
Appeal Decision

Site visit made on 17 August 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2022

Appeal Ref: APP/H1705/W/22/3291093

Land at Church Brook, Tadley RG26 4AY

- 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 Mr Randolph Black against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 19/03036/FUL, dated 31 October 2019, was refused by notice dated 27 July 2021.
 - The development proposed is erection of 2no. dwellings and associated garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading reflects the change agreed between the appellant and the Council during the course of the original application. The appeal has been considered accordingly.
3. New evidence relating to trees and biodiversity was submitted with the appeal. The Council and other interested parties will have had an opportunity to comment under normal procedures. The new evidence has been accepted on this basis.

Main Issues

4. The main issues are the effect of the proposal on:
 - (a) the character and appearance of the area and Church Brook Conservation Area; and
 - (b) biodiversity and protected species.

Reasons

Character and Appearance

5. The site is located on the periphery of Tadley, beyond the settlement boundary and in the countryside. It is characterised by low density and sparsely patterned development including farmstead buildings. The landscape is characterised by groups of trees and agricultural fields with intervening hedgerows creating a verdant feel.

6. The site is located within Church Brook Conservation Area, which among other things derives some of its heritage significance from this countryside setting. The conservation area appraisal sets out that open spaces are extremely important as they create the pattern of settlement and reinforce its rural character and appearance.
7. In this context, the site is verdant with groups of protected trees, which are part of a woodland and identified on the conservation area plan as being of townscape importance. Consequently, the site makes an important contribution to the rural character and appearance of the area and the heritage significance of the conservation area.
8. The proposal would erect 2no. dwellings and associated garages. In doing so, a significant number of protected trees of townscape importance would be lost. Consequently, the proposal would erode the integrity of the woodland and the verdant feel of the site, urbanising it with built form and domestic paraphernalia to the extent that its contribution to the rural character and appearance of the area and the heritage significance of Church Brook Conservation Area would be significantly diminished.
9. Indeed, there would be a number of Category B trees removed and guidance is clear that trees assessed as Category A or B shall be retained unless the need for the development clearly outweighs the loss of such trees, and that adequate mitigation can be provided.
10. I am satisfied that the trees are of sufficient quality that they should be retained and that it has not been demonstrated that there is an overriding need for the proposal in this particular location¹.
11. There are opportunities for mitigation through replacement tree planting and protection of retained trees. However, such an approach would only serve to soften the built form rather than completely screen it from view, whilst the loss of such a significant part of the woodland would still be perceptible. Consequently, the verdant feel of the site would still be eroded to a harmful extent.
12. Whilst there is a dispute about the site's visibility, I am satisfied following my site visit that it would be sufficiently visible from various points along the road, to the extent that the effects of the proposal would be readily perceptible, especially in winter months when the screening effect of foliage would be reduced. Closed board fencing would be limited in height and therefore limited in effect to the extent that my conclusion about screening would not change.
13. I acknowledge the appellant's contention that dwellings to the south should weigh in favour of the proposal, and that there is a dispute over terminology and whether they are 'replacement dwellings' or some other form of residential development.
14. Notwithstanding, the site and its immediate context retain a sufficiently verdant feel to the extent that the loss of trees resultant from the proposal would still be harmful, as would the intensification of built form and domestic paraphernalia.

¹ As a result of balancing the harm against the benefits in the planning balance later in my decision.

15. The identified harm would not be mitigated by any design conformity between the proposed and existing dwellings because the harm in this case is derived from the fundamental urbanisation of the site and loss of verdant character.
16. Overall, the proposal would harm the character and appearance of the area and Church Brook Conservation Area. Consequently, it would conflict with Policies EM1, EM10 and EM11 of the Basingstoke and Deane Local Plan 2016, the Tadley Design Statement 2004, the Design and Sustainability Planning Document 2018 and Section 6 of the Landscape, Biodiversity and Trees Supplementary Planning Document 2018.
17. Among other things, these policies reflect the principles of the statutory duties set out within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which require decision makers to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas, something I have given considerable importance and weight in my decision.

Biodiversity

18. The site has significant tree coverage and supports a range of biodiversity, including protected species such as bats that likely use the trees as foraging habitat. The ecological assessment and biodiversity impact calculation report submitted with the appeal makes clear that the proposal would lead to the loss of the majority of trees and result in a negative impact. This would be a very considerable net loss in biodiversity, amounting to 57.5% when expressed as a biodiversity metric. Indeed, more biodiversity would be lost than what would be retained and in my judgement this would cause very significant harm.
19. Whilst I acknowledge that the proposal would deliver compensation in form of roosting opportunities for bats and birds, and hedgerow provision, it is not clear that these would be sufficient to outweigh the very considerable biodiversity net loss and very significant harm identified. Furthermore, whilst I acknowledge that the appellant intends to pursue offsite compensation, there is no legal agreement in front of me and it is not clear that such matters can be adequately secured by planning condition. Consequently, I cannot give the prospect of offsite compensation any more than limited weight in my assessment.
20. Overall, the proposal would harm biodiversity and protected species and conflict with Policy EM4 of Basingstoke and Deane Local Plan 2016 and the Council's Landscape, Biodiversity and Trees Supplementary Planning Document 2018. Among other things, these policies reflect the statutory duties set out within the Conservation of Habitats and Species Regulations 2017, the Natural Environment and Rural Communities Act 2006 and the Wildlife and Countryside Act 1981.

Other Matters

21. Whilst I appreciate that the appellant worked constructively with the Council during the application process, I have made my determination on the basis of the proposal in front of me under the appeal.

Planning Balance

22. The extent of the harm identified under the first main issue would be limited to a small proportion of Church Brook Conservation Area. Consequently, the heritage significance of the conservation area would not be eroded to any great extent and the proposal would result in less than substantial harm.
23. Paragraph 199 of the National Planning Policy Framework (the Framework) is clear that great weight should be given to a designated heritage asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
24. Paragraph 202 of the Framework sets out that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
25. The only real potential benefits, other than those already accounted for when concluding on the main issues, concern the delivery of market housing and associated socio economic activity derived from their construction. However, given the limited scale of the proposal these benefits would carry correspondingly limited weight in its favour, even if the need for housing in the locality was significant.
26. It is clear that for the purposes of Paragraph 202 of the Framework, the limited public benefits would not outweigh the great weight derived from the less than substantial harm under Paragraph 199 of the Framework.
27. Whilst the Council cannot demonstrate a five year housing land supply and Paragraph 11(d) of the Framework is engaged, the implications of my findings under Paragraph 202 of the Framework are that the application of policies in the Framework that protect areas or assets of particular importance, in accordance with Paragraph 11(d)(i), provide a clear reason for refusing the development proposed.
28. As such, the presumption in favour of sustainable development under Paragraph 11(d)(ii) of the Framework is not engaged and there are no material considerations indicating that a decision should be taken otherwise than in accordance with the development plan.
29. In this regard, under the main issues, I found harm to the character and appearance of the area and Church Brook Conservation Area, and biodiversity and protected species. Consequently, and altogether, there is conflict with the development plan as a whole.

Conclusion

30. For the reason given, the appeal is dismissed.

Liam Page

INSPECTOR