



Appeal Decision

Site visit made on 5 April 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday 19 May 2022

Appeal Ref: APP/K0425/W/21/3281933

Nineacres Bungalow, Fingest Lane, Fingest RG9 6QA

- 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 Mrs Leiserach against the decision of Buckinghamshire Council.
 - The application Ref 21/05347/FUL, dated 16 February 2021, was refused by notice dated 14 April 2021.
 - The development proposed is to provide a new access track from the road to the property, to enable the permitted 17/07541/FUL house to take place and to replace the current substandard track.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development stated on the application form. However, it should be clarified that the existing track serves two other properties and would remain in use. As such, the existing track would not be replaced by the proposed track. The appellant has also clarified that the proposed development would be for an access track from Frieth Road, not Fingest Lane, and does not propose the field being used as residential garden. I have determined the appeal on this basis.
3. The Landscape Statement, reference SD4 (LS) includes a layout plan showing a different access point and track route to the proposed development that is the subject of the appeal. For reasons of clarity, in determining the appeal I have had regard to the location and route of the access track as shown on the drawings PD04 Rev C and PD05 Rev B, and not as shown in the LS. However, in reaching my decision I have had regard to the LS insofar as it provides an appraisal of the site context and considers the visual impact of an access track in a similar position to that proposed.
4. The Tree Survey (reference SD11) and Tree Constraints Plan (reference SD12) identify trees adjacent to the existing track, but do not include the trees to be removed to create the proposed access. As such, the information set out within them is not relevant to the proposed development.

Main Issues

5. The main issues are the effect of the proposed development on: -
 - The character and appearance of the area, including the conservation and enhancement of the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty; and

- Ecology and biodiversity.

Reasons

Character and Appearance

6. The appeal site is in a rural location within the Chilterns Area of Outstanding Natural Beauty (AONB). The area is largely characterised by undulating grass fields, interspersed with broadleaved woodlands. The appeal site is a steep, undeveloped field to the south of Nineacres Bungalow. The field has mature conifer trees bordering Frieth Road and is adjoined by similarly undeveloped fields to either side. Aside from some domestic landscaping on the adjoining fields, the area maintains an undeveloped character and appearance that contributes positively to the landscape and scenic beauty of the AONB.
7. The proposed development would form an access track from Frieth Road to Nine Acres Bungalow. The track would mainly be finished in Oxfordshire Stone shingle but would include tarmac from the Road to the access point into the field.
8. I appreciate that the track has been designed to follow the topography of the field, with materials that would be more akin to an agricultural track. However, even when following the contour of the land, significant engineering works would be required to form the track, together with the removal of several trees and a tarmacked area to create the access. The proposed works would fundamentally alter the unspoilt appearance of the site, resulting in a feature that would be at odds with the character and appearance of the area. Consequently, the proposed access and track would have an adverse impact on the undeveloped character and appearance of the area, which contributes positively to the landscape and scenic beauty of the AONB.
9. The proposed access and track would be hidden from wider views on Fingest Lane, however, it would still be visible from the approach on Frieth Road. I acknowledge that to soften the visual impact some planting would be added to the collection of trees along the eastern boundary. However, from what I saw at my site visit, several of the large conifer trees on the boundary with Frieth Road have recently been removed. As such, even with the suggested mitigation to the east, it would still be a prominent feature from Frieth Road, which would be damaging to the character and appearance of the area. In reaching this conclusion, I have had regard to the findings of the LS submitted in support of the proposal.
10. Accordingly, the proposed development would adversely affect the character and appearance of the area and would fail to conserve or enhance, the landscape and scenic beauty of the AONB. Therefore, it would be contrary to the objectives of Policies CP9, CP10, DM30, DM32 and DM34 of the Wycombe District Local Plan 2019 (LP). These policies, in general, seek to ensure development respects the local character and distinctiveness of the area, optimising the development of previously developed land and conserving, protecting and enhancing the natural environment, green infrastructure and the Chilterns AONB. Although not referred to in the Council's reason for refusal, the proposed development would also be contrary to the general design aims, and the policies of section 15 of the National Planning Policy Framework.

Ecology and Biodiversity

11. The 'Revised Preliminary Ecological Appraisal' dated February 2021 (PEA) states that the site is within Hanover Hills Field Biological Notification Site (BNS). This BNS has been designated for supporting a small area of chalk down, bordered on one side by a small mixed woodland. Amongst other matters, the PEA states that the proposed access track would result in the removal of 2-3 Leyland Cypress trees and the permanent loss of 0.055ha of calcareous grassland from the site.
12. Policy DM13 of the Wycombe District Council Adopted Delivery and Site Allocations Plan July 2013 (AP) sets out criteria for development which would harm designated sites of nature conservation. Paragraph 6.8.1 of the AP states that this policy is applicable to sites of local importance, including BNS. The policy states that development will only be permitted where it has been demonstrated that there is no suitable alternative site for the development and, if not, appropriate mitigation or compensation has been proposed. A similar approach of avoid, mitigate and compensate is also set out in 2.b) of Policy DM34 of the LP, when applying it to development proposals that could impact upon biodiversity. Policy DM14 of the AP indicates all developments should be designed to maximise biodiversity by, amongst other things, conserving, enhancing or extending existing resources.
13. As the site is an undeveloped field located within the Chilterns AONB, it is also considered to be green infrastructure. Policy DM11 of the AP seeks to ensure green infrastructure networks are maintained and enhanced, with special attention to the conservation and enhancement of biodiversity, recreation and non-motorised access. Policy DM34 of the LP also states that all development is required to protect and enhance green infrastructure features and networks both on and off-site for the lifetime of the development.
14. The appellant has submitted a feasibility report that provides an assessment of the existing access track, and whether it is adequate for vehicular movements associated with works to replace the existing dwelling at Nineacres Bungalow¹. The report states that the existing track is steep and narrow with no suitable passing places for HGV vehicles. It further states that the track finish is in a bad condition, and the proximity of trees and neighbouring dwellings would mean that the track would not be suitable or safe for HGV vehicles to use. Two statements have also been provided to support the contention that the existing track is unsuitable. The statements indicate that contractors carrying out works on site were unable to use the existing access as it was too narrow and too steep for their machinery. Based on this additional information, the appellant has asserted that the existing track is unsuitable, and a new access track is necessary to serve the consented dwelling.
15. I have had regard to the information submitted regarding the existing access track, however, the scope of the feasibility report and the statements provided is limited. Although I appreciate that larger vehicles would be needed to demolish and replace the existing dwelling, the evidence does not demonstrate that the existing track is unsuitable or unsafe for smaller vehicles and everyday residential use. Also, despite the fact that previous contractors were not able to use the existing track, the additional statements indicate that trees

¹ Planning application 17/07541/FUL- Demolition of existing detached bungalow and outbuildings and erection of replacement 5 bed dwellinghouse with associated parking.

were removed, and the installation of a sewerage system was completed, via the use of the existing access into the field. As such, based on the evidence before me, I am not convinced that the proposed development could not be avoided, and a new access track in this location is necessary, and the only available option to enable the consented dwelling to be built.

16. The PEA includes recommendations for mitigation and enhancement at the site, including measures to avoid damage during construction, and a management regime to increase the biodiversity value of the site as a BNS. With respect to protected species, the management of the land and installation of a log pile as well as bird, bat and dormouse boxes would seek to enhance the protected species on the land. Carrying out works within a specified time or via a sensitive clearance method would also seek to protect reptiles and birds on the site. However, this is on the basis that the proposed access track is necessary and cannot be avoided. Based on the evidence before me, the predominant need for the access track is associated with the construction of the consented dwelling, with insufficient detail on what alternatives, if any, were considered. As such, despite the mitigation and enhancement set out, it is not clear whether the effects of the permanent access track proposal could be avoided.
17. Accordingly, the proposed development would have an unacceptable impact on ecology and biodiversity. As such, the proposed development would be contrary to Policy DM34 of the LP and Policies DM11, DM13 and DM14 of the AP. These policies seek to protect designated sites of nature conservation when there are suitable alternatives to the proposed development, and to maximise biodiversity conservation and enhancement. The policies also seek to conserve and enhance green infrastructure, with attention being paid to enhancement of biodiversity.

Other Matters

18. I have been referred to tracks that have been carried out in the locality, including a track at Lacey Farm (adjacent to the existing access to Nineacres Bungalow), Shillingridge Glamping, Bosemore Park and Swains. However, I do not have full details of the circumstances that led to these proposals being accepted, what policies were considered and when the developments were carried out. I attach limited weight to them as I cannot be sure that they are directly comparable to the appeal proposal. In any case, I must determine the proposal before me on its own merits.

Conclusion

19. The proposed development would conflict with the development plan and there are no material considerations of sufficient weight that would indicate a decision other than in accordance with it. The appeal should, therefore, be dismissed.

M. P. Howell

INSPECTOR