. Refusal reason 5 on the Council's decision notice also cites policy 6 of the NP. Whilst the policy relates to trees, hedgerows and woodland, it refers to specific scenarios, none of which are shown to apply in this case. As such, I find no conflict in this regard.

Access and parking

36. Paragraph 111 of the Framework states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
37. Policy CC07 of the MDD states that planning permission will only be granted where the proposal meets the Council's parking standards and that the new scheme retains an appropriate overall level of off-street parking. There is no dispute between the parties that the parking standard in this case equates to 3 unallocated parking spaces or 1 allocated space per unit and 1 unallocated space to share.
38. The original site block plan provided only two spaces. However, the revised site block plan⁷ shows four spaces whereby each dwelling would have one allocated vehicle parking space and a corresponding visitor space to the rear. The swept path analysis⁸ provided demonstrates that vehicles would be able to manoeuvre into the spaces for each plot independently. Correspondence provided indicates that the Highway Authority find the revised arrangements to be acceptable⁹ and I have little basis to find otherwise.
39. The Council also raised concerns regarding the limited visibility splay from the access. Subsequent discussions with the Highway Authority confirm that revisions to the front hedgerow alignment¹⁰ can achieve a visibility splay of 43m to the junction and 25m to the nearest kerbline from a 2m setback, which

⁶ BRE Digest 209 Site Planning for Daylight and Sunlight: a guide to good practice, referred to in Preliminary Arboricultural Report dated January 2021 prepared by Harper Tree Consulting

⁷ Proposed Site Block Plan number 616 02-10 Revision D

⁸ Appendix B, Technical Note Document Reference: R-21-0013-01, prepared by Evoke

⁹ E-mail dated 30.4.21, Appendix C, Technical Note Document Reference: R-21-0013-01, prepared by Evoke

¹⁰ Drawing No. R-21-0013-002B, Appendix A, Technical Note Document Reference: R-21-0013-01, prepared by Evoke and Email dated 30.4.21, Appendix C.

they consider would be acceptable. The tapered hedgerow is reflected in the revised site block plan provided.

40. The proposed development would generate only a modest amount of additional domestic vehicle movement. Coningham Road is a residential street with many domestic access points. Vehicle movements and speeds are likely to be relatively low. The evidence before me shows no recent records of any personal injury accidents at the site access or in the vicinity of the site. In this context, the proposed visibility splays would be suitable to prevent an unacceptable risk to highway safety.
41. Accordingly, I find that the proposal would make suitable access and parking provision for the development. On that basis, I find no conflict with policies CP3 and CP6 of the CS; policy CC07 of the MDD and policies 2 and 4 of the NP. In combination, and amongst other things, these policies require development to provide appropriate levels of parking, accessibility and avoid causing highway safety problems.

Planning balance and Conclusion

42. The main benefit of the proposal would be the provision of two additional dwellings towards the overall housing supply in a reasonably accessible location that would make more efficient use of the land and enhance the mix of housing on offer. Furthermore, some economic benefits would arise from their construction and the economic activity associated with future occupants which may also support local service provision. However, considering the modest scale of the proposal, such benefits would be limited and so attract a commensurate amount of weight.
43. Whilst reference is made to the low ecological value of the site and the possible provision of bat boxes, it is not shown that the proposal would result in biodiversity gain such that it could be described as a positive benefit. Measures to provide appropriate drainage, waste storage and energy use would be policy compliant. As such, these are neutral factors.
44. Balanced against that, is the harm to the character and appearance of the area and the living conditions of future occupants, and the conflict with the respective development plan policies. This attracts significant weight.
45. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise¹¹. The benefits of the proposal do not attract sufficient weight to indicate that the decision should be taken other than in accordance with the development plan.
46. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹¹ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.