



Appeal Decision

Site Visit made on 6 July 2021

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal Ref: APP/R0335/W/21/3269566

Land at 42 Locks Ride, Ascot SL5 8QY

- 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 Sam Omonua of Land to Homes Ltd. against the decision of Bracknell Forest Borough Council.
 - The application Ref 20/00554/FUL, dated 20 July 2020, was refused by notice dated 3 February 2021.
 - The development proposed is erection of 2no. detached dwellings with car parking and associated landscaping and access, following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the refusal of the application the new National Planning Policy Framework 2021 (Framework) has been published. Comments were sought from the main parties on this, and where received have been taken into account in my decision. I consider that there have been no fundamental changes to national planning policy relevant to the main issues in this appeal and so no injustice has been caused to any of the appeal parties by my taking account of the revised Framework.

Main Issues

3. The main issues of the appeal are the effect of the proposed development on:
 - The character and appearance of the area, including with regard to protected trees,
 - The Thames Basin Heaths Special Protection Area (SPA).
 - Highway safety; and
 - Whether the development would encourage future occupiers to use a range of transport modes, with particular regard to the provision of cycle storage facilities.

Reasons

Character and appearance

4. The existing stables at the appeal site are of limited visual quality. Nonetheless, they are low level, of clearly equestrian appearance and largely screened from views along Locks Ride and nearby gardens by the mature landscaping along their boundaries. In addition, they are not out of keeping

with the farmyard/courtyard layout they form part of with the property opposite and the fields beyond.

5. There are some examples of buildings to the rear of others. However, these are generally of a small scale including the stables on the appeal site, the dormer bungalow opposite and 60 Locks Ride. The predominant pattern of development along Locks Ride is one of rows of ribbon development with properties orientated towards the road with a relatively consistent building line.
6. The proposed properties would be incongruous with this being positioned to the rear of others and facing across the site rather than towards the road. The dwellings would also cover a far greater extent of the plot than is characteristic of Locks Ride where properties generally have generous rear gardens, and the scheme would appear cramped in contrast.
7. The proposed dwellings, although of a comparable scale and taking cues from some nearby in terms of materials and features, would be considerably bigger than the existing built form on the site. This scale would unfavourably contrast with the few examples of buildings behind the lengthy linear frontage plots in the area.
8. As a result, the proposed dwellings, while not overly prominent from the road, would be more conspicuous in glimpsed views from it. Furthermore, the discordance with the predominant pattern of development would be obvious from nearby gardens over and between mature trees. This would erode existing views over frontage properties to the undeveloped and verdant character of the land behind frontage plots. While retained and proposed landscaping would in part hide the development, the fact that a proposal can be screened is not a reason for allowing development that is unacceptable.
9. The position of existing above and below ground services, which do not affect the RPAs of retained trees, along with details of the position and protection of retained features are shown in the AIA¹.
10. The tall mature trees at the access to the site (T6 and T7) are subject to a Tree Preservation Order. They, along with other frequent landscaping and street trees add to the verdant appearance of Locks Ride. Within the site there is little difference in levels between the verges to be cleared and the access road.
11. There are already signs, posts and utility features within the root protection areas (RPAs) of T6 and T7. The widened access road would be partly within the RPAs. However, although vegetation would be removed, soft verges would be retained, replanted and there would be no excavation. Topsoil and a cellweb system would remove an area of existing hard surfacing that would to some degree help sustain tree health.
12. There would be planting along the widened access lane that, while reduced and different in nature to the current growth, would retain a sense of greenery and soften the appearance of the works.
13. Conditions could be imposed, were the appeal to be allowed, including with regard to an arboricultural construction method statement, provision of services details, proposed species and planting specifications. Such conditions have been suggested by the Council. There is no compelling case that with the

¹ Arboricultural Survey and Impact Assessment (October 2020)

provision of further information that landscape feature constraints would be insurmountable or that future maintenance would lead to them being removed. In light of these factors, although mature trees can be sensitive to changes to their rooting environments, I consider that T6 and T7 would not be adversely affected by the proposed development.

14. Works to trees such as T9 and G1 under common law rights are outside the scope of this appeal.
15. Notwithstanding this, the proposed development would unacceptably harm the character and appearance of the area. It would be contrary to Policy EN20 of the Local Plan², and CS7 of the Core Strategy³ as well as the Design SPD⁴. These, in part, require schemes to be in sympathy with the appearance and character of the local area and patterns of development.
16. The development would not be contrary to Policy EN1 of the Local Plan as were the appeal to be allowed landscaping conditions could be imposed and the scheme would avoid the loss of important trees.

Thames Basin Heaths Special Protection Area (SPA)

17. The site falls within 5 km of the SPA. The SPA comprises an area of lowland heath and woodland supporting a characteristic landscape and distinctive flora and fauna under threat and in decline. It is designated because of the presence of breeding populations of certain birds. These birds nest on or near the ground and as a result they are very susceptible to predation and to disturbance from informal recreational use, especially walking and dog walking.
18. There is a reasonable likelihood that the SPA would be accessed for recreational purposes by future occupiers of the development. Although small in itself, this may lead to the harmful disturbance of the habitat of birds and is likely to have a significant adverse effect on the integrity of the SPA, when considered in combination with other residential development in the surrounding area.
19. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment is carried out. The Habitats Regulations also indicate that permission may only be granted after having ascertained that a scheme will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site.
20. Natural England (NE) was consulted in the course of the appeal. I have undertaken this assessment on a proportionate basis and adopting a precautionary approach.
21. The information before me, including the Thames Basin Heaths Special Protection Area Supplementary Planning Document (Thames Basin SPD), indicates NE considers that the impact of such development on the natural habitats in the SPA can be managed, in combination with on-site access

² Bracknell Forest Borough Local Plan

³ Core Strategy Development Plan Document

⁴ Design Supplementary Planning Document Bracknell Forest Council

- measures and by the provision of enhancements to Suitable Alternative Natural Green Space (SANG).
22. NE has commented that providing contributions are secured through a legal agreement to SANGs and Strategic Access Management and Monitoring (SAMM) they are satisfied that the proposal will not cause Likely Significant Effect on the European Site and its features.
 23. The appellant has provided a planning obligation that would provide financial contributions towards SANG and SAMM in the SPA, calculated with reference to the Thames Basin SPD. The Council have been party to the obligation and have stated that the SANG mitigation would likely be at Shepherds Meadow, but that it could apply the mitigation to any of its SANG where there is capacity and that it could be applied to various funds as specified in the Thames Basin SPD.
 24. Nevertheless, I need to be convinced that the payment would be used for its intended purpose and directly mitigate the impacts of the appeal scheme. The obligation does not stipulate which SANG the contribution would be allocated for and how it would be spent, other than in accordance with the SPD. As such, I cannot be certain that the contribution would ensure that there was alternative green space of appropriate quality and as conveniently located to the appeal site as the SPA.
 25. The Council indicate that they have received a direct payment for the SANG and SAMM financial contributions. However, there is insufficient legal guarantee that the contribution would be used for its intended purpose and that the payment has been properly secured. Therefore, I am unable to give this any weight in my decision.
 26. There is insufficient information to demonstrate that conditions are an appropriate mechanism of securing the mitigation, and that they would meet the requisite tests in Planning Policy Guidance.
 27. Accordingly, I am not satisfied that appropriate mitigation has been secured. The evidence before me indicates that there is potential for recreational disturbance to the SPA through additional activity associated with the proposed development, which has the potential to affect the integrity of the SPA.
 28. Where suitable mitigation cannot be secured the Habitats regulations state that planning permission should only be granted if there are no alternative solutions, that there are reasons of overriding public interest and suitable compensatory measures are secured. There is no compelling evidence to indicate that the appeal proposal is the only solution for such a scheme. Based on the individual merits of the case, the provision of 2 dwellings is not sufficient to amount to imperative reasons of overriding public interest. Finally, no compensatory measures have been put forward.
 29. Consequently, having regard to the Habitat Regulations, permission should not be granted. The proposed development could result in harm to the integrity of the SPA and conflict with the Habitats Regulations, Policy NRM6 of the South East Plan, Policy EN3 of the Local Plan, Policy CS14 of the Core Strategy and the Thames Basin SPD.

Highway Safety

30. The evidence before me, and my observations on site, which I appreciate were only a snapshot in time, indicate that Locks Ride is a relatively busy road with a consistent flow of traffic in both directions as was the junction with Chavey Down Road.
31. The proposed give-way road marking would be set back from the road. The presence of landscaping and boundary treatments outside of the site would limit the visibility of drivers at that point to see traffic and other highway users approaching the site. Where conflicts would arise, vehicles would need to stop and wait on Locks Ride near the junction with Chavey Down Road.
32. The proposed development would widen the existing drive so that it would allow vehicles to pass along much of it whereas they currently cannot. The scheme would formalise priority and there would not be a need for vehicles to reverse along the whole driveway as they would now if a conflict were to arise.
33. There would also be greater space and separate surface to allow pedestrians to take refuge within the site if a vehicle was travelling along the driveway. This would be an improvement from the current situation and the visibility provided closer to the junction would be comparable to at present. No clear evidence of speeds in excess of the 30mph speed limit in place along Locks Ride has been provided.
34. Despite the current access and lane arrangement, and acknowledging third party comments, no clear evidence of road traffic collisions at or close to the site have been provided.
35. While there is a wide verge, there is no footway for much of the route on the appeal site side of Locks Ride. Pedestrians would therefore be less likely to travel along this side of the road than the other side where there is a footway. There are frequent crossovers and therefore vehicles emerging would not be unexpected or unusual.
36. It has been put to me that previous and potential future uses of the buildings on site as commercial stables represents a fallback position. The information provided in relation to this is limited with regard to the duration and extent of the use of the buildings. No certificate of lawful development or planning permission has been put to me and the lawfulness of such a use is not a matter for this appeal. There is no convincing case that were the appeal to be dismissed that there is a real prospect of the buildings operating as commercial stables. Therefore, I give this fallback position limited weight.
37. However, there are existing buildings on the site. Even if these were used for private stabling, they would generate their own traffic, including potentially large vehicles. This would in part offset the traffic resulting from the appeal scheme. The chance of vehicles meeting at the access would not significantly increase. Moreover, there would also be greater opportunity for vehicles to pass and additional pedestrian refuge areas. Even with the presence of roadside trees, given the above circumstances sight lines and access arrangements would be appropriate.
38. As such, the proposed development would not be detrimental to highway safety. It would accord with Policy CS23 of the Core Strategy where it seeks to increase the safety of travel. It would also comply with the Framework where it

requires schemes to ensure safe and suitable access to the site can be achieved for all users.

Cycle Storage

39. Following the removal of the carports from the scheme prior to its determination there is no designated cycle parking provided. The officer report indicates that this could be rectified by submission of details for a garden shed of adequate size. Given the space available at the plots there is no compelling case that cycle storage could not be accommodated or why any provision would require planning permission in its own right. Agreement and provision of these spaces could be secured by planning condition were the appeal to be allowed.
40. Consequently, the proposed development would encourage future occupiers to use a range of transport modes with regard to the provision of cycle storage facilities. It would comply with Policy CS23 of the Core Strategy and Saved Policy M9 of the Local Plan where they seek to promote alternative modes of travel and make appropriate provision for cycles.
41. In addition, it would accord with the Framework where it requires developments to ensure that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up.

Other Matters

42. Even in light of the existing shortfall in the area, given the size of the scheme, the contribution towards housing supply would be small and attracts little weight. For the same reason the weight given to benefits arising from the construction period and future spend of occupants giving support to local services and facilities would be limited.
43. The scheme at 89 Locks Ride involved the demolition of the existing frontage dwelling. It is also located opposite a cul-de-sac that it would be viewed with and not extend beyond the rear plot boundary of the frontage dwelling. There would be limited, if any, views from these properties to the appeal site. The Meadow View and Neuchatel schemes are located where there are already several examples of backland and cul-de-sac development behind frontage properties. Consequently, these are in a different context to the appeal scheme and are not directly comparable to it.
44. The submission includes reference to Plot 2 being a self-build dwelling and there is positive support for the provision of such units in national policy. Notwithstanding this, even if I was to consider that the Council are not meeting their targets for such housing, no means has been put forward to secure the dwelling as self-build.
45. Although the refusal reasons do not include matters such as effects on the living conditions of neighbouring occupiers and the scheme would not give rise to harm with regard to highway safety and cycle storage, a lack of harm would be a neutral factor.
46. The proposal would be contrary to policies relating to the character and appearance of the area and those seeking to protect the SPA. The Framework states existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due

- weight should be given to them, according to their degree of consistency with the Framework.
47. The character and appearance aspects of Policy CS7 of the Core Strategy and Policy EN20 of the Local Plan are broadly consistent with the Framework in regard to the appeal scheme.
 48. Policy NRM6 of the South East Plan, Policy EN3 of the Local Plan and Policy CS14 of the Core Strategy accord with the Framework where it seeks to protect and enhance biodiversity and that projects do not adversely affect the integrity of the SPA's.
 49. When looking at the basket of policies relevant to the scheme, on the basis of the information before me, the most important policies are those relating to character and appearance matters and the SPA. They are not out of date and the presumption in favour of sustainable development outlined paragraph 11d)ii. of the Framework is not triggered.
 50. Therefore, I give the conflict with these policies significant weight and the proposal would conflict with the development plan as a whole.
 51. The proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement. Windfall development is also identified in local and national policy. However, as it relates to only 2 properties the contribution attracts little weight. Without a mechanism to control Plot 2 as self-build this matter attracts minimal weight
 52. The Framework seeks to support economic growth. The scale of the proposal restricts the economic and social benefits from the build and occupation of the dwelling and their weight in favour of the scheme is limited. A lack of harm to highway safety and cycle storage are neutral factors and do not weigh in favour of the scheme.
 53. The proposed development would be contrary to the Framework where it aims to ensure developments are sympathetic to local character as well as protecting the integrity of SPA's. I give this conflict significant weight.
 54. The Council accept that they do not have an up-to-date 5 year housing land supply. Notwithstanding this, the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The SPA is an example of such an area/asset and the proposal is contrary to the relevant policies of the Framework in regard to these.
 55. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
 56. Third parties have raised concerns over the scheme being development in the Green Belt. The Council's officer report refers to the Green Belt boundary running alongside the eastern boundary of the site, while the appellant's submission state that the resurfacing of the access road is the only works within the Green Belt area. As the appeal is being dismissed there is no need for me to consider this matter further.

Conclusion

57. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR