



Appeal Decision

Site Visit made on 11 August 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2021

Appeal Ref: APP/Q3820/W/21/3267296

Hazelwood, Balcombe Road, Pound Hill, Crawley RH10 3NZ

- 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 & Mrs S Matthews against Crawley Borough Council.
 - The application Ref CR/2020/0762/FUL, is dated 20 November 2020.
 - The development proposed is erection of 5 no. detached houses with integral garages, parking and access road following demolition of existing house, detached garage and outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 5 no. detached houses with integral garages, parking and access road following demolition of existing house, detached garage and outbuildings at Hazelwood, Balcombe Road, Pound Hill, Crawley RH10 3NZ in accordance with the terms of the application, Ref CR/2020/0762/FUL, dated 20 November 2020, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. A Unilateral Undertaking (UU) has been submitted with this appeal which includes an off site tree planting contribution, details of a Buffer Zone Scheme and a Management Plan for the Ancient Woodland. I will address these matters in my reasoning below.
3. During the consideration of this appeal the revised National Planning Policy Framework July 2021 (the Framework) has been published. I have invited both main parties to submit comments on the relevance of the Framework to this case.

Main Issues

4. The main issues are whether the proposed development would make adequate provision for affordable housing and whether suitable replacement planting would be provided to maintain the character and appearance of the town.

Reasons

Affordable Housing

5. Policy H4 of Crawley 2030, Crawley Borough Local Plan 2015-2030 (December 2015) (the Local Plan) requires 40% affordable housing from all residential developments. There is an exception to this if evidence can be provided to

- show that the site cannot support these requirements from a viability perspective and that the development clearly meets a demonstrable need.
6. A viability report (dated November 2020) is included in the evidence. This concludes that the development cannot support a policy compliant, or indeed any, contribution towards affordable housing. However, these figures are disputed by the Council on the grounds set out below.
 7. Two of the points in dispute are the selling prices and the build costs, although I have not been provided with detailed evidence as to alternative values. Nevertheless, the viability report includes a sensitivity analysis where these values are increased and reduced respectively. Even with this adjustment the scheme still results in a financial deficit.
 8. The viability assessment sets the Benchmark Land Value at £1,085,000. This is based on the Existing Use Value, taken to be an approximate value per square foot achieved on sales of similar residential properties, plus a 10% premium. The Council state that this should be closer to the sale price in 2019 of £730,000. The difference between these two figures of £355,000 would not be enough to overcome the deficit, even using the sensitivity analysis figures described above.
 9. The two remaining points in dispute are the professional fees and profit margin. The profit margin falls within the Council's expected range. However, it would take a significant reduction in profit margin, beyond the 17.5% suggested, to make the scheme viable to the point where it could make a contribution towards affordable housing. With respect to the former, in the absence of any detailed evidence as to alternative figures I am not persuaded that these should be altered.
 10. It is clear from the evidence submitted that small sites such as this play an important part of meeting the housing need in this Borough, therefore I am satisfied that the proposed development meets a demonstrable need.
 11. There is a dispute as to whether this small site should be required to provide affordable housing. However, given my conclusions in relation to the viability of the scheme affordable housing would not be sought from the proposed development in any event.
 12. Consequently, the proposed development would make adequate provision for affordable housing. Therefore, in this respect it would be in accordance with Policy H4 of the Local Plan, the aims of which are set out above and Policies SD1 and IN1 which require the necessary infrastructure, including affordable housing, to be provided for development, and that development would provide for the social needs of Crawley, along with the advice in the Affordable Housing Supplementary Planning Document November 2017 which supports these policies, and paragraph 64 of the Framework which requires that affordable housing should not be sought for residential developments that are not major developments.

Replacement Trees

13. The proposed development would result in the loss of 29 trees. Given the size of the trees to be felled, and the number of houses to be constructed, Policy CH6 of the Local Plan and the Green Infrastructure Supplementary Planning

Document October 2016 (the SPD) require that 107 should be planted in order to maintain the green character and appearance of the borough.

14. The proposed development provides a 'buffer zone' between the gardens and the Ancient Woodland to the rear. This is not within the proposed residential curtilages and there is therefore scope for a higher density of planting in these areas than that which would be appropriate for garden space.
15. The proposed plans show the planting of 42 trees ranging between a minimum height of 2.5m and 4m high. Given that there are existing trees on site, based on the evidence before me, this amount of planting of larger standard trees on the site appears to be reasonable. Along with these 42 larger trees, hundreds of 1m tall whips and transplants would also be planted.
16. I am not provided with any requirement as to the size required for a replacement tree and I am satisfied that this notable additional planting, even with management thinning as they grow, would ensure that the green character and appearance of the borough was maintained.
17. I note the concerns as to the species of trees proposed, however alternatives are suggested. The submitted UU includes the requirement for the provision of a 'Buffer Zone Scheme' which would secure this detail. Therefore, the proposed development would not be unacceptable in this respect.
18. The UU provides for a £10,000 off site tree planting contribution. However, given my conclusions above this obligation is not necessary in order to make this development acceptable. Therefore, I have not taken this into account in determining this appeal.
19. Consequently, the proposed development would provide suitable replacement planting to maintain the character and appearance of the town. Therefore, in this respect, it would be in accordance with Policy CH6 of the Local Plan and the SPD, the aims of which are set out above and Policies SD1, CH3 and ENV1 of the Local Plan which together seek to protect green infrastructure and protect and enhance trees which make a positive contribution to the area with high quality landscaping which includes future management.

Other Matters

20. The UU also includes a 'Management Plan' that relates to the Ancient Woodland. It outlines the provision of an access to the ancient woodland and buffer zone, an initial programme of works to remove non-native invasive species, ongoing management operations and maintenance schedules, and that the land owners are responsible for the implementation of this plan. Such detail is necessary in order to adequately protect and enhance the adjacent ancient woodland. As such this obligation meets the tests and I have taken this into account in my consideration of this appeal.

Conditions

21. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, including ensuring that the conditions would not unnecessarily delay the delivery of development.

22. I am attaching the standard implementation condition, and in the interests of certainty a condition to define the plans with which the scheme should accord.
23. The trees, hedges and bushes are required to be protected in the interests of the character and appearance of the area. This condition is required to be pre commencement as the protection measures set out will be required for the full duration of the works.
24. The Woodland Management Plan, detailed above, is secured within the UU. It does not include any discussion of wildlife and habitat protection or enhancement. Therefore, to prevent duplication, I have amended condition 4 to refer only to the information that has not been secured as part of the UU. The habitat protection is required in order to encourage biodiversity and is required to be pre commencement as the protection measures set out will be required for the full duration of the works.
25. Due to the proximity and relationship with the ancient woodland, the restriction of permitted development rights to prevent the insertion of gates into the rear fence is precisely defined and reasonable and necessary in this case to prevent any loss or deterioration of ancient woodland.
26. Details of parking and vehicle servicing and turning during construction works and once the development is completed, along with the provision of a vehicle access and visibility splays, are required in the interests of highway safety. The parking and servicing is a pre commencement condition as these details are required for the full duration of the development. Details of cycle parking are required to encourage alternative means of transport.
27. Details of surface water drainage are required in order to reduce flood risk, and details of land and floor levels are required in the interests of the living conditions of neighbouring occupiers. These works are required to be implemented or agreed before any above ground works take place, and therefore these conditions are pre commencement.
28. A condition to control internal noise levels is attached. This sets standards as to the levels that should be achieved with the windows open and closed. This applies notwithstanding the external noise level and so I have omitted the paragraph which refers to different standards where the noise to living rooms and bedrooms is at a specified level. These details are required both in the interests of living conditions of future occupiers and also the character and appearance of the area.
29. Details and samples of materials and details of hard and soft landscaping including boundary fences and their maintenance are required in the interests of the character and appearance of the area. It is reasonable to require such details for the private residential gardens to ensure an appropriate appearance to the development. However, I have removed the requirement for a landscape management plan as the buffer zone and ancient woodland provide this as part of the UU and securing the long-term management of private gardens by condition would be unreasonable. Also, to avoid duplication I have removed the reference to protection of trees and combined the Councils conditions 11 and 14.
30. Access to superfast broadband is required in order to provide good access to services and reduce social exclusion. Details of refuse storage are required in

the interests of the living conditions of future occupiers. Side windows shall be obscure glazed and fixed shut apart from any top hung vent for the same reason.

31. Design stage SAP calculations are required in order to achieve sustainable design and construction and details of the specified water efficiency standard are required in order to minimise the development's impact on water resources. This is a planning requirement as set out in the adopted development plan.
32. The dwellings have access to a suitable amount of rear garden space, which would be appropriate for future occupiers. Permitted Development rights include measures to ensure that any alterations and extensions do not occupy a significant amount of existing garden space. Therefore, this matter is taken into account in the GPDO. Consequently, I am not provided with evidence that persuades me that such a condition would be reasonable or necessary in this case.

Conclusion

33. For the reasons given above I conclude that the appeal should be allowed.

H Miles

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall not be carried out other than in accordance with the approved plans as listed below:

1962 001 Rev A Site Location Plan, 1962 002 Rev A Existing Block Plan, 1962 003 Rev C Proposed Block Plan, 1962 005 Rev A Proposed Site Plan, 1962 006 Rev A Existing Floor Plans, 1962 007 Rev A Existing Elevations, 1962 010 Rev A Plots 1 & 3 Plots 1 & 3 South and West Elevations, 1962 011 Plots 1 & 3 Second Floor and Roof Plans, 1962 012 Rev B Plots 1 & 3 South and West Elevations, 1962 013 Rev B Plots 1 & 3 East and North Elevations, 1962 015 Plots 2 & 4 Ground and First Floor Plans, 1962 016 Plots 2 & 4 Second Floor and Roof Plans, 1962 017 Rev B Plots 2 & 4 South and West Elevations, 1962 018 Rev B Plots 2 & 4 East and North Elevations, 1962 020 Rev A Plot 5 Ground and First Floor Plans, 1962 021 Plot 5 Second Floor and Roof Plans, 1962 022 Rev B Plot 5 South and West Elevations, 1962 023 Rev B Plot 5 East and North Elevations, 1962 025 Existing and Proposed Street Elevation, 20149-BT1 Tree Protection Plan
- 3) No development, including site works of any description shall take place on the site unless and until all the trees/bushes/hedges to be retained on the site have been protected in accordance with the Tree Protection Plan 20149-BT1, in accordance with measures in the submitted Arboricultural Assessment and Method Statement dated 27th October 2020 and in accordance with details of ground protection to the buffer zone area, which have been first submitted to and approved in writing by the Local Planning Authority. Within the areas fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any roots with a diameter of 25mm or more shall be left un-severed.
- 4) No development, including site works of any description shall take place on the site unless and until the following details have been submitted to, and approved in writing by, the Local Planning Authority:

A wildlife and habitat protection plan (which may be integrated with individual tree protection measures) to cover demolition and construction phases of the development, setting out the timing of operations, location and specification of protective fencing and such other measures as may be required to avoid harm to wildlife, damage to ancient woodland or compaction of soils within the proposed ancient woodland buffer zone, which would impede successful planting and enhancement and planting and creation of habitat features

The approved details shall be implemented in full in accordance with the timings included within this document
- 5) No development, including site works of any description shall take place on the site unless and until the following details have been submitted to, and approved in writing by, the Local Planning Authority:

Details of the temporary parking of vehicles and the loading and unloading of vehicles associated with the building or other operations, temporary contractors' buildings, plant and stacks of materials associated with the development.

Such provision shall be retained for these purposes throughout the period of construction required to implement the development hereby permitted.

- 6) No development, including site works of any description shall take place on the site unless and until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all drainage works have been carried out in accordance with the approved details.
- 7) No development, including site works of any description shall take place on the site unless and until detailed plans and particulars of the land levels and the finished floor levels of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The buildings shall be constructed in accordance with the approved levels.
- 8) No works above ground level shall be carried out unless and until, a scheme has been submitted to and approved in writing by the Local Planning Authority to protect dwellings against noise including from road traffic using Balcombe Road. For the purposes of this condition the scheme shall include:
 - i) identification the level of noise exposure for each dwelling;
 - ii) the means by which the noise level within any (unoccupied) domestic living room or bedroom, with windows open, shall be no more than 35 dB(A) Leq 16hr (between 0700 and 2300) and no more than 30dB (A) Leq 8hr (between 2300 and 0700); and
 - iii) the means by which the noise level within any (unoccupied) domestic bedroom, with windows open, shall not normally exceed 45 dB(A) LAFMax between 2300 and 0700.

Where the standards in (ii) and/or (iii) above cannot be achieved with windows open, the scheme must demonstrate how these standards will be achieved with the use of alternative window and façade design which mitigates against noise ingress.

If this is not possible the scheme must demonstrate how the standards will be achieved with windows shut and alternative forms of natural ventilation provided. The scheme shall provide details of the alternative form of ventilation which will achieve between 2 to 4 air-changes per hour, depending on each domestic living room and bedroom's respective requirement to prevent summer overheating.

No dwelling hereby permitted shall be occupied until the approved scheme has been implemented in respect of that dwelling.

- 9) No works above ground level shall be carried out unless and until a schedule and samples of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed details
- 10) No works above ground level shall be carried out unless and until there has been submitted to and approved in writing by the Local Planning

Authority a scheme of landscaping, hard and soft, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, new specimens to be planted and details of the boundary treatments and access gate to the buffer zone and Ancient Woodland, screen walls and/or fences and solid fence along the rear garden boundaries of the houses. The scheme shall be implemented in accordance with the approved details

- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) No works above ground level shall take place unless and until a scheme to provide superfast broadband to the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.
- 13) No part of the development shall be occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawings.
- 14) No part of the development shall be occupied until visibility splays of 2.4 metres by 120 metres have been provided at the proposed site vehicular access onto Balcombe Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6m above the adjoining carriageway level.
- 15) No part of the development shall be occupied until the parking spaces / turning facilities / and garages shown on the submitted plans have been provided and constructed. These spaces and the areas of land so provided shall thereafter be retained for their designated use and not used for any purpose other than the parking / turning / and garaging of vehicles.
- 16) The dwellings at plots 2 and 4 shall not be occupied until the cycle stores for these dwellings have been provided in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
- 17) No part of the development shall be occupied until refuse and recycling bin storage and collection arrangements have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.
- 18) No part of the development shall be occupied until design-stage SAP calculation summaries for the development, detailing a level of environmental performance consistent with the submitted Sustainability Statement dated November 2020, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
- 19) No part of the development shall be occupied until details have been submitted to and approved in writing by the Local Planning Authority to

demonstrate that it shall achieve a water efficiency standard by consuming not more than 110 litres per person per day maximum water consumption. The scheme shall be implemented in accordance with the approved details.

- 20) The first and second floor windows on the side elevations of the proposed dwellings shall at all times be glazed with obscured glass and apart from any top-hung vent, be fixed to be permanently non-opening.
- 21) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended, no gate or other means of access falling within Part 2, Class A of Schedule 2 of the Order shall be undertaken and inserted into the rear boundaries of the individual houses.