



Appeal Decision

Site visit made on 25 April 2022

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 3rd May 2022

Appeal Ref: APP/X0360/W/21/3286559

**Land at The Garden Cottage, The Ridges/Wellingtonia Avenue,
Finchampstead, Berkshire RG45 6AF**

- 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 Mr & Mrs M Smith against the decision of Wokingham Borough Council.
 - The application Ref 212685, dated 2 August 2021, was refused by notice dated 2 November 2021.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Points of clarification

2. The proposal is for outline permission with all details reserved. A layout plan has been submitted, and I have treated this as illustrative.
3. The appeal site lies between Finchampstead and Crowthorne, at the point where Wellingtonia Avenue becomes The Ridges.

Main issues

4. The Council's Refusal Reason No 4 (RR4) relates to the potential impact on the Thames Basin Heaths Special Protection Area (the TBHSPA). However, the appellants have subsequently entered into a legal undertaking which provides for a contribution to suitable alternative natural greenspace, and there is no suggestion that the form or contents of this obligation are not acceptable to the Council. I am therefore satisfied that any impact on the TBHSPA could be adequately mitigated.
5. In the light of this, the remaining main issues in the appeal are:
 - whether the appeal site would be an acceptable location for the proposed development, having regard to relevant local and national policies relating to the location of new housing development;
 - the development's effects on the character and appearance of the area;
 - the effects on on-site wildlife habitats and biodiversity;
 - and whether a contribution should be made to affordable housing.

Reasons for decision

Locational policies

6. Policy CP11 of the Wokingham Borough Core Strategy (the WBCS), adopted in January 2010, states that proposals outside of development limits will not normally be permitted, except in certain, tightly-defined circumstances. In the present case, the appeal site is outside the limits of any settlement, and thus lies within an area designated as countryside. There is no suggestion that the proposed dwelling would fall within any of the specified exceptions. The development would therefore be directly contrary to Policy CP11.
7. The stated aims of Policy CP11 are to maintain the separate identity of the District's settlements and the quality of the environment. In my view, these aims clearly relate to relevant policies in the National Planning Policy Framework (the NPPF), including those which advocate actively managing patterns of growth (paragraph 105), and recognising the intrinsic beauty and character of the countryside (paragraph 174). I appreciate that the WBCS is of some age. However, that does not make its policies out of date, especially as it is not disputed that the District has in excess of a 5-year supply of land for housing. Based on the evidence before me therefore, it seems to me that Policy CP11 is up to date and consistent with national policies.
8. The appellant refers extensively to the advice contained in NPPF paragraph 80, regarding 'isolated' homes, and the related judgement of the Court of Appeal in the '*Braintree*' case¹. In this context I agree that the appeal site is not isolated, and indeed this point does not appear to be contested by the Council. However, this does not alter the fact that the site is located in an area defined as countryside, where housing development is subject to the restrictions placed on it by Policy CP11. I can find nothing in paragraph 80, or anywhere else in the NPPF, which provides any basis for suggesting that restrictive locational policies such as CP11 should be applied only in locations that are isolated. Indeed such an interpretation would not only strain the meaning of paragraph 80, well beyond that of the actual words themselves, but it would also be at odds with the thrust of other relevant NPPF policies, such as those identified above. In my view, the NPPF clearly envisages that locational policies are often likely to involve an element of restriction, and in a densely populated country such as England, it would be unrealistic to imagine that such policies could be effective if limited to only the most isolated areas. Consequently, I find nothing in these submissions regarding paragraph 80 that could justify giving reduced weight to Policy CP11.
9. In the light of these considerations, I conclude that the appeal proposal would conflict with the locational requirements of WBCS Policy CP11. As a result, it would cause harm to the development plan's housing strategy for the area. In policy terms therefore, having regard to the most relevant local and national policies governing the location of new housing, the appeal site would not be an acceptable location for the proposed development.

Character and appearance

10. The area within which the appeal site lies is a broad belt of undulating, mainly wooded countryside, which surrounds the town of Crowthorne, and separates it from the neighbouring settlements including Finchampstead. Along

¹ Braintree DC v SSCLG, [2018]EWCA Civ 610

Wellingtonia Avenue and The Ridges, the woodland is interspersed at intervals with individual residential properties. However, these for the most part are set well away from the road, and well-spaced within large plots or extensive grounds, and heavily screened by trees and other vegetation. As a result, the built development is subservient to the landscape, and the wooded character predominates. To my mind, this combination of the tree cover and the topography, punctuated by a small amount of high-quality, low-density built development, creates a landscape that is attractive and highly distinctive. In addition to this, Wellingtonia Avenue itself is especially notable for its dramatic avenue of tall hardwood evergreen trees, from which the road takes its name.

11. The appeal site is adjacent to a row of existing properties extending to the west, and The Garden Cottage and one further dwelling are a short way to the north. The proposed new dwelling would relate reasonably well to this existing development pattern. Although the site is on the inside of a bend, its frontage is largely enclosed by trees and bushes, and the site is therefore not particularly prominent. Further back into the plot, some of the trees have recently been cleared, but sufficient vegetation remains to provide some screening.
12. However, in my view, the character of Wellingtonia Avenue and The Ridges is particularly sensitive to further development. In part this sensitivity is due to the high landscape and environmental quality that I have identified, and in part it also relates to the importance of the area's role in maintaining the separation between neighbouring settlements. And in addition, the area's sensitivity is further intensified because of the delicate balance between the prevailing woodland and the amount of residential development that already exists. In this context, it seems to me that any additional residential development, even on the limited scale now proposed, would be potentially significant.
13. In the present case, if the new dwelling and site entrance were laid out as shown on the illustrative plans, the building, driveway and parking area would all be clearly in view from the access point onto The Ridges. Alternatively, if the building were moved elsewhere on the site, further tree clearance would be likely to be required, thus potentially opening up additional inward views from other directions, including from Wellingtonia Avenue. And in any event, the existence of a dwelling on the site would be apparent from the presence of the new entrance. Whilst it might be possible to design an access without the gates or piers shown on the submitted plans, it would not be realistic to avoid the need for a house nameplate and roadside mailbox. I also note that many properties nearby have intercom systems and security cameras, and it seems likely that additional features of this kind would tend to appear over time. Consequently, despite the existing tree cover, the development would be readily noticeable. As such it would change the appearance of the site, from woodland attached to an existing dwelling, to a separate residential curtilage.
14. Overall therefore, the proposed development would urbanise the appeal site, and would represent a further consolidation of the existing built development in the area. The characteristic wooded countryside would be further eroded. Having regard to the already fragile balance between these land uses, it seems to me that the effect would be to tip that balance further, thus undermining both the area's environmental quality and its role as a buffer between settlements.

15. As such, the development would harm the area's character and appearance, contrary to the aims not only of Policy CP11, but also those of Policy TB21 of the Managing Development Delivery document (the MDD), adopted in February 2014, which seeks to protect the character and features of the landscape.

On-site wildlife habitats and biodiversity

16. The appeal site includes mature, semi-natural woodland, and is contiguous with the much larger area of similar woodland that surrounds the residential properties in the area. The site is also close to several locally designated wildlife sites (LWSs), including the Finchampstead Ridges LWS, Fishers Copse LWS, and Simons Wood LWS. The area is therefore an important one for wildlife and biodiversity.
17. Although part of the appeal site has been cleared, there is no evidence that this part could accommodate a dwelling, driveway, parking, and a usable garden area for domestic activities, without encroaching further on the remaining woodland. It therefore seems likely that the development would involve the direct loss of some additional woodland habitat, and would have potential impacts on the adjacent woodland areas, both within and adjoining the site itself, in terms of lighting, noise and human activity.
18. The Council has produced no detailed or technical ecology evidence to support their arguments, and in this regard I agree that the lack of any comment from the relevant officer is somewhat regrettable. However, given the nature of the site and the surrounding habitat, and the established importance of the designated sites nearby, there is clearly some potential for the presence of protected species, either on the site itself or close by. This being so, there is an obvious risk of adverse impacts.
19. It may well be that such impacts could be adequately mitigated. But that would depend on the scale of the harm, as well as the scope for any mitigation measures that would be needed. In the absence of any proper ecological assessment, I have no basis on which to speculate as to whether such measures might be feasible or successful.
20. In these circumstances, this is not a matter that could be left to conditions or reserved matters. This is because, without any further information, there is no certainty that satisfactory details could be secured.
21. I therefore conclude that the proposed scheme would be likely to have an adverse effect on wildlife habitats and biodiversity, contrary to Policy TB23 of the MDD and Policy CP7 of the WBCS, which both seek to protect habitats and species of principal importance for nature conservation.

Affordable housing

22. WBCS Policy CP5 seeks affordable housing from all sites of over 0.16ha. The appeal site exceeds that size. The Council asserts that the need for affordable housing in the District is acute, and I have no reason to doubt that this is so.
23. However, NPPF paragraph 64 advocates that affordable housing should not normally be sought for developments that are not major developments, other than in designated rural areas. There is no suggestion that West Berkshire is a designated area for the purposes of this paragraph.

24. The WBCS is part of the adopted development plan, and developments should therefore comply unless material considerations indicate otherwise. However, the NPPF post-dates the WBCS, and in this respect Policy CP5 is no longer up-to-date or consistent with national policy.
25. It also seems relevant in this case that, despite its size, there is no suggestion that the appeal site is capable of accommodating more than a single dwelling. The fact that the dwelling, if permitted, might be a relatively large one, does not seem particularly relevant. There is no evidence that a large dwelling would have any differential effect on the need or supply for affordable housing than any other.
26. In any event, Policy CP5 appears to relate to on-site provision. As a single dwelling, the appeal proposal is not capable of being split to provide an on-site affordable element. As far as I can see, there appears to be nothing in the policy or supporting text that requires a financial contribution in lieu.
27. In the circumstances, despite the apparent conflict with Policy CP5, a refusal of planning permission on grounds relating to affordable housing is not justified in this case.

Other matters

28. I note the submissions made regarding whether the appeal site constitutes previously developed land (PDL). However, the NPPF Glossary makes it clear that it should not be assumed that the whole of the curtilage of land occupied by a permanent structure should be developed. NPPF paragraph 118 urges that substantial weight be given to suitable brownfield land within settlements, but the appeal site is outside any settlement. Paragraph 119 encourages a proactive role towards land on brownfield registers, but there is no suggestion that the appeal site is on any such register.
29. I also note the contents of the appeal decision relating to 'Land Adjacent to The Ridgeways'². In some respects, my findings differ from those of the Inspector in that case. But each case is to be decided on its own merits, having regard to the evidence presented by the parties in that case. In the context of my conclusions on the present case as a whole, the differences are not significant.

Conclusions

30. The proposed development would not accord with relevant policies for the location of new housing, and would have adverse impacts on the area's character and appearance, and on biodiversity. In these respects, there would be conflicts with WBCS Policies CP7 and CP11, and MDD Policies TB21 and TB23. No support from any other policies has been identified or substantiated. The proposal therefore conflicts with the development plan as a whole. No other material considerations indicate a decision other than in accordance with the development plan.
31. I have taken account of all the other matters raised, but none changes this conclusion. The appeal therefore fails.

J Felgate

INSPECTOR

² APP/X0360/W/18/3216306