



Appeal Decision

Site visit made on 8 November 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 17 November 2022

Appeal Ref: APP/X0360/W/22/3291746

Land to the rear of 33 and 35 The Avenue, Crowthorne RG45 6PD

- 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 Ball and Hattersley against the decision of Wokingham Borough Council.
 - The application Ref 211770, 7 June 2021, was refused by notice dated 3 August 2021.
 - The development proposed is the erection of 2 detached dwellings with associated car port.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant details on the appeal form differ from those used on the original application form. Whilst the appellant's agent has confirmed that the appellant details remain the same (on both documents), I have used those included on the application form, in line with procedural requirements. In terms of the site address, I have taken this from the decision notice, as this is more comprehensive than the address included on the application form.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the Thames Basin Heaths Special Protection Area; and
 - whether the proposal makes adequate provision for affordable housing.

Reasons

Character and Appearance

4. The appeal site comprises a parcel of land to the rear of nos. 33 and 35 The Avenue. It is a backland plot, which previously formed part of the gardens to nos. 33 and 35, as well as part of the garden of no. 62 New Wokingham Road to the west. The area is residential in character, with houses typically conforming to a linear pattern of development, with many dwellings benefiting from substantial gardens to their rear. These shared characteristics are particularly apparent along The Avenue and New Wokingham Road, where the

large rear gardens and abundant trees provide a verdant and spacious backdrop to the dwellings. As well as providing a degree of uniformity to the area, these shared characteristics help create a sense of seclusion between the dwellings along each of these roads, which contributes positively to the area's prevailing character.

5. The proposed development would introduce two dwellings to the appeal site. They would be laid out in an "L" formation, with the parking to serve both dwellings located on the southern side of the plot. The dwellings would be accessed via a shared driveway between nos. 33 and 35. This arrangement would contrast with the linear pattern of development which typifies the surrounding roads, which would undermine the prevailing sense of uniformity in the area. The introduction of built form within this land would also disrupt the verdant and open backdrop to the dwellings around the appeal site, which would detract from the positive sense of seclusion which is currently experienced within this land.
6. Whilst the footprint of the new dwellings would be modest relative to their overall plot size, the proposal would nonetheless amount to incremental and piecemeal development, which would tighten the grain of development within the area. The proposal would risk establishing a harmful precedent for backland housing, which would make future applications for similar development difficult to resist. In turn, this could lead to further incremental development within this same location, which would erode the sense of openness, verdancy and seclusion which typifies the land.
7. I acknowledge that Aldworth Gardens to the south of the appeal site comprises backland development off of The Avenue. However, given that Aldworth Gardens is made up of eight dwellings, they are sufficient in number to form a separate and distinct character area from the uniformity that prevails along the rest of The Avenue. In turn, this development appears less piecemeal and haphazard in nature, and is able to integrate more effectively with its surroundings. As such, it would not justify backland development which does not relate well to the arrangement of neighbouring houses. In terms of Our Lady's Preparatory School, whilst this does also encroach into the space between The Avenue and New Wokingham Road, as a school, this has a wholly different character to the development proposed, and is therefore not comparable to the proposal.
8. In design terms, the new dwellings would achieve a high-quality appearance, which would reflect the aesthetic of other houses in the area. However, this is a neutral factor, and not a benefit of the scheme that would outweigh the harm identified above.
9. For these reasons, the development would harm the character and appearance of the area. It would conflict with Policies CP1 and CP3 of the Wokingham Borough Core Strategy (2010) (Core Strategy), which seek to ensure new development maintains the high quality of the borough's built environment, through design which is appropriate in layout and form, and which properly integrates with its surroundings. The proposal would conflict with Policies CC03 and TB06 of the Council's Local Plan¹, which aim to protect the Council's green infrastructure, and which resist the development of residential gardens where it would cause harm to the local area. The proposal would also undermine the

¹ Wokingham Borough Development Plan, Adopted Managing Development Delivery Local Plan (2014)

design principles set out in the Borough Design Guide (2012), which highlight the risk of piecemeal backland development, which can erode the character of an area. Finally, the development would undermine the overarching design objectives of the National Planning Policy Framework (2021) (Framework).

Thames Basin Heaths SPA

10. The appeal site is located in close proximity to the Thames Basin Heaths Special Protection Area (SPA). The SPA has been identified as an internationally important breeding habitat for a number of rare species of bird.
11. The proposed development has the potential to lead to increased recreational use of the SPA, owing to the additional residential units. In combination with other similar small-scale development, this means the proposal could result in increased disturbance to the protected habitats and species found in this area. As a result, it is not possible to rule out likely significant effects on the SPA.
12. Nonetheless, The Thames Basin Heaths Avoidance Strategy sets out measures to help mitigate against the potential effects from new housing. This mitigation is achieved through financial contributions towards the provision of Suitable Alternative Natural Green Space (SANGS), which is aimed at providing an alternative recreation location to the SPA. Financial contributions are also sought towards Strategic Access Management and Monitoring (SAMM), which helps monitor and manage the impact of people using the SPA.
13. Whilst the appellant has indicated a willingness to pay the necessary financial contributions, no planning agreement has been provided as part of this appeal to secure the necessary payments. Without this mitigation, I cannot exclude the possibility of likely significant effects on the integrity of the SPA. Moreover, as the proposed development is for just two dwellings, there would be no imperative reasons of overriding public interest which would justify permission being granted in the absence of adequate mitigation.
14. On this basis, I am left with no option but to conclude as competent authority that the proposal, in combination with other plans and projects, would have significant adverse effects on the integrity of the Thames Basin Heaths SPA. The development would therefore conflict with Policies CP4 and CP8 of the Core Strategy and saved Policy NRM6 of the South East Plan. Together, these policies require new development to protect the integrity of the Thames Basin Heaths SPA, through appropriate mitigation and contributions to relevant infrastructure. In turn, the proposal would also fail to satisfy the requirements of Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended), and Article 6(3) of Council Directive 92/43/EEC.

Affordable Housing

15. Policy CP5 of the Council's Core Strategy requires all residential proposals which cover a net site area of at least 0.16 ha, to contribute towards the provision of affordable housing within the Council's area (where viable). Where onsite delivery is not possible, this contribution will be sought through a financial contribution towards off-site affordable housing. This would need to be secured through a planning obligation.
16. Whilst the appellant has indicated a willingness to pay an off-site affordable housing contribution in connection with the scheme, no planning obligation has been provided to secure such payment. Irrespective of the amount that the

proposal could viably contribute, the proposal would therefore contravene the requirements of Policy CP5.

Other Matters

17. The appellant has cited a number of other examples where backland development has been permitted by the Council. Whilst each case must be determined on its own merits, in this instance, the spacious and verdant character of the houses along The Avenue and New Wokingham Road warrants protection from piecemeal and incremental development, which risks eroding these qualities. As such, these examples do not persuade me that the proposed development should be permitted in this instance.
18. The appellant alleges that the Council cannot demonstrate a five-year supply of deliverable housing land. Nonetheless, and irrespective of whether paragraph 11(d)(ii) of the Framework is engaged, paragraph 219 of the Framework is clear that due weight should still be given to existing policies according to their degree of consistency with the Framework.
19. Paragraph 130 of the Framework is explicit that new development should function well and add to the overall quality of an area. It highlights that development should be visually attractive and sympathetic to local character and surrounding built environment. Paragraph 181 also affords stringent protection to Special Protection Areas, to ensure habitats and biodiversity are sufficiently safeguarded. The content of the Framework therefore reflects the overriding design and ecology principles of the Council's Core Strategy and Local Plan in terms of new residential development. Even accounting for the Framework's objective of boosting the supply of housing, the conflict between the proposal and the relevant policies of the Council's development plan would therefore be attributed significant weight in this appeal, irrespective of the Council's housing land supply position.
20. As mentioned above, the proposal would contribute to the Council's housing stock. Whilst any increase is desirable, the net addition of two dwellings would only be a modest contribution in this instance. Consequently, I consider that the adverse impacts of the development in terms of harm to the character of the area, and to the integrity of the Thames Basin Heaths SPA, would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development would not apply in any event.

Conclusion

21. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR