



Appeal Decision

Site visit made on 27 June 2022

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Appeal Ref: APP/V3120/W/21/3284294

Land at Hids Copse, Cumnor Hill, Oxford, OX2 9JJ

- 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 Ms Emma Avraamides against the decision of the Vale of White Horse District Council.
 - The application Ref P20/V3322/FUL, dated 17 December 2020, was refused by notice dated 21 April 2021.
 - The development proposed is for the erection of single detached 'Tree House' dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (1) the effect of the development on the existing trees at the site and any resultant character impacts; and (2) the effect of the development on ecology and biodiversity.

Reasons

Tree Impact and Character

3. The site is covered mostly by deciduous woodland. This woodland is set within a low density and verdant residential area. The area of woodland between these houses is a positive feature for the character of the area.
4. I am aware of a previous appeal at the site reference APP/V3120/A/13/2199574, which was also for a house on this site. The appeal was dismissed, with the Inspector highlighting the adverse effect that a loss of trees would have to the character of the area. However, this appeal scheme does not include any tree loss and so there is a clear difference between the proposals.
5. There is a small partial clearing within the centre of the site, which is where the house is proposed. The house is clearly designed to avoid the loss of trees and instead to co-exist with them. The construction method, including type of hard surfacing and foundations, also is such that the house as proposed should not affect the trees or their roots.
6. The proposal would see the introduction of a dwelling within the site, which would see future residents living within this wooded environment. There would be tall mature trees near the proposed house and this would have an impact on the living conditions. The trees would cut out some level of natural light to the house, for example. There would be potentially slippery surfaces through leaves

- on the ground and also tree debris after windy days. There could also be some damage caused to the house, especially due to storms.
7. Whilst there would be these likely impacts to living conditions of future residents, anyone who moves into this proposed house would likely be attracted by its wooded setting and aware of the potential issues. Furthermore, it is not uncommon for houses to be close to mature trees and residents can address some of these issues like those mentioned above without felling or cutting back trees.
 8. The impact to natural light levels within the house could be more of a concern, but the appellant has provided evidence to show that the light attained would be to an acceptable level. It may be that some rooms and the amenity space area outside the house would still be gloomy at certain times of the year, but overall there should be sufficient levels of light for living conditions not to be significantly effected in an adverse way. It could be that the trees may grow taller which would further effect light, but I have no substantive evidence of the likely consequences of this. It could also be that existing trees naturally die which would result in more light for future occupants.
 9. Overall, the proposed dwelling would not likely result in excessive pressure to fell or cutback trees within the site which could have a detrimental impact to the character and appearance of the area. Furthermore, as the trees are protected with Tree Preservation Order No 12 (Cumnor) then the Council has significant control to ensure the trees preservation, which can be addressed on a case-by-case basis. Nonetheless, the evidence does not demonstrate to me that there would likely be a strong desire by future occupants to fell or cut back existing trees.
 10. The dwelling itself is of a good quality of design which reflects its setting. It is of an appropriate scale and being set within a wooded area would have minimal visual impact. From this perspective, the proposed design and scale of the house is appropriate and would not have an adverse impact to the character and appearance of this area.
 11. On this basis, the proposal is in accordance with policies CP37 and CP44 of Vale of White Horse Local Plan 2031 Part 1. These policies require that development responds positively to the site, be visually attractive, and protect features such as woodland and trees from harm.

Biodiversity and Habitats

12. As set out by the Council, the site has been identified as being priority habitat woodland. Evidence has been provided with the site included on Natural England's Multi-Agency Geographic Information for the Countryside (MAGIC) resource. The appellant does not disagree with this site being classed as a priority habitat. The 'Ecology by Design' Ecology Appeal Statement describes the site as deciduous woodland, which is included on the priority habitat inventory.
13. Paragraph 179 of the National Planning Policy Framework (the Framework) states that plans should "promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing

measurable net gains for biodiversity.” As set out in the Framework definitions, as a priority habitat it is a habitat of principle importance.

14. Core Policy 46 of the Local Plan requires that development will conserve biodiversity in the district. It also sets out that a net loss of biodiversity must be avoided. If there is a loss or harm to habitats then the policy sets out circumstances where a development could still be approved, such as the need or benefit of the development outweighing the adverse effects.
15. The Ecology Appeal Statement submitted by the appellant sets out that the habitat within the appeal site “can be considered to have relatively low intrinsic value when compared with other priority habitat woodlands”. Evidence such as the lack of understorey and limited structural diversity within this patch of woodland has been included with the statement. Nonetheless, this is an area of woodland that appears to have been disturbed infrequently and would have value as a biodiversity habitat. Even if its habitat value is relatively less than other priority habitats, it does not mean that it is of negligible value. As per the Framework requirements for any priority habitats, its value should be conserved.
16. The proposal would introduce a new dwelling into this woodland area, and though of a ‘tree house’ form would cover a significant area of the ground area where there is no current development. Although much of the building would be raised I would regard this as likely to have some adverse impacts to the ground underneath from an ecological perspective.
17. The proposed dwelling would also have likely adverse effects to the remaining woodland areas. Whilst only one dwelling is proposed, the occupants and visitors to this dwelling would likely increase the level of disturbance within the woodland. Indeed, the woodland area around the dwelling would effectively become the external residential areas of the property. This intensification of use, such as for typical residential recreational purposes, would increase disturbance and degrade the ecological value of the woodland.
18. Another issue is artificial light. The appellant has provided details of low level lighting for exterior areas, but light from inside the house would be much more difficult to control. Light spill from internal areas of the proposed house could illuminate significant areas of the woodland which are mainly dark currently, having an impact to the quality of habitat that this area does/could provide. This has, for example, the potential to decrease the suitability of the woodland for foraging bats. This source of light spill would be very difficult to control over time, being that the lighting would come from inside the house.
19. Planning conditions could be used in some circumstances, such as for external lighting, but they are not sufficient to reasonably address all the issues raised.
20. The submitted Ecology Appeal Statement concluded that there would be limited impacts on the vegetation within the woodland which would constitute a negligible loss of biodiversity within the appeal site. From the evidence before me and from my site inspection I would consider the harm from the proposed development to be of greater significance than the appellant has concluded. I have taken into account the enhancements proposed such as the increased woodland management and the proposed woodland and hedgerow planting, but it is my view that for a combination of all of the reasons set out there would still be a net deterioration in the ecological value of this priority habitat.

21. As previously stated, Core Policy 46 does allow for developments to be permitted where there is deterioration or harm to habitats or species of importance in certain circumstances. The proposed development is for a dwelling of an interesting and innovative design, within an accessible location, but the benefits of a single dwelling would be limited and does not outweigh the adverse effects on the relevant biodiversity interest. As stated above, the mitigation measures and enhancements do not sufficiently mitigate or compensate for the likely adverse effects of the proposed development.
22. For these reasons the proposed development would be contrary to Core Policy 46 of the Vale of White Horse Local Plan.

Planning Balance

23. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I am required to determine appeals in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
24. The proposal would provide an additional house towards housing land supply in an accessible location. I note the innovative design as a positive aspect of the proposal. There would be economic benefits through both the construction of the dwelling and the support given by future occupants to local businesses. Considering all the benefits, including those set out by the appellant, it is my conclusion that they do not outweigh the harm caused by the development and are not cumulatively material considerations that indicate a decision other than in accordance with the Development Plan policies.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR