



Appeal Decision

Inquiry Held on 15 - 24 September 2020

Site visit made on 21 September 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/R0335/W/20/3245185

Land adjacent to Newell Hall, Warfield Street, Warfield, Bracknell

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Passmore, Hawksbury Homes Warfield Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 19/00632/OUT, dated 10 July 2019, was refused by notice dated 28 November 2019.
 - The development proposed is outline application for the erection of a 45no. bedroom care home (details of access submitted).
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Decision

1. The appeal is dismissed.

Costs

2. Following the Inquiry an application for costs was made by Bracknell Forest Borough Council against Hawksbury Homes Warfield Limited. This application will be the subject of a separate Decision.

Procedural Matters

3. The application was made in outline with details relating to appearance, landscaping, layout and scale reserved for later determination. Access is the only detailed matter before me for determination.
4. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I gave the main parties the opportunity to comment on the revisions and have taken their points into consideration.
5. I have been provided with a copy of the Council's updated 5 year Housing Land Supply¹ and comments from both parties. I have taken these into consideration when reaching my conclusions.
6. A signed Section 106 Agreement dated 15 December 2020 has been provided which has addressed reason for refusal 4 relating to the need for the provision of a legal agreement to manage the impacts on infrastructure. I will return to this later on.

¹ Bracknell Forest Housing Land Supply (HLS) calculation as at 1st April 2021 (dated 27 July 2021)

Main Issues

7. The main issues are:

- The principle of the proposed care home and whether the location is appropriate, with particular regard to the open countryside and need;
- The effect of the proposed development on the character and appearance of the surrounding landscape;
- Whether the proposed development would preserve or enhance the setting of the nearby listed buildings; and
- The effect of the development on the woodland and the impact of the loss of the trees both within the site and the adjacent surroundings.

Reasons

Location and Need for Specialist Older Persons Accommodation

8. It is common ground between the parties that the development is outside, but adjacent to, the settlement boundary² and therefore conflicts with the development plan. Policies EN8 and H5 of the Bracknell Forest Borough Local Plan (2002) (BFBLP) and Policies CS2, and CS9 of the Bracknell Forest Borough Local Development Framework: Core Strategy Development Plan Document (2008) (CSDPD) seek to direct development to defined settlements and on Allocated sites, protect land outside settlements, protect the defined gaps within or adjoining from development that would harm the physical and visual separation of settlements and only allow development outside the defined settlement boundaries where it would not adversely affect the character, appearance or function of the land, and meet a list of specific criteria, amongst other things.
9. It is also common ground between the parties that there is a need for additional provision of care and nursing home bedspaces. There is a difference however between the parties in the actual requirement. The Bracknell Forest Housing Needs Assessment (HNA)³ highlights a significant projected increase in the population of older persons ages 65+ and an increase in those with dementia and mobility problems. The document states that it is important that the Council's planning policies support the delivery of specialist housing, in particular extra care schemes⁴.
10. I have been provided with a number of documents⁵ which highlight the national need for care homes in addition to the specific issues facing Bracknell Forest⁶ with an ageing population higher than the national average. Taking either the figures of the Appellant or Council, it has been demonstrated that Bracknell Forest has a shortage of care home bedspaces. Despite the disputed matters relating to the proportion of the population over the age of 75, the projected growth and the likely number of those over 75s needing care, I find that the shortage of bedspaces is a potentially significant issue for the area. It has been

² Statement of Common Ground v5 paragraph 2.5

³ Icení Bracknell Forest Housing Needs Assessment: Final Report dated July 2020

⁴ Paragraph 1.23 Icení HNA

⁵ HAPPI3: Housing our ageing population: Positive Ideas June 2016 (CD 9.11) Grant Thornton: Care Homes for the Elderly: Where are we now? 2018 (CD 9.12) and Irwin Mitchell: Planning for an Ageing Population (CD 9.15)

⁶ Bracknell Forest Joint Commissioning Strategy for Dementia 2014 – 2019 (CD 9.9) and Bracknell Forest Local System Review Report: Health and Wellbeing Board 4 – 8 September 2017 (CD 9.10)

highlighted that both parties do not consider it necessary to reach a precise finding on the specific level of need⁷ as in either scenario the shortfall is significant.

11. Policy CS16 of the CSDPD refers to meeting the housing needs of the Community and includes a reference to dwellings designed to meet mobility needs and accessibility principles. Paragraph 184 of the supporting text to Policy CS16 refers to supported accommodation. However, the Policy makes no specific reference to the provision of care homes. I note the limited allocations for care homes within the Site Allocations Plan and emerging Local Plan.
12. The Council have raised concerns over the deliverability of the proposed development. The proposed development would provide 45 bedspaces for care and the Appellant has indicated that it could be delivered on a shortened timeframe. In addition, the Appellant has advised that there has been a potential partner identified, Belmont Healthcare, as well as other interest.
13. Based on the range taken from the Council's and Appellant's figures, I find that there is a demonstrated need for the provision of C2 accommodation within the Bracknell Forest Area which is unlikely to be met without the provision of some new specialist accommodation. In light of the projected levels of unmet need, I therefore give the provision of 45 new specialist accommodation bedspaces significant weight as a benefit.

Character and Appearance

14. The appeal site is located within a wider area of rural landscape. Adjacent to either side is Newell Hall and a single dwelling, and to the south on Old Priory Lane are some sporadic properties. Higher density development is located from Gibbins Lane and beyond to the east and from Newell Green to the west. As such, I consider that the appeal site sits within an area that is distinct from the two more built up areas and therefore forms a legible and important gap within the landscape which serves to distinguish between the two built up areas to the east and west.
15. The appeal site has no formal landscape designation⁸, however it is located within the LUC Landscape Character Appraisal Area C1: Binfield and Warfield Clay Farmland Landscape Character Area⁹. Within this character area key characteristics include 'small deciduous woodlands and well-managed hedgerows provide rhythm and emphasis to views across the landscape' and 'historic manor houses sited within remnant parkland landscapes, often hidden from view behind high fences or coniferous boundaries'.¹⁰
16. The appeal site is heavily vegetated, with both mature and younger trees around the site boundaries and within the site. This significantly restricts the views into the site from Warfield Street itself. Nevertheless, whilst the site is not visually open, its nature sets it apart from the nearby built form and relates positively to the rural, countryside character of this part of Warfield Street. Although the site is overgrown, I still consider that it represents an important

⁷ Paragraph 5.9 Closing Submissions of the Appellant

⁸ Statement of Common Ground v 5 paragraph 2.6

⁹ Bracknell Forest Borough Landscape Character Assessment Final Report Prepared by LUC September 2015 – Figure 4.1 (CD 5.6)

¹⁰ Pages 39 and 40 of the LUC Report

gap between the nearby built forms as well as its importance in the legibility of the adjacent Newell Hall.

17. The appeal site makes a positive contribution to the area in terms of its rural character and distinctiveness from the built form. From Warfield Street and views along Old Priory Lane, whilst the site is largely screened by the frontage trees and hedging, it nevertheless provides a positive visual element within the street scene. There are glimpses through into the wider site which would be fundamentally changed by the introduction of a large building. Within the Landscape Character Assessment¹¹ it is highlighted that there is a need to protect areas of woodland that provide visual screening functions to existing urban edges, particularly along the northern edge of Bracknell and avoid urbanising features that will erode the rural character.
18. I note the location of the site adjacent to the road, as well as the road signs and other accesses in proximity to the site. The site is considered in the Landscape Sensitivity Appraisal under site reference WAR8¹². This document gives the appeal site an overall assessment of landscape sensitivity of Low-Medium overall. It notes that the roadside location detracts from tranquillity and takes into consideration the Warfield allocation to the south of the site. However, it also states that the site contributes to the rural setting to the north of the town... by providing an attractive wooded backdrop and to the treed character of Warfield Street and development on the site could narrow the perceived rural gap between the narrowly separated settlements of Newell Green and Warfield Street.
19. Whilst the movement of cars past the site reduces the tranquillity to a degree a site does not have to be set within a secluded countryside location in order to make a positive contribution to the rural character and landscape. Accordingly, I do not find that the presence of the road nor the commonly found road signs undermine the sites contribution to its surroundings to a degree that would justify the development of the site.
20. The appeal site is viewed within the context of Newell Hall and I accept that views of the site incorporate the frontage car park of Newell Hall from several angles. Rather than finding that this therefore justifies the development of the site, I consider that it highlights the importance of the retention of the rural nature of the site and reads with Newell Hall as associated land as a result of the continuation of the frontage wall. I find that the removal of vegetation from within and around the periphery of the site, and the puncturing of the frontage to allow a formal access, would erode the rural nature of the views which would result in a sense of built form beyond that of Newell Hall.
21. The proposal is in outline with only access committed. Accordingly, the submitted indications of the height, scale and design of the building are indicative only and at this stage it cannot be fully determined the extent of the impact of the proposed care home on the visual character of the surroundings and the landscape. The proposed vehicular access would be located towards the south western corner of the site and from the indicative drawings would lead into the car park. I note the Appellant's intentions to introduce new planting in and around the boundaries of the appeal site. Nevertheless, the

¹¹ CD 5.6 page 44

¹² Landscape Sensitivity Appraisal of Potential Housing and Employment Sites in Bracknell Forest Final Report Prepared by LUC February 2018 (CD 5.9)

introduction of a large building into the site, with a relatively wide access into the front would provide some unrestricted views into the site which would result in a degree of urbanisation and an irreversible loss of the existing positive rural character. Whilst some screening would remain from some angles along Warfield Street, I find it unlikely that views of the development could be screened to a degree that would prevent a fundamental change in the visual character of the appeal site.

22. My attention has been drawn to the masterplan for the strategic allocation located to the southern side of Warfield Street¹³ and an illustrative masterplan for the land between Old Priory Lane and Maize Lane¹⁴. The Warfield Strategic Development Site¹⁵ will introduce over 2000 new homes, a neighbourhood centre, small scale local retail and community facilities, employment areas, open space, Suitable Alternative Natural Greenspace, and schools into the area. Whilst this will substantially change the character of the southern side of the road, its location, although in proximity to the appeal site, would not significantly alter the legibility of the appeal site in relation to the land to the north and Newell Hall. In fact, I find that as a result of the strategic allocation and future development, the remaining 'gaps' and open land play an increasingly important role in preserving the landscape character of this part of Warfield Street.
23. Consequently, I find that the development of the appeal site as proposed would fundamentally and adversely affect the character and appearance of the area by introducing an urbanising feature which would heavily erode the rural character and the distinct separation between the two areas of buildings. This would not be suitably mitigated as a result of the strategic allocation to the south which will remain distinct from the appeal site, nor am I satisfied that this could be sufficiently addressed by any landscaping and new planting that would come forward as part of any Reserved Matters application. Accordingly, the proposed development would fail to comply with Saved Policies EN1, EN8 and EN20 of the BFBP and Policies CS1, CS7 and CS9 of the CSDPD. Collectively these seek to ensure that development retains a clear distinction between built up areas and the countryside and does not adversely affect, and would be in sympathy with, the character and appearance of the landscape amongst other things.

Heritage

24. The appeal site is located adjacent to the Grade II Listed, Newell Hall. This also comprises a Grade II Listed Stable Block, yard, wall and gate piers and a Grade II Listed Wall which runs east – west along part of the frontage of the appeal site also. Newell Hall is a large building of red brick in Flemish Bond with a number of decorative features. It dates from the early eighteenth century with alterations and extensions taking place in the nineteenth and twentieth centuries. The significance of Newell Hall lies in the degree of survival of a fine example of a Georgian country house in its setting. The surrounding land, being undeveloped, highlights its prominence and historical siting within a parkland setting and the appeal site contributes to this setting through its visual and physical links. The building is set back from the road and the front

¹³ Warfield Central Area Masterplan Document February 2015 (CD 4.11)

¹⁴ 20/00214/OUT Illustrative Masterplan (ID13)

¹⁵ Allocated under Policy SA9 in the Site Allocations Local Plan 2013

- boundary comprises a low wall, brick piers either side of the access and painted railings.
25. The parties agree that the level of harm to Newell Hall and its setting would be less than substantial, however the disagreement relates to the level of harm within this categorisation.
26. Newell Hall, although set back from the road, is prominent visually from both directions along Warfield Street and forms a landmark building within the street scene. Since 2002 Newell Hall has been in use as apartments. Although there have been alterations to the property in later years and changes of use, the main building retains its historic charm and legibility. I accept that the frontage is now used for car parking, which is visible from Warfield Street in both directions, however I do not find that this detracts from the historical merit of the property or diminishes the contribution the site makes to its surroundings.
27. The appeal site is located directly adjacent to Newell Hall and it is therefore necessary to consider any historic links and the contribution the site makes to the setting of the listed building. The appeal site provides a semi-rural and verdant backdrop to Newell Hall when viewed from the west and in its current form, although overgrown with a largely screened front boundary, the appeal site makes a positive contribution to the setting of Newell Hall, complementing it without competing with it in visual terms. Its undeveloped nature means that Newell Hall stands alone within this part of the street scene which highlights its prominence, high status and importance resulting from its formal composition, despite the later additions and alterations.
28. Historically, it is necessary to consider the relationship the appeal site has had with Newell Hall over the years in order to understand its significance in relation to the setting of the listed buildings. I have been provided with a series of maps¹⁶ dating from 1841 to 1972 which show the progression of the site in terms of its relationship with Newell Hall and its demarcation. I note that originally the site was not formally enclosed and appeared to form a small part of the wider parkland area surrounding the formal gardens of Newell Hall likely to have been associated with the building. Moving forward into the late 1800s the site appears to have been partly sectioned off and is shown with boundaries. However, it still appears to have a close link with Newell Hall and I note the shading in the 1913 Ordnance Survey Map which supports this.
29. In addition to the progression on the historic maps, I also consider that it is very likely that the appeal site was linked to the formal Newell Hall site by the presence of the gate in the wall. The Council are of the view that the appeal site may have formed a kitchen garden for the Hall, which the Appellant disputes. Nevertheless, whilst the historic evidence cannot say exactly what the land was used for, the linking gate and the mapping gives a strong suggestion that from the outset, and for many years, the appeal site served a functional link to the main property. It appears that the gate between the two sites has been unused for a long period of time however this does not detract from the historic legibility of the two sites. I therefore find that the appeal site makes a positive contribution to the historic legibility and significance of Newell Hall and forms an important part of the wider setting.

¹⁶ Proof of Evidence of Jonathan Mullis - August 2020 – Appendix C Tithe and Ordnance Survey Maps

30. Turning to the listed wall to the site frontage, this is a continuation of the boundary wall to Newell Hall. The garden wall is the taller element before it reduces in height to the West Low Wall and the East Low Wall.
31. The proposed development includes details of access and would involve the removal of part of the wall to provide a new vehicular and pedestrian access which would then be reconstructed in a new position on the other side of the new access¹⁷. The wall shows some signs of structural damage and disrepair resulting from a frontage tree (T1), severe weathering, erosion and spalling¹⁸ and there is an existing access point which is marked by some timber boards which are in a damaged state. There appears to be some evidence of later repair works¹⁹ to part of the wall along the front of the appeal site and parts of it are obscured by overhanging vegetation.
32. Nevertheless, this stretch of wall does contribute to the historic legibility of the appeal site in relation to Newell Hall. The use of some modern materials and the parts which show signs of structural damage do serve to detract from its contribution to a degree. However, I consider that the demolition and rebuilding of part of the wall in a new position would have a much greater adverse impact on the historic character of the setting of Newell Hall than currently and therefore I find that the proposed alterations to this wall would contribute to the less than substantial harm arising from the proposed development.
33. For the above reasons, I find that the appeal site makes a positive contribution to Newell Hall and its setting. The proposed development would see the removal of a significant amount of vegetation, with replacement planting, and the introduction of a large, functional building, which would be partially visible against Newell Hall. This would have the effect of removing the rural buffer, diluting the landmark character of Newell Hall itself by removing its isolation within a wider area of rural land, and significantly impacting on the historic contribution and link between the two sites. Based on the evidence before me, I am not persuaded that careful design, such as a flat roof or replacement planting could sufficiently mitigate against these adverse impacts.
34. The Warfield General Area Masterplan²⁰ includes the land directly to the south of Newell Hall. The masterplan acknowledges that new development within this area will need to ensure that the setting of the listed building will not be adversely affected. Whilst this would result in changes to the visual character of the area around Newell Hall, the land to the south is distinct from Newell Hall and does not have a historical and functional link with it, unlike the significance of the appeal site to its setting.
35. Accordingly, based on the evidence before me, I find that the appeal site has a functional and historic connection with Newell Hall, emphasised by the walling and the presence of the linking gate. It therefore makes a positive contribution to the setting of the Hall, emphasising its landmark nature and providing a verdant frame to the formal Newell Hall site. The development of the appeal site would therefore undermine the historic legibility of the site and would

¹⁷ This would require a Listed Building Consent application to the Council and at this stage the Council could not confirm that such an application would be approved.

¹⁸ Conisbee Structural Report dated 17 August 2020 – Appendix C of Heritage Proof of Evidence from Thomas Copp

¹⁹ Heritage Proof of Evidence – RPS Group – Thomas Copp – 18 August 2020 -Paragraphs 3.52 – 3.65

²⁰ CD 4.11

result in less than substantial harm to the setting of the listed building and associated listed structures, including the harm arising from the relocated wall. Taking the above into consideration, I conclude that the level of harm in this instance would be at a mid-point on the scale of less than substantial harm. Accordingly, in line with Policies CS1 and CS7 of the CSDPD, Saved Policy EN20 of the BFBLP, paragraph 202 of the Framework and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, this harm must be weighed against the public benefits of the proposal, which I will undertake in a later section.

Trees

36. The appeal site is currently heavily vegetated. There are a number of mature trees located around the site boundaries as well as within the north western corner. The front boundary with Warfield Street has a large hedge as well as the trees. Within the majority of the site are self-seeded trees, nettle and brambles. The site itself is overgrown. It is covered by a woodland TPO 1260²¹ which protects all of the trees within the area marked on the TPO plan. The TPO was applied in order to maintain the visual amenity the trees afford to the area.
37. The proposed development would necessitate the removal of some of the trees within the site, namely T1 (Tree of Heaven located to the very south west corner of the site), T2 (Pine on the roadside boundary), T8 (Hazel also on the roadside boundary), part of H10 (Laurel and Privet Hedge to the front boundary), W37 the internal self-seeded trees comprising young Ash, Hawthorn, Goat Willow, Hazel and Birch trees) and G38 (a group of Goat Willow set back from the roadside and hedging). The parties are in agreement that the removal of T1 would not be harmful.
38. The Appellant advises that the removal of T1, T2 and T8 from the site frontage is required to enable the provision of the main vehicular and pedestrian access into the site. Tree T2 has been classed by the Appellant as a Category B tree²². I have been directed to The British Standard²³ which states that 'when determining the appropriate category for any given tree, group or woodland, the arboriculturist should start by considering whether the tree falls within the scope of category U. Assuming it does not, the arboriculturist should then proceed on the presumption that all trees are considered according to the criteria for inclusion in Category A. Trees that do not meet these criteria should then be considered in light of the criteria for inclusion in Category B'²⁴. It then goes on to state that trees of generally high quality or value should not be downgraded as a result of minor imperfections²⁵.
39. Tree T2 is prominent and highly visible from Warfield Street for some distance in both directions and makes a positive contribution to the character of the area. In the Statement of Common Ground, the parties agree that there are no apparent defects²⁶. Appendix 2 of the Arboricultural Assessment and Method Statement lists the Tree Schedule and Explanatory Notes and in relation to T2

²¹ TPO 1260 issued on 9 November 2017 and confirmed on 8 January 2018.

²² Barrell Tree Consultancy Arboricultural Assessment & Method Statement dated 17th September 2019 19156-AA-CA Appendix 2

²³ BS 5837:2012 BSI Standards Publication: Trees in relation to design, demolition and construction – Recommendations (CD 12.2)

²⁴ BS 5837: 2012 paragraph 4.5.5.

²⁵ BS 5837:2012 paragraph 4.5.6.

²⁶ Statement of Common Ground – Arboriculture

it identifies that it is ivy clad with a slight lean. Taking into account the guidance contained within BS 5837: 2012 (Table 1), I find that the Council's approach that trees should be category A from the outset is correct. Based on the evidence before me and an inspection of T2, I consider that the ivy and slight lean are only minor defects, and I am not convinced that this would mean the tree would have a likely lifespan of less than 40 years. Accordingly, it is my view that this tree is a Category A tree which makes a positive contribution to the visual character of the site and its surroundings.

40. Tree T8 is the Hazel tree. Within the Statement of Common Ground: Arboriculture it is agreed between the parties that T8 makes little contribution to the wider character of the area but is a typical component of native woodland. Similarly, H10 the Privet and Laurel Hedges have been identified as an overgrown evergreen hedge and the removal of part of it to facilitate access would be unlikely to be harmful in arboricultural terms.
41. Turning to the interior groups of trees known as G38 and W37 these cover the majority of the site along with ground coverage of nettles and brambles. Group G38 comprising an area of Goat Willow are identified by the Appellant as a Category C of poor quality. The trees within W37 are young, self-seeded and are dominated by Ash trees with other species present. Due to the density, coverage and overall number of trees present in this group however, it has not been possible to determine exactly what percentage of these are ash trees. The Appellant has categorised this area as a Category C wooded area.
42. It has been highlighted that there is evidence of ash dieback within this area which would have implications for tree coverage and is likely to result in a large proportion of these trees being affected and decline. Accordingly, there is a high likelihood that many trees within the W37 group will be affected and could experience leaf loss, dead branches and infection. The proposed development would remove this area of trees and would introduce replacement planting in and around the site. Nevertheless, whilst I do not dispute that there is evidence of ash dieback within the site, the extent or timeframe of the loss is not fully known. I also note the advice from the Forestry Commission²⁷ which states that in some circumstances, local effects on landscapes and woodlands might be gradual and mitigated by a small proportion of tolerant trees, and by other tree species taking the place of susceptible ash trees. Within this group of trees there are also goat willow, birch, hazel, hawthorn, apple, sycamore and cherry trees which would have the opportunity to flourish in the place of lost ash, however I accept that this may take many years. Nevertheless, the development of the site for a care home would remove all opportunity for any reseedling and growth in the future.
43. The Council have identified the site as 'emergent woodland' due to the natural progression of native tree establishment that has occurred. I have been provided with a series of aerial images ranging from 1993 to 2018²⁸ which show the progression of vegetation on the site over the years which, in my view, justify this classification and I find it reasonable to refer to the site as an emergent woodland.
44. The Council have raised concerns with the potential for pressure to remove some of the remaining trees within the appeal site. Some of the retained trees

²⁷ Department for Environment Food and Rural Affairs – Forestry Commission: Managing Ash Dieback in England

²⁸ Appendix 01: Appendices to the Proof of Evidence of Jan Polnik, Principal Tree Officer of Bracknell Forest Council

would be in proximity to the windows in the care home which would have the potential for overshadowing, and I consider that there is a realistic prospect that there could be potential for future issues in terms of tree works. However, I am mindful that the appeal proposal is in outline at this stage and therefore the location and positioning of the windows and whether they are single or dual aspect is not a matter which has been committed at this stage and is therefore potentially subject to change from any indicative drawings.

45. Taken collectively, the proposed removal of trees and Woodland Groups, as well as the not disputed T1, would result in a significant reduction in the number of trees within and on the boundaries of the site. This would have substantial implications for the emergent woodland classification and sylvan nature of the site and the positive contribution that it makes to the surroundings as a green 'gap' within the street scene. The proposal includes replacement planting, however this would only go part way to mitigating against this loss, of the trees themselves and the visual character, as they would take a significant amount of time to replicate the mature nature of the boundary trees and the whole character of the appeal site would be changed irreversibly.
46. Accordingly, whilst I accept that a number of the trees within the site will be likely to succumb to ash dieback, I have had regard to the presence of the TPO and therefore give the loss of the trees moderate weight. I find that for the above reasons the proposal would fail to accord with the provisions of Policy CS7 of the CSDPD and Saved Policies EN1 and EN20 of the BFBLP. Collectively, these Policies seek to ensure that there would not be destruction of trees and hedgerows which are important to the retention of a clear distinction between built up areas and the countryside or the character and appearance of the landscape, avoid the loss of natural features which are desirable to retain and enhance the landscape, amongst other things.

Legal Agreement

47. Throughout the Inquiry, the issue relating to the satisfactory drainage of the appeal site following the development, has been discussed and progressed between the Appellant and the Council. I have been provided with numerous plans and correspondence²⁹ showing the progress and culminating with version 18 of the drainage plan. I have had regard to the position of both the Appellant and the Council in their agreement on the drainage matters and, from the information before me, I am satisfied that drainage matters in relation to easements, technical evidence, impact on trees and legal agreements have been satisfactorily addressed and it has been demonstrated that the site can be drained suitably.
48. The submitted Section 106 Agreement³⁰ makes provision for a biodiversity/Open Space of Public Value contribution, details of SuDS Management Plan, SuDS monitoring fee, the Council's obligations in respect of biodiversity and includes a draft Deed of Easement.³¹

²⁹ Referred to at the end of this decision

³⁰ Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) in relation to land known as Land adjacent to Newell Hall, Warfield Street, Warfield, Bracknell, Berkshire between Bracknell Forest Borough Council and Harrison Housing and Hawksbury Homes Warfield Limited Ref: S106/19/00632/0010148 dated 15 December 2020.

³¹ Deed of Easement relating to Land on the East and South Side of St Michaels Grange, Osbourne Lane, Warfield, Bracknell RG42 6ED between Amanda Jane Johnson-Clarke and Benjamin Bevan Clarke and [name of Grantee] undated as draft.

49. Both parties are in agreement that this meets the necessary requirements arising from the proposed development. I have considered the content of the Section 106 and find that the content is reasonable and fairly related in scale and kind to the proposed development, and I am satisfied that the above contributions have been sufficiently justified and mitigates the potential harm arising from the development in relation to the matters included in the agreement. I have therefore taken this into account when reaching my decision.

Other Matters

SPA

50. The appeal site is located approximately 4.5km from the boundary of the Thames Basin Heath Special Protection Area (SPA). I have been provided with a SPA Position Statement³² signed by both parties. This statement highlights that the parties agree that, due to the proposed C2 use and the likely limited mobility of the occupants, that they would be unlikely to visit the SPA and therefore the development would be unlikely to lead to significant effects on the SPA subject to the use of the property being limited to C2. An appropriate assessment was carried out by the Council and it was found that, subject to the suitable restrictive condition, the impacts would be sufficiently mitigated. As the determining authority, I am required to also carry out an Appropriate Assessment. However, given my conclusions that the appeal should be dismissed for other reasons, it is not necessary for me to progress this.

Tilted Balance

51. The Appellant has raised issues in relation to the status of a number of the development plan policies and whether they are most important policies and whether they should be considered out of date. According to the Statement of Common Ground³³ the Appellant considers the most important policies for determining the appeal to be Policies EN1, EN8, EN20 and H5 of the BFBLP and CS1, CS2, CS7 and CS9 of the CSDPD. In addition, the Appellant also considers Policies CS15 and CS16³⁴ of the CSDPD to be most important policies. The Council consider the Policies referred to in the reasons for refusal to be those which are most important in relation to the appeal proposal. Of these Policies the Appellant contends that a number of these are out of date and thereby the 'basket' of Policies is out of date. I have also been provided with a number of court judgements and appeal examples in relation to this matter.³⁵
52. I have been provided with an updated position on housing land supply³⁶ from the Council which concludes that the Council cannot currently demonstrate a 5 year supply. Accordingly, regardless of the current status of the most important policies, the *tilted* balance would ordinarily apply as a result of Footnote 8 to Paragraph 11 d) of the Framework, as the appeal proposal is providing a form of housing.

³² SPA Position Statement dated 17th March 2020

³³ Statement of Common Ground V5 page 7

³⁴ Further Note on NPPF 11d 'Most Important Policies' – D Bond 7 September 2020

³⁵ Bloor Homes v SSCLG [2014] EWHC 754 (Admin) (CD 7.1); Suffolk Coastal v Hopkins Homes [2017] UKSC 37 (CD 7.2); Wavendon v SSHCLG [2019] EWHC 1524 (CD 7.4); Oxtan Farm v Harrogate BC [2020] EWCA Civ 805 (CD 7.9); Peel v SSHCLG [2020] EWCA Civ 1175 (CD 7.19)

³⁶ Email from Council dated 5 August 2021 and Five Year Housing Land Supply Calculation as at 1 April 2021

53. However, it is necessary to consider the application of paragraph 11 d)i which provides an exception *where policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed...* including, at footnote 7, '*... designated heritage assets...*'. Paragraph 202 of the Framework relates to the consideration of less than substantial harm to the significance of a designated heritage asset and states that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. It follows that this balance should be carried out before concluding on NPPF 11 d).
54. I have found that the proposed development would result in less than substantial harm to the listed wall and the setting of Newell Hall. If the balancing exercise concludes that the harm would be outweighed by identified public benefits, then paragraph 202 of the Framework should no longer be taken to indicate that development should be restricted and the weighted balance in paragraph 11 d) ii should then be undertaken. However, given my conclusions on the heritage balance below, the tilted balance should not be applied in this case regardless of the Council's 5 year housing land supply or the status of the most important policies. As such it is not necessary for me to reach an express conclusion on whether or not the relevant policies are out of date.

Interested Parties Objections

55. Local objections have been received concerning, in addition to the above matters, highway safety and surface water drainage and flooding. It is not necessary for me to conclude on these matters as they would not have impacts on my findings above or alter the outcome of this appeal.

Planning Balance

56. Taking all of the above into account, I have found that the proposed development would be harmful in terms of the character and appearance of the area, the loss of the emergent woodland and that there would be less than substantial harm to the setting of the Grade II Listed Building, Newell Hall. Paragraph 199 of the Framework states that *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* In accordance with paragraph 202 of the Framework the less than substantial harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Appellant has identified a number of economic, social and environmental benefits arising from the scheme.³⁷
57. I have given the provision of a 45 – bed care home significant weight in the planning balance due to the shortfall in spaces and the general projected level of need. The proposal would give rise to economic benefits as a result of new employment opportunities. The proposed development would generate around 50 new jobs for key workers including training opportunities. I find that this would be a benefit arising from the proposal. In addition to the creation of jobs,

³⁷ Planning Proof of Evidence – Mr Douglas Bond – August 2020

- other economic benefits would arise in terms of opportunities for construction workers. This would be a temporary benefit nevertheless would still merit reasonable weight in the planning balance. There would also be economic benefits for the suppliers to the care homes and the reduction in pressures on existing healthcare settings.
58. The proposal would give the opportunity for some local families to secure care for their relatives whilst reducing the need for travel to care homes outside of the Borough which would provide a social and environmental benefit and I accept that the appeal site would be reasonably accessible in this regard. Furthermore, I accept that the provision of this facility may free up some existing housing stock and I do not dispute that the care home would be run to a high standard in relation to safety and infection control.
59. In terms of environmental matters, I have found harm in relation to the loss of the trees and vegetation and the development of a greenfield site. I have concluded that this would not be sufficiently mitigated by the replanting and landscaping opportunities for the remainder of the appeal site. I accept that part of the listed wall is in poor repair due to the pressures from the adjacent tree and the impacts of freeze thaw weathering due to its proximity to the road. However, I do not agree that the demolition and rebuilding of the wall would represent a heritage benefit in addressing the condition of the wall. Given my findings in relation to the emergent woodland, I do not consider that benefits would arise from the removal of the trees for the reasons highlighted above in relation to the ash dieback.
60. In summary, I have given weight to the provision of care home bedspaces, the economic benefits of job provision, construction work and the supply chain and the social and environmental benefits of removing the need to travel further afield for care provision, removing pressures on existing social facilities and allowing local choice for care. I have identified less than substantial harm at the mid-point of the scale in relation to the heritage impacts of the proposed development and similarly I find harm in terms of the loss of the trees and the impact on the character and appearance of the area through the development of the appeal site. Taking all of the above into account, I find that the public benefits do not outweigh the harms that I have identified and accordingly the tilted balance does not apply. I have therefore taken an 'ordinary' balance in this case. Consequently, the proposed development would fail to comply with the Development Plan as a whole.

Conclusion

61. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Melissa Murphy	of Counsel ³⁸
She called	
Ms Jo Male BA (Hons)	Development Manager Bracknell Forest Borough Council
MA MRTPI	
Mr Jan Polnik Dip For	Principal Tree Officer, Bracknell Forest Borough Council
Mr Graham Pockett BA	Parks and Countryside Manager, Bracknell Forest Borough Council
Dip LA CMLI	
Mr Nick Ireland BA	Director (Strategic Planning Team), Icen
(Hons) MRTPI	Projects
Mr Jonathan Mullis BA	Historic Buildings Consultant, Jacobs
(Hons), MA, IHBC,	
MCIfA	

FOR THE APPELLANT:

Mr James Corbet Burcher	of Counsel
He called	
Mr Douglas Bond BA	Partner at Woolf Bond
(Hons), MRTPI	
Ms Louise Piper BA	Associate Partner at Woolf Bond
(Hons) MPhil MRTPI	
Ms Fiona Sharman, BSc	Associate Landscape Architect at Indigo
(Hons) PGdip, CMLI	Landscape
Mr Chris Alder FARborA	Consultant at Barrell Treecare
MICFor	
Mr Thomas Copp BA	Director at RPS Group
(Hons) MA AssocIHBC	
Mr Alex Roberts BSc	Director at DLP Consultants
(Joint Hons) AssocRTPI	

INTERESTED PERSONS:

Ms Maggie Stock	Chair of Warfield Village Action Group (WVAG)
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DOCUMENTS RECEIVED DURING THE INQUIRY

ID1 – Council’s Opening Submissions

ID2 – Appellant’s Opening Submissions

ID3 – WVAG Objection to Care Home – September 2020

³⁸ Now QC

- ID4 – Letter from RPS Ref TC-1000 dated 24 July 2020 including Appendices A – C
- ID5 – Barrell Tree Consultancy Tree Protection Plan Ref: 19156-01
- ID6 – Route for Inspector’s Site Visit Annotated on Drawing Number 911-A-04
- ID7 – SW Drainage Plan RAB2134B/001 Revision 8
- ID8 – Suggested Conditions 17 September 2020
- ID9 – Email from Nick Ireland to Alex Roberts dated 14 September 2020
- ID10 – Council’s response to Conditions
- ID11 – Correspondence from Appellant including Outline Surface Water Drainage Plan Number RAB2134B/001 Revision 13 (superseding Revision 8 above) and Arboricultural Note from Mr Alder, Barrell Tree Consultancy.
- ID12 – Appellant’s response to Conditions and Pre-Commencement Agreement
- ID13 – Warfield Masterplan Application 20/00214/OUT Illustrative Masterplan received 24 September 2020

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- Appellant’s Submissions on Drainage dated 30 September 2020 and Plan R16 (RAB2134B/001/16 (superseding previous versions))
- Additional Core Documents CD 7.20 British Railways Board v Secretary of State for the Environment and CD 7.21 Satnam Millenium Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 2631 (Admin) submitted by the Council on 1 October 2020
- Drainage Legal Note dated 30 September 2020; Drainage Engineer Comments dated 30 September 2020 and Arboricultural Note dated 30 September 2020 submitted by the Council on 1 October 2020
- Letter from Mr D Bond dated 2 October 2020 ref: DB/7985
- Barrell Tree Consultancy Letter dated 2 October 2020 ref: 19156 ARBDrainageNote4-CA
- Letter from Amanda Johnson-Clarke and Ben Clarke dated 2 October 2020 submitted by the Appellant
- Drainage Plan RAB2134B/001/18 (Version 18 contained within v9 of the Flood Risk Assessment)
- Drainage Engineer Comments date 9 October 2020 and Arboricultural Note dated 9 October 2020 submitted by the Council
- Council’s Application for Costs dated 9 November 2020
- Council’s Closing Submissions dated 9 November 2020
- Appellant’s Closing Submissions dated 10 November 2020

Appellant's Response on Costs dated 11 November 2020

Section 106 Agreement between Bracknell Forest Borough Council and Harrison Housing and Hawksbury Homes Warfield Limited dated 15th December 2020

Letter and Appeal Decision APP/R0335/W/19/3242594 Land to the north of Tilehurst Lane, and north of Tile House and Honeysuckle Cottage, Binfield, Reading RG42 5JL from Appellant dated 26 January 2021

Email from the Council and Draft Grounds of Appeal re: Land to the north of Tilehurst Lane, and north of Tile House and Honeysuckle Cottage, Binfield, Reading RG42 5JL received 22 February 2021 in response to the Appellant's letter dated 26 January 2021 and APP/R0335/W/19/3242594

Letter from Appellant dated 23 February 2021 Ref DB/7985 in response to email from Council dated 22 February 2021

Letter from Appellant dated 25 February 2021 Ref DB/7985

Tewkesbury Borough Council v Secretary of State for Communities, Housing and Local Government v R Keene & Sons, Robert Hitchins Limited [2019] EWHC 1775 (Admin)

Extract from Binfield Parish Council Binfield Neighbourhood Plan 2015 – 2026 (January 2016) – Protection of Heritage Assets and Policy BF2

City & Country Bramshill Limited v Secretary of State for Housing, Communities and Local Government and Hart District Council and Historic England and The National Trust for Places of Historic Interest or Natural Beauty [2021] EWCA Civ 320 – submitted by the Council on 6 April 2021

Appeal Decision APP/R0335/W/20/3259307 Scotlands House, Forest Road, Newell Green, Warfield, Bracknell RG42 6AJ – submitted by the Council on 6 April 2021

Appellant's response to Post-Inquiry Submissions on (1) Scotlands House Appeal and (2) Bramshill Judgment - Dated 14 April 2021

Email from Appellant regarding the revised National Planning Policy Framework received 23 July 2021

Email from Council regarding the revised National Planning Policy Framework received 27 July 2021

Bracknell Forest Housing Land Supply (HLS) Calculation as at 1st April 2021 (dated 27 July 2021) and letter from Appellant