
Appeal Decision

Site visit made on 20 October 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/Q3115/W/21/3268954
Parkside, Henley-on-Thames, RG9 1TX

- 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 T Bingham against the decision of South Oxfordshire District Council.
 - The application Ref P20/S2002/FUL, dated 9 June 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of 8 apartments with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Subsequent to the submission of the statements, I have been forwarded an appeal decision¹ dated 15 September 2021 for up to 150 dwellings at Lady Grove, Didcot, where the Inspector concluded that housing land supply in South Oxfordshire was under 5 years. The decision was forwarded to the Council for comment. In the absence of any further substantive evidence to contradict this conclusion and given this is so recent, I therefore have considered the appeal on the basis that the housing land supply is currently below 5 years.
3. The appeal site has been the subject of a previous appeal decision² in 2003 for a single building, which involved the loss of trees. I have had regard to that decision, whilst noting that the proposal had a different layout and elevational design.

Main issues

4. The first reason for refusal refers to the loss of trees and that the proposal is an extension of the built development into the countryside, outside the limits of the settlement. I have interpreted this concern as the impact of the loss of the trees and the built development's impact upon the character and appearance of the area, both of which are reflected in the second reason, together with the design of the building. Whilst it is stated that the proposal would be contrary to the spatial strategy and housing policies, there is no reference in the case

¹ APP/Q3115/W/21/3272377

² APP/Q3115/A/02/1094881

officer report or Council's statement to the proposal in terms of accessibility of the site to services/facilities, accordingly this is not a main issue.

5. The main issues are:

- the effect of the proposal on the character and appearance of the area, including the settings of the Henley Conservation Area and the listed Friar Park Lodge and Friar Park, in terms of the loss of trees;
- the effect of the proposed building on the character and appearance of the area in terms of its presence, scale, height and massing and;
- the effect of the proposal on the biodiversity of the appeal site, part of a priority habitat.

Reasons

Character and appearance: loss of trees

6. The appeal site includes an area of woodland which is on the edge of Henley. One side of the appeal site is adjacent to Gravel Hill which is one of the approach roads into the town.
7. The appeal site trees complement those on the opposite side of the road, at Friar Park and collectively form an extensive canopy feature on the approach to the town. The appeal site frontage and Friar Park are within the Henley Conservation Area. Opposite the appeal site is Middle Lodge, which marks one of the Park's historic entrances. The Lodge is a Grade II listed building with red brick walling and stone dressings and has a distinctive lodge shape, proportions and modest height, featuring pronounced gables. The listing description notes its association with the Lower Lodge on Gravel Hill. Friar Park is also Grade II listed, and the formal description notes its flamboyant gothic style. This is inconspicuous from the appeal site due to the surrounding trees.
8. The Conservation Area appraisal notes the importance of trees to the setting of the town and those in Friar Park are highlighted. The appraisal also notes the westward view along Gravel Hill. The appellant's tree report suggests that the historic maps show the appeal site has been a garden or parkland for the past 120 years and some of the mature specimens are consistent with parkland.
9. I found that the treed Gravel Hill approach offers a verdant contrast to the built form of the town. The conservation area appraisal notes the town's medieval form of streets with tightly knit buildings, reflecting its importance as a trading port and bridging point.
10. The Chilterns Area of Outstanding Natural Beauty lies on the other side of the Gravel Hill road. This is also notable for its woodland amongst rolling hills.
11. Another side of the appeal site is adjacent to Pack and Prime Lane which leads to Henley College campus and thereafter extends into a public bridleway leading to the village of Rotherfield Peppard. The trees form a woodland edge to the town below, which is continued after the college campus.
12. The appeal site is part of an area covered by a Tree Preservation Order made in 2003 which is based on the collective woodland. I noted on my site visit they extend over a substantial area and this sylvan character is continued further to

the west and south by a wide spread of individual trees. These are the subject of their own Tree Preservation Order, which took effect on 6 February 2004.

13. To one side of the woodland is a private tarmac drive, off which a new access and parking would be created, leading to the new building forming the flats. The proposal would retain trees on the edges of the woodland but would involve the felling of 52 trees.
14. A tree survey has been submitted. There are 218 trees on the appeal site, of which 203 are broadleaved and 15 coniferous. There are 21 different species, and the majority are sycamore, oak, lime, goat willow and ash. Many of the trees are over 15m high and a quarter are over 20m.
15. The survey shows that thirteen Category B silver birch, horse chestnut, lime, ash and oak trees would be removed. They vary in height from 17m to 24m, described as semi-mature and mature, and consequently I found that they have presence and stature. In terms of both their height and species they form a substantial part of the best of the woodland. The individual specimens are attractive, particularly so amongst the appropriateness of the woodland setting.
16. Whilst 37 other trees are Category C and are not individually significant, they contribute to the expansive woodland area.
17. The submitted layout plan shows that the building, road and car parking, would extend over a substantial area, currently occupied by the trees. The proposal would lead to the loss of a wide area of the woodland, spoiling the perception of its expanse.
18. The site itself is generally flat but the surrounding ground drops several metres at Gravel Road and Pack and Prime Lane towards the north eastern corner, on the town side. Whilst there is a raised bank to the Gravel Road frontage, there are points as I saw on my visit, where the extent of woodland is evident through gaps and above the boundary trees, which would be expected to be more so after the leaf fall, as the peripheral trees are generally deciduous. I note that a 3m high dense understorey of planting is proposed but that would take time to establish and may not flourish due to competition from the trees. In any event, the reduction in the size of the canopy would be evident above this 3m high planting. From Pack and Prime Lane, particularly towards the college, I noted that there are gaps which allow views into the site. Consequently, I find that the perception of the continuity and importance of the woodland would be lost, as well as the contribution of the felled individual trees.
19. The diversity of the woodland, would be reduced too, undermining its attractiveness and interest.
20. The submitted layout shows the building would be close to the remaining trees on three sides. Consequently, the building, road and car parking would leave minimal space for any significant replacement planting.
21. The trees reinforce the sense of containment of the town into the lower slopes below and also provide an attractive setting. The proposed building, access and parking spread over a large area resulting in substantial loss of trees, harming the setting and approach to the town.

22. The Conservation Area boundary includes both sides of Gravel Road for a considerable length, extending beyond the appeal site, taking in the road edges which form the treed approach into the town and the edge to Friar Park. The felled trees would be outside the Conservation Area but would reduce the expanse and significance of the woodland canopy. This would spoil the outward views from the Conservation Area, harming its setting as well as reducing the sylvan setting of the listed lodge. However, it would have minimal impact in terms of the parkland setting of Friar Park as the building appears self-contained and similarly, I have not been made aware of a historic or cultural connection between it and the appeal site.
23. The woodland does compliment the almost adjacent AONB. However, I find that the reduction in canopy would be immaterial to its setting as the designation extends over a substantial area.
24. Whilst the proposal would provide the opportunity for tree management, this would not offset the loss of so many specimens. I note the tree survey suggests that only trees well within the site would be removed. However, I found that the gaps in the periphery allow views particularly so of the taller specimens. Indeed, the collective canopy of the trees is a notable feature.
25. I note the 2003 appeal Inspector concluded that the loss of the trees would only have a slight adverse impact on the setting of the Conservation Area and less so in the longer term with replacement planting. However, that decision was in 2003 and the trees would be taller and more important now.
26. I therefore find that the proposal would harm the character and appearance of the area. The 'PPG Tree Preservation Orders and trees in conservation areas' states: Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Paragraph 174 of the National Planning Policy Framework (the Framework) highlights the benefit of trees. Similarly, paragraph 131 of the Framework states that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change.
27. ENV1 of the emerging South Oxfordshire Local Plan (ELP) states development will only be permitted where it protects and where possible enhances landscape features including trees. Policy DSQ1 of the Joint Henley and Harpsden Neighbourhood Plan Final Submission Version (NP), requires development is sensitive and makes a positive contribution to the local character. Policies D1, C4, C9, G2 and G4 of the South Oxfordshire Local Plan 2011 and Policies DES1 and DES2 of the ELP seek to enhance local character. The proposal would therefore be contrary to these above policies and advice in the PPG.
28. I have found above that the proposal would harm the settings of the listed building and conservation area. Paragraph 199 of the Framework requires that great weight is given to the conservation of heritage assets. Paragraph 200 requires consideration of the setting to the significance of assets, when assessing impacts. The proposal would be in conflict.

Character and appearance: the presence of a building and the design

29. Aside from the impact of the removal of the trees, the Council expresses concern that the proposed building would be an intrusive extension beyond the

settlement limits. The houses on Pack and Prime Lane are close by, at 48m away as indicated on the appellant's annotated map. Parkside is a cul-de-sac which serves 5 other houses which are large and detached and are further away from the town than the appeal site. However, the Inspector for the 2003 appeal case considered the woodland would logically be regarded as part of the countryside. I concur and this detailed appeal proposal needs to be considered in relation to this context.

30. The proposal is for a large building in terms of its width and length combined with a two and a half storey height. The submitted layout shows this substantial building would be very close to the remaining trees so that it would appear cramped: the proposal would lack the open grounds to offset the size and height of the building. In contrast the other houses in Parkside have large open grounds.
31. The front elevation shows that gables /dormers would break up its expanse and the design has a harmonious symmetry. However, the side elevations have limited features and the bulk of the building would be readily apparent, thereby appearing overly dominant. Similarly, the rear of the building would lack the symmetry and interest of the front so that its length and bulk would stand out. The other dwellings in Parkside have more modest and traditional widths which are depicted on the submitted site plan.
32. The submitted cross sections show that the front of the building would not be prominent from some points along Gravel Way due to the difference in ground levels. I find that the building would be sufficiently distanced from the Conservation Area and AONB to avoid any harm.
33. However, from several points on Pack and Prime Lane (outside these designations) the building would be evident, and the impact would be apparent. The building would appear bulky and cramped against the remaining trees. I therefore find that the proposal would harm the character and appearance of the area.
34. I note the submitted Design and Access Statement describes an evolving design to try to address previous concerns, however the scale and footprint of the development would be harmful. I also note that both parties comment on appeal decisions for residential development elsewhere in Henley and Chinnor, but I do not find them comparable to the particular circumstances here.
35. Policy DSQ1 of the NP requires a positive contribution to local character, similarly ENV1 of the ELP protects the landscape setting of settlements and Policies DES1 and DES2 of the ELP seek to enhance local character and similarly so do Policies D1, C4, C9, G2 and G4 of the South Oxfordshire Local Plan 2011. Paragraph 126 of the Framework requires the creation of high quality, beautiful and sustainable buildings. Paragraph 130 refers to the need to establish or maintain a sense of place and for development to be sympathetic to local character and be visually attractive. The proposal would be contrary to these policies.

The effects of the proposal on biodiversity

36. Both parties acknowledge the site is part of a priority habitat being lowland mixed woodland and such habitats are recognised by the law for their importance. The site has also been identified as an existing green infrastructure

asset, (a green corridor), in the Council's South and Vale Green Infrastructure Strategy as replicated in the Council's statement.

37. The UK Biodiversity Action Plan notes that lowland mixed woodlands have a variety of species at the canopy layer and ground flora, which is reflected here. The submitted ecological survey describes the woodland as semi-natural. It suggests that bat roosting is unlikely, but the trees may well be used for foraging. No protected species were found during a walk-over survey.
38. The proposal would result in the loss of mature and semi-mature indigenous trees over a substantial area. Being long established woodland and bordering the wider countryside, it is likely to be significant to the wider ecosystem, as confirmed by the MAGIC map in the Council's statement which shows the priority habitat extending beyond the appeal site.
39. The loss of trees would remove habitat and foraging for a range of species. The loss of trees, hard surfaces, building, cars and inevitable lighting (through spillage and that essential for safety) would be discouraging and form barriers to the movement of wildlife. In addition, both parties agree that there would be a loss of 4 units using the biodiversity matrix.
40. The submitted ecological survey suggests that bat and bird boxes could offer some mitigation. However, the extent of vegetation would be substantially reduced and therefore the value would be limited as foraging and movement would be impaired. Similarly, stacked log piles/deadwood retention are suggested but this too would be a limited benefit as there would be less remaining ecosystem to integrate with.
41. The appellant has suggested a condition on the promotion of biodiversity elsewhere however it would be preferable to retain this existing habitat as the ecosystem is established and connects with a wider area: considerable time would be needed to establish new habitat and similarly the interaction of species takes time to establish a diverse ecosystem.
42. I therefore conclude that the proposal would harm the biodiversity of the area.
43. Policy CSB1 of the CS and saved Policy C6 of the South Oxfordshire Local Plan seek to avoid a loss of biodiversity. Policy ENV2 of the emerging South Oxfordshire Local Plan specifically mentions priority habitats and species wherein development will only be permitted if the needs and benefits of the development outweigh the adverse effects of the proposal, where the need cannot be met elsewhere. DES1 requires that all new development enhances biodiversity and as a minimum lead to no net loss of habitat. Paragraph 179 of the Framework seeks to protect and enhance biodiversity; criterion (b) highlights priority habitats in such a role. The proposal would be in conflict with these policies.

Heritage and planning balances

44. Paragraph 202 of the Framework states where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate securing its optimum viable use. The proposal would harm the views from the Conservation Area, the setting and approach to the town, its sense of containment and the sylvan setting of Friar Lodge. This harm would be less than substantial. The proposed 8 new dwellings would have

economic benefits in construction and the potential for the occupants to use local services. The dwellings would be small sized and would provide new homes. However, the harm to the setting of the heritage assets would not be outweighed by the benefits.

45. The importance of the trees has been specifically highlighted by the long-standing Tree Preservation Order for their protection and such Orders are made in the interests of amenity. The number and expanse of the lost trees would be a very significant impact, conflicting with the Development Plan, and I attribute this considerable weight. The impact of the building's design would be of limited weight as it would only be seen from a few public viewpoints. Similarly, I find that the biodiversity impact only warrants limited weight due to the potential for some mitigation elsewhere.
46. As evident from the recent appeal decision for 150 dwellings, the 5-year housing land supply requirement is not currently being met, and paragraph 11(d) of the Framework is triggered.
47. The inadequate housing land supply questions the appropriateness of the housing policies but the strategy towards the protection of trees, respecting the character of the area and quality of design is still sound.
48. Paragraph 8 of the Framework provides the three overarching objectives of the planning system: economic, social and environmental. In terms of the economic aspect, the proposal would deliver 8 dwellings which would be a helpful contribution albeit the housing shortfall is only small. The occupants would also be adequately located to use local services and facilities, which would also contribute to the social objective. The 8 flats would also provide accommodation which would help the social need. The Design and Access Statement indicates sustainable design measures would be a contribution towards the environmental objective. However, the impact of the loss of trees would be a very significant conflict, in addition to the design and biodiversity impacts.
49. I therefore conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

50. I therefore conclude that the appeal should be dismissed.

John Longmuir

INSPECTOR