



Appeal Decision

Site visit made on 24 January 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/D3640/W/21/3277808

Land Between Larchwood Glade and Devonshire Drive, Camberley, Surrey GU15 3UW

- 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 Forays Homes against the decision of Surrey Heath Borough Council.
 - The application Ref 20/0752/FFU, dated 24 August 2020, was refused by notice dated 24 March 2021.
 - The development proposed is the erection three dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. With its final comments the appellant submitted an executed unilateral undertaking (UU) dated 14 December 2021. The Council was given the opportunity to comment on it, having already commented on a previous draft. No comments were received. The appellant states that the UU 'has now been agreed by the Council' but I have not been provided with any such confirmation by the Council. However, it is a UU and I have had regard to it in my decision. It contains planning obligations with regard to the Thames Basin Heath Special Protection Area, which I deal with in 'other matters' below, and a draft woodland management plan, which I deal with in the first 'main issue' below.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area, having particular regard to its effect on protected trees and its layout and form; and
 - the living conditions of future occupiers, with respect to overshadowing and external amenity space.

Reasons

4. The appeal site is a large parcel of undeveloped land between the ends of two residential cul-de-sacs at Devonshire Drive and Larchwood Glade, south of some houses¹ fronting the A30 London Road. It is mostly covered by tall, mature evergreen Scots pine trees. A smaller part would be developed with three detached two-storey houses and gardens, accessed by extending one of

¹ Including a property in use as flats

the cul-de-sacs. The remainder of the site would be managed as woodland and for ecology.

Character and appearance

Trees

5. The appeal site is in the Western Urban Area² (WUA) which historically included extensive pine tree woodland plantations. In places, these swathes of trees have been eroded over time including interspersed within a patchwork of suburban residential development. Nonetheless, the wooded character of the site is still clearly evident and as such it is in the Wooded Hills Character Area (WHCA). The trees are protected by an area Tree Preservation Order³.
6. Dense mature vegetation, including large trees, are features and key characteristics of the WHCA though, as I saw, often now reduced to rows of trees along road or railway corridors. Even if it is not a remnant of a pine plantation, the extensive, homogeneous block of mainly Scots pine trees on the site is locally distinctive and a dominant local landscape feature. Individually and collectively these trees make a significant positive contribution to the visual amenity of the area and can be observed as such in short and longer distance public views from nearby roads.
7. The development would directly affect, by their removal, almost a quarter of the approximately 200 trees assessed by the appellant. This would be a substantial reduction in the number of trees. More than two-thirds of the trees lost would be Scots pine trees and more than three-quarters of the trees lost would be higher category B trees, including all but two of the Scots pines. Albeit, individually, mostly in the lowest B sub-category, these trees are nonetheless 'of moderate quality and value' and 'in such condition as to make a significant contribution'. Moreover, in my view, they also have significant visual amenity value collectively. Accordingly, there would also be a notable reduction in the prevailing species and quality of trees on the site.
8. Most of the confirmed tree removals would be within that part of the site to be developed, leaving a narrower perimeter of trees on two sides. However, the extent of internal hollowing out of trees to create a pocket of open space to facilitate the development would unduly diminish the density of trees on the site and, in particular, detract from the continuity and aggregation of the distinctive tall Scots pine tree trunks and canopies across the site. This diminution of trees would be at odds with the intrinsic form of this block of trees and unduly erode its integrity, causing a significant loss of visual amenity. Many of these trees would be lost from parts of the site closest to its boundaries with Devonshire Drive and Larchwood Glade and would, therefore, be most apparent in public views from these roads, including between or over existing houses and across gardens or lower intervening planting.
9. Most of the Scots pine trees on the site are approaching the end of anticipated life expectancy, a few within 10 years. In due course natural processes will likely lead to different conditions on the site. However, most of these trees have between approximately 10 and 20 years longevity, some 20 to 40 years, and most are in a fair condition. In particular, while many of the Scots pine trees to be removed are in poor condition, many are in fair condition with 10 to

² Western Urban Area Character Supplementary Planning Document, May 2012 (the WUA SPD)

³ TPO ref 7/71 – area A7

20 years life. Even though they have not been managed for some time, most of these trees would, therefore, continue to make a significant positive contribution to local visual amenity for a meaningful period of time.

10. The draft woodland management plan (draft WMP) would secure new planting and future management of trees at the site for a minimum of 20 years. However, it aims to remove 'less desirable and non-characteristic' trees in circumstances where the otherwise 'high proportion' of Scots pines, even if they are of lower ecological value to other trees, is unsurprising and to be respected given their location in the WUA and WHCA. Moreover, it seeks to introduce a 'bias' towards 'more appropriate species' and a 'more mixed broadleaf character'.
11. While this would achieve some biodiversity and ecology net gains, the number of broadleaf trees to be planted, combined with the quantity of Scots pine removals, would fundamentally alter the stock of trees on the site. It would result in trees distinctly different in form and appearance to the Scots pines and detract from the individual and collective historic or contemporary visual amenity value of these trees. This would be at odds with a defining characteristic of the WUA and WHCA. Accordingly, the draft WMP would not provide appropriate or satisfactory mitigation.
12. While the UU provides for future iterations to the draft WMP to be agreed with the Council, there is no substantive evidence before me that a final form of WMP could be resolved that was more reflective of the WUA and WHCA, or that it would successfully integrate with the proposed development. This matter cannot, therefore, reasonably be left to the UU or relegated to approval of details by condition post planning permission.

Layout and form

13. The large, detached houses in large plots south of the A30 have no meaningful intervisibility with the site but are, nonetheless, representative of the distinctive, generally lower density layout of residential development in the WHCA. In clear contrast, Devonshire Drive and Larchwood Glade are higher density sub-urban residential estates with smaller detached houses and plots. While some houses have been extended to reduce gaps between built form, it does not alter plot sizes, and both estates are set within broad envelopes of open land with distant horizons, either with trees on the site behind or next to more sporadic individual trees or against a backdrop of more distant trees. Consequently, and notwithstanding the proximity of these houses to the site, both estates are, unsurprisingly, in different character areas of the WUA.
14. Three small and tightly spaced houses, including two directly opposing each other, on small, regular shaped plots would be inserted into the site, surrounded by existing or proposed trees. Such a tight, enclosed spatial and visual relationship between trees and this layout of built form would be manifestly out of keeping with the prevailing nature of residential development in the WHCA and, in any event, in these respects with both cul-de-sacs. Moreover, while the layout and built form, taken in isolation, would at least have more in common with the houses in Larchwood Glade, it would instead be sited closer to and be out of keeping with the generally larger houses and plots in Devonshire Drive.

15. There is, therefore, no justification to 'transition' the site by importing an alien layout of built form, more akin to a different character area, and merge it into the WHCA. Infiltrating the WHCA in the manner proposed would unduly dilute the distinctive cohesiveness of this part of the WHCA and in turn, degrade the value the WUA.
16. Combined with the tree removals and the, albeit narrow, gap at the site entrance, the incompatibility of the proposed layout and form of development would be particularly evident in views from Devonshire Drive. Moreover, during night time external and internal lighting on the site, including vehicle headlights, would be conspicuous where there is currently darkness. While the compact layout of built form seeks to minimise tree loss, it would, nonetheless fail to integrate the development into its surrounding context and, no matter how close to the adjoining development, lead to urbanisation of the site. New planting would not alleviate the fundamental incongruity of the development in these regards and would, by itself, take many years to have any meaningful screening effect. A lack of greater public visibility does not diminish the inherent incompatibility of the proposal in layout and form.
17. I have been referred to an appeal decision⁴ for housing development at one of the properties south of the A30. The reference to 'atypical' and a 'spur' in paragraph 12, and in relation to adjoining character areas, was informed by the particular location of that site, including as part of a row of large houses and flanked by other houses either side. These were part of the visual context to that site (see also paragraph 13). Similarly, the Inspector's finding in paragraph 20, in relation to that sites surroundings, needs to be properly understood in the context of paragraph 18. Here the Inspector found that the site was at 'an extremity' of the WHCA where 'the characteristic features' of that particular part of the WHCA 'become less evident'. Though near that site and that end of the WHCA, the current appeal site is not at an 'extremity' and the extent of trees on it is significantly greater. This other development is not, therefore, directly comparable and that appeal decision can be distinguished from the circumstances of the current appeal.
18. Taking all of the above into account, I find that the development would cause significant harm to the character and appearance of the area, having particular regard to protected trees and its layout and form. Accordingly, it would not comply with the Council's Core Strategy⁵ (CS) Policies CP2 or DM9. These policies include that development should respect and enhance the quality and character of the local natural and urban environments, protect trees worthy of retention and create a strong sense of place. CS Policy DM9 also requires proposals to reflect measures set out in the WUA SPD and the Council's Residential Design Guide SPD. The development would, respectively, conflict with Guiding Principles WUA2, WUA3, WH1, WH2, WH3, HE1, HE2 and HE3 and with Principles 6.6 and 7.4.

Living conditions

19. The rear gardens of these family sized houses would be acceptable in dimensions and area for external amenity use. Notwithstanding the proposed tree and understorey removals, significant parts of the gardens of all three houses would contain trees or be closely bordered by retained or new trees.

⁴ APP/D3640/W/18/3209110

⁵ Surrey Heath Core Strategy & Development Management Policies, February 2012

While some parts of the gardens would not be directly over-sailed by retained trees, the individual trunks and evergreen canopies of Scots pine trees would, in particular, be tall, elevated well above ground level and overlapping. While they would not physically interfere with useability of the gardens, they would significantly overshadow a substantial part of the gardens.

20. All three gardens would receive 'some sunlight'. However, only one garden would achieve the requisite BRE guidance recommendation for 2 hours of sunlight over 'at least' 50% of the garden on 21 March. The percentage coverage for sunlight rises by 21 June, at a time when gardens are likely to be more actively used. However, the failure in two gardens against the 21 March standard — which I note is said to determine whether a garden is 'adequately sunlit throughout the year' — is catastrophic in one case (0%) and a material shortfall (30.1%) in the other. Moreover, even 1 hour of sunlight on 21 March would not be achieved over 50% of one garden which would still endure a significant shortfall (8.3%). Consequently, not all of the gardens would be 'adequately' sunlit throughout the year and the degree of overshadowing would be excessive.
21. Furthermore, the appellant's overshadowing assessment considers only 'retained existing trees'. It does not, therefore, take into consideration the potential effect of new tree planting and in this regard, it is not 'worst-case'. I appreciate that an outcome of the appellant's draft WMP might be to counteract the overshadowing effect of the Scots pine trees, but for the reasons I have explained in the main issue above, unduly altering the balance towards broadleaf and deciduous trees would be unacceptable. In any event, under the draft WMP there would be more broadleaf trees in leaf during the summer months and the restriction on sunlight as a result most pronounced over a substantial period of time when the gardens are likely to be most actively used.
22. The TPO gives the Council some control over the trees and I have been referred to extracts of relevant Council guidance⁶. However, retained and new trees would be in such close proximity to gardens, that in addition to overshadowing, they would be overbearing, including when deciduous trees were not in leaf. The resulting conditions would be overly oppressive and cumulatively detract from the useability and enjoyment of these external amenity areas. The immediacy and intensity of spatial conflict between the development and trees would not be conducive to domestic amenity use or meet normal expectations of future occupiers.
23. These circumstances would be such that it is likely that future occupiers would wish to prune or fell trees. Once the development exists, I consider that it would be difficult for the Council to resist such reasonable requests. If so, this would exacerbate harm to the character and appearance of the area for the reasons explained in the main issue above. Sufficient sunlight and satisfactory external amenity space are requisites of high quality design and planning in the public interest. These matters cannot, therefore, be left to the personal preferences of any particular potential purchaser. This issue should instead be resolved or obviated through the design and layout of development to begin with and avoid such conflict from the outset or in the future.

⁶ Surrey Heath Borough Council Tree Advice & Guidance, April 2017

24. Considering the above, I find that the development would cause significant harm to the living conditions of future occupiers, with respect to external amenity space and overshadowing. Accordingly, it would not comply with CS Policy DM9. This policy includes that development should provide sufficient (adequate) private amenity space. This policy also requires proposals to reflect measures set out in the Residential Design Guide SPD. The development would conflict with Principles 8.3 and 8.4.

Other Matters

Thames Basin Heaths Special Protection Area

25. The appeal site is within a zone of influence of the Thames Basin Heaths Special Protection Area (the SPA). A significant effect on its population of three species of birds would be likely to occur from the proposed increase in residential development alone, or in combination with other plans and projects, in an area where the additional residents would be within such proximity that they would be likely to visit for recreational purposes.
26. The Council has adopted a strategy⁷ to address this matter. In this case, mitigation measures have been identified for suitable alternative natural green space (SANG) and strategic access management and monitoring measures (SAMM) to reduce the effect of recreational disturbance on the SPA. There is sufficient SANG available and the requisite financial contribution to it would be collected by the Council under the Community Infrastructure Levy (CIL). The UU would secure a financial contribution towards implementing SAMM. The Council considers that on this basis, the proposal would not adversely affect the integrity of the SPA. I return to the SPA below.

Council consultations

27. I appreciate that differing comments have been made by the Council's previous and current tree officers. In preparing the application, and in the appeal, the appellant has largely sought to rely on the former. However, both officer's views are advice. Having made the decision that the Council did, for the reasons that it did, I have considered the proposal and the appeal on its individual planning merits, including having regard to both officer's comments.

Planning Balance

28. The main parties agree that the Council cannot demonstrate a five year housing land supply. I have no reason to find otherwise⁸. As a consequence, and by virtue of footnote 8, Framework paragraph 11 d) is engaged.
29. In terms of benefits, the provision of three dwellings on a sustainably located site within the wider built-up area of Camberley would make a small, but notable, contribution to housing supply. It would be aligned with the objective of the Framework to significantly boost the supply of homes. The social, economic and environmental benefits associated with building and occupying the dwellings, which would be well-designed and high quality in appearance and include a CIL payment, are factors which carry moderate weight in the scheme's favour.

⁷ The Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document, March 2019

⁸ The Council's 'Draft Five Year Housing Land Supply 2020-2025, August 2020' refers to a 4.85 year supply.

30. The draft WMP would not be aligned with the objective of the Council to maintain the character and appearance of the WHCA and the WUA overall, and the UU does not contain a planning obligation for public access to the retained woodland. Accordingly, there is no benefit from both in this appeal.
31. The site is not in a Conservation Area or in the curtilage or setting of a listed building. The proposal would have satisfactory means of access and parking and traffic generation would be acceptable. It would not have an adverse effect on the living conditions of occupiers of existing dwellings. The absence of harm in these regards, or compliance with the Council's development plan or the Framework, are neutral factors in my decision.
32. However, while the Framework recognises that small windfall sites and efficient use of land can make an important contribution to meeting housing requirements, it also seeks to conserve the natural environment, and retain trees wherever possible, and achieve well-designed places. The proposal would not add to the overall quality of the area or be visually attractive in layout and would not be sympathetic to local character and history or maintain a strong sense of place. Nor would it provide a high standard of amenity in gardens for future occupiers.
33. It would conflict with the Council's relevant development plan policies and diminish the Council's objectives in these respects. These are consistent with aims of the Framework to balance meeting housing needs with these other objectives of sustainable development. Consequently, I give substantial weight to the significant harm that would be caused to the character and appearance of the area and to living conditions.
34. Notwithstanding that the benefits would be aligned with the Framework, and the absence of a five-year housing land supply, the adverse impacts of the proposed development would therefore significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.
35. Since I intend to dismiss the appeal for these reasons, there is no need for me to consider the SPA, or the UU in this regard, any further.

Conclusion

36. The proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.
37. Therefore, for the reasons given above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR