
Appeal Decision

Hearing Held on 6 September 2022

Site visit made on 6 September 2022

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 December 2022

Appeal Ref: APP/X0360/W/22/3299942

Land at Pineridge Park, Nine Mile Ride, Wokingham RG40 3ND

- 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 Felix Cash against the decision of Wokingham Borough Council.
 - The application Ref 212133, dated 9 June 2021, was refused by notice dated 2 December 2021.
 - The development proposed is the change of use to a holiday park site with 6 lodges, car parking and cycle storage.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to a holiday park site with 6 lodges, car parking and cycle storage at Land at Pineridge Park, Nine Mile Ride, Wokingham RG40 3ND in accordance with the terms of the application, Ref 212133, dated 9 June 2021, subject to the conditions set out in Schedule 1 of this Decision.

Application for costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council's reasons for refusal referred to the effects of the proposal on flooding and on a nearby protected site within the Thames Basin Heaths. The Council is now satisfied that the effects on flooding can be dealt with by the imposition of suitable conditions. A Planning Obligation has been submitted in relation to suitable mitigation of the development's effects on the protected site.

Main Issues

4. The main issues in this appeal are;
 - The principle of the proposal in this location within the countryside
 - Whether the proposal would give rise to undue reliance on car use
 - The effects on the landscape character and appearance
 - The effects of the proposal on trees.

Reasons

Principle

5. The appeal site is a very roughly rectangular parcel of land sitting immediately to the south of Nine Mile Ride (B3430). The site has an existing vehicular access onto Nine Mile Ride. A large part of the site has been used for storage and benefits from a Certificate of Lawfulness (Council Ref, 191296, approved 15 July 2019) for use for the storage of building materials, empty caravans, and ancillary parking of vehicles and machinery. There are houses on the opposite side of the road, residential caravan/mobile home parks adjacent to the site as well as some commercial premises nearby. Beyond these, the area contains substantial wooded areas. The site is beyond the settlement boundary and is viewed as being within the countryside.
6. Policy CP11 of the Wokingham Borough Core Strategy (CS) relates to proposals outside the development limits, within the countryside. It states that, in order to protect the separate identity of settlements and maintain the quality of the environment, proposals outside the development limits will not normally be permitted and then offers a number of exceptions. None of these stated exceptions apply strictly to the appeal scheme, although I note that it could involve the promotion of recreation in and enjoyment of the countryside.
7. A material consideration within this appeal is the fact that a large part of the site can lawfully be used for the storage of builder's materials and empty caravans without any limits on the amount of storage and activity. The appellant indicates that the site could be used in a fashion that would fill it with materials/caravans. At the time of my site visit it contained a number of empty caravans and various items; it was roughly surfaced and visually represented a negative feature within the area. I consider that the appeal scheme must be judged against the possibility of the lawful use of the site being as described by the appellant and the fact that Policy CP11 states that development will 'not normally be permitted'. The existence of the Certificate of Lawfulness can be seen as taking the circumstances of this site outside the norm. Such a lawful use would also be very likely to fail to meet the aims of Policy CP11 to (protect the separate identity of settlements and) maintain the quality of the environment. The proposal for 6 holiday lodges would allow much of the site to remain open, including much of its frontage area, which contains a number of trees close to the road, and would involve the opportunity to add planting within the site. I am aware and have taken account of the fact that the Certificate of Lawfulness does not cover the entire appeal site but in my judgement the appeal scheme would represent a considerable benefit in terms of its effects on the quality of the environment when compared to how much of the site could be used in accordance with the certificate. In these circumstances, I find that the proposal raises no conflict with the aims of Policy CP11 and any conflict with its detailed requirements is outweighed by the benefit which I have set out above. I also find no conflict with Policies CP1, CP3 and CP9 of the Core Strategy (CS), Policies CC03 and TB21 of the Managing Development Delivery Local Plan (MDD).

Reliance on car use

8. There have been 2 previous appeals relating to nearby sites which are referred to in the submissions (Ref APP/X0360/A/14/2214855 dating from 2015 and Ref APP/X0360/C/15/3141001 dating from 2017). These decisions related to the

- use of sites for residential purposes involving mobile homes. Different conclusions were reached in each case relating to whether the uses of the sites would give rise to undue reliance on car journeys.
9. In relation to the appeal now before me, I am aware that the Council does not have a specific policy relating to accommodation for tourists. There was some discussion about types of journeys likely to be made by permanent residents compared to visiting tourists. Tourist accommodation is unlikely to be fully occupied all year round and destinations are likely to differ, for example close access to a GP surgery is unlikely to be a concern for a temporary visitor, whilst it may be a concern for a permanent resident.
 10. I noted the proximity of various facilities that are likely to be used by visitors, including shops, restaurants and leisure facilities. In my judgement, these would appear to be no different than would be normal in any rural area and would not involve excessive journeys. There is also an argument that the likely tourist-based destinations set out by the appellant are very likely to involve car journeys by the general resident populations and to exclude specific tourist-based accommodation for that reason may appear inconsistent, particularly where there are no tourism policies within the Council's Plans.
 11. I do not propose to set out the detailed distances of each and every facility that is referred to in the evidence, nor to the distances that the Council may consider to be reasonable for walking and cycling. However, I have noted these details and have taken them into account. I have also taken account of the proximity of the nearby bus stops, public footpaths and railway stations. In my view, any visitor stopping at the appeal site would have reasonable access to walking routes and to public transport. Their stay in the area may necessitate use of a car for some journeys, including those to leisure/recreation destinations. However, a number of these are nearby and would not involve excessive journeys. In this context, I consider that the proposal would not result in unreasonable reliance and use of cars and would raise no conflict with Policies CP1, CP3 and CP6 of the CS.

Landscape Character and Appearance

12. Nine Mile Ride is a Green Route and the Council considers that the appeal site is within a Valued Landscape. The Council has prepared a Topic Paper 'Valued Landscapes' which was to support the Draft Local Plan preparation. Within the Topic Paper the appeal site falls within an area identified as 'The Forest and Rides Valued Landscape'.
13. There is no specific definition within the NPPF as to what defines a valued landscape. Paragraph 174 of the NPPF states that planning decision should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality within the development plan. The appeal site is not in an area covered by any statutory status in this respect and is not identified within the Development Plan. Its inclusion within the Draft Local Plan in this regard must carry only very limited weight due to the unadopted nature of that plan.
14. In relation to the Green Route, the Council indicates that this means that the route forms part of the Borough's green infrastructure. The NPPF refers to green infrastructure within paragraph 175 and states that plans should take a

strategic approach to maintaining and enhancing networks of habitats and green infrastructure. Whilst noting that this relates to plan-making, I shall seek to address the effects of the proposal on the character and appearance of the Green Route. The lawful use of much of the appeal site is not something that can readily be set aside. It must be accepted that the area within the appeal site can be used without apparent limits for the storage of materials, empty caravans etc as set out in the Certificate. In my judgement, this would represent a significant negative feature for the area, as it does at present. This must form a bench-mark by which to judge the appeal scheme and its effects on the character and appearance of the area. The provision of 6 cabins along with parking and ancillary features (including any paraphernalia; parasols, bikes etc) would represent an improvement to the character and appearance of the whole site, compared to the lawful use of the area covered by the certificate. The proposed development would be set back from the road and so maintain a degree of greenery and visual separation with the main route. A landscaping scheme could be required which would enhance planting within the site. My firm view is that these factors mean that the appeal scheme would represent an enhancement to the character and appearance of the site, and the area, including the non-designated heritage asset represented by the Ride, when compared to the likely effects of the lawful use of the site. Accordingly, I find no conflict with Policies CP1 and CP3 of the Cs and Policies CC03 and TB21 of the MDD.

Trees

15. The appeal site contains a number of trees along the frontage and some trees on the western side, separated from the main body of the proposed development by the existing access road. The wider area, including the appeal site, is covered by a Woodland TPO (No 280/1985). TPO No1566/2017 includes a group of trees just outside the eastern side of the appeal site and TPO 1817/2021 includes a Woodland and Group adjacent to Nine Mile Ride either side of the appeal site's frontage.
16. The Council's objections to the proposal relates largely to the alleged absence of sufficient detail by which to judge the effects of the proposal's effects on trees and the provision of new trees and the consistency of such a proposal with its coverage by a Woodland TPO.
17. The main part of the appeal site is devoid of trees and the lawful use of the site would almost inevitably prevent any natural regeneration occurring within the majority of it. Regardless of the existence of the Woodland TPO, apart from the frontage area, there is virtually no possibility of the site containing any naturally occurring regeneration of plants/trees if the existing lawful use were to continue. The trees within the west of the site are surrounded by mown areas of grass.
18. The appellants have indicated within the submitted plans that planting, including trees, could occur within the appeal site along parts of the eastern side and within the southern part of the site. Along with the proposed cabins and driveway within the site, the proposal contains provision for a cycle store and bin store as well as fire hydrants and bollard lighting. The Council fear that they have insufficient information to determine whether the proposal, including the underground service runs, would have an acceptable effect in relation to existing trees. They would also wish to avoid a situation where

excavations for new tree-planting take place within the root protection areas of trees within the site and immediately outside the site, to the east.

19. I accept that full details of the matters raised by the Council have not been submitted. However, the great majority of the appeal site is free from trees and falls outside the root protection areas of nearby trees. From what I have seen, I am confident that the siting of the proposed cycle store, which would appear to fall outside the root protection area, and the service runs for supplying the cabins with utilities as well as the external lights and fire hydrant, could all be undertaken without the need to intrude within the root protection areas and most of it not even close to those areas.
20. In terms of new planting, there was discussion at the Hearing on the site visit about the existing surfacing material and the likely need for its removal so that any trees could grow. There was also discussion about the location of new trees needing to avoid the root protection areas of existing trees. It seems to me that these are matters that could readily be the subject of conditions; there would appear to be no reason why large sections of the areas indicated for trees by the appellant could not accommodate them. The removal of materials and use of suitable material for plant and tree planting could be included within such conditions, along with the ground levels. With such conditions in place, I consider that the proposal would be unlikely to have any negative effects on existing trees within and surrounding the site and that the site could accommodate additional planting, including trees, which would have a beneficial effect on its character and the treed nature of the wider area. As a result, there is no conflict with Policies CP3 of the CS and CC02 and CC03 of the MDD.

Conditions

21. I have had regard to the advice in the Planning Practice Guidance in relation to the use of conditions. The Council submitted a schedule of its preferred conditions and this formed the basis of the discussions at the Hearing.
22. I shall include a condition which identifies the approved plans so that the approved scheme and site are defined. A condition relating to archaeological investigation is justified due to the likelihood of remains existing. So that the development has an acceptable effect on trees and landscaping, conditions relating to tree protection and the implementation of an agreed landscaping scheme are necessary.
23. A scheme which identifies measure to ensure that a proportion of the proposed development is accessible to disabled people is necessary. So that the site contributes to the enhancement of biodiversity in the area, I shall include a condition which requires the implementation of an agreed scheme of such measures. I shall include a condition requiring the approval of a scheme for external lighting so that the development does not have an undue effect on the character and the area. Due the identified risk from flooding, it is necessary to ensure that the proposed development is undertaken in accordance with the submitted Flood Risk Assessment, including its provisions for a flood warning and evacuation plan.
24. So that future residents are able to park, gain access and store cycles and refuse I shall include conditions which requires these elements of the proposal to be provided prior to occupation. In order to ensure that the proposal is used

in the manner applied for, I shall include a condition which limits the accommodation to short lets for holiday purposes only. The Council requested a condition relating to gates at the site entrance; I shall not include such a condition as gates have already been erected and the access formed in accordance with the relevant planning permission for that purpose, according to what I was told at the Hearing and saw on site.

Conclusions

25. Fundamental to this appeal is consideration of the existing lawful use of the site and the potential for its use in an unrestricted manner. Comparison of the proposal with such a lawful use leads me to conclude that in relation to the principle and the effects on the character and appearance of the area and its effects on trees, the proposal represents an improvement in each case. In relation to car use, I have found that the proposal would not give rise to an unreasonable reliance on cars and also it would remove the likelihood of commercial and HGV use of the site that could reasonably occur with the lawful use of the site. Therefore, the appeal is allowed.

T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

M Green

M Miller

FOR THE LOCAL PLANNING AUTHORITY:

S Taylor

C Hannington

SCHEDULE 1, Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) This decision is in respect of the Location Plan 17_844A_001, Site Layout as Proposed Phase 1 2020-02 501 F, Lakewood Floor Plan, Country Lodge Floor Plan and Utopia Floor Plan. The development shall be carried out in accordance with the approved details unless variations are agreed in writing after the date of this permission and before implementation with the Local Planning Authority.
- 3) Prior to the commencement of development, the applicant will implement a programme of archaeological work in accordance with a written scheme of investigation that shall be submitted to and approved in writing by the local planning authority. The development will be undertaken in accordance with the programme of archaeological work approved pursuant to this condition. The programme of archaeological work shall comprise the excavation of an archaeological trench across the historic boundary prior to the commencement of development to determine if any further mitigation measures are required.
- 4) No development or other operation shall commence on site until an Arboricultural Method Statement and Scheme of Works which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site in accordance with BS5837: 2012 has been submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the details as so-approved (hereinafter referred to as the Approved Scheme). No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the Approved Scheme. The fencing or other works which are part of the Approved Scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval in writing of the local planning authority has first been sought and obtained.
- 5) Prior to the commencement of the development, hereby permitted, details of hard and soft landscape proposals and boundary treatments shall be submitted to and approved in writing by the local planning authority. Details shall include, as appropriate, proposed finished ground levels or contours, car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials, as well as details of the removal of any existing surfacing material and replacement with suitable sub-soil and top-soil. Soft landscaping details shall include a planting plan, specification (including cultivation and other operations

associated with plant and grass establishment) schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetable as well as information covering the new tree and hedge planting as required by Condition 3 of 191566. This includes two additional species for the native hedge and a Tree Schedule to the plan itemising the species, size, and number of trees. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a timetable approved in writing by the local planning authority. Any trees or plants which, within a period of five years after planting, are removed, die, or become seriously damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved and permanently retained.

- 6) Prior to the commencement of the development, a landscape management plan shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall include long term design objectives, management responsibilities, timescales and maintenance schedules for all landscape areas and shall be carried out as approved.
- 7) Prior to the commencement of the development, hereby permitted, a scheme indicating the accessibility measures for disabled people shall be submitted to and approved in writing by the local planning authority. The Scheme so-approved shall be implemented before the development hereby permitted is brought into use, and shall thereafter be retained.
- 8) Prior to the occupation of the development hereby permitted, a detailed strategy for biodiversity enhancements and ecological permeability and including a detailed scheme to maintain the ecological permeability of the site shall be submitted to and approved in writing by the local planning authority. Once approved the strategy shall be implemented in full unless otherwise agreed by the local authority in writing.
- 9) Prior to the occupation of the development, hereby permitted, a report detailing any new external lighting scheme and how this will not adversely affect the dark skies and wildlife shall be submitted to and approved in writing by the local planning authority. The report shall include a layout plan with beam orientation, a schedule of equipment and measures to avoid glare. The approved lighting plan shall thereafter be implemented as agreed.
- 10) The development shall be carried out in accordance with the proposed flood mitigation measures as submitted within the FRA and Technical flood risk assessment (ref 72798.01R4 dated 19/05/2021 and prepared by GeoSmart Information Ltd.) These mitigation measures, including the

Flood Warning and Evacuation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The mitigation shall be retained and maintained thereafter throughout the lifetime of the development. It is the responsibility of applicant to inform LPA if there are any changes in drainage design at construction stage.

- 11) No building/lodge shall be occupied or used until the vehicle parking access and turning areas and cycle parking has been provided in accordance with the approved plans. The parking shall be permanently maintained and remain available for the parking of vehicles and cycles at all times. The vehicle turning space shall be retained and maintained in accordance with the approved details and shall not be used for any other purpose other than vehicle turning.
- 12) No building/lodge shall be occupied until the bin storage area has been provided in full accordance with the approved details. The bin storage area and facilities shall be permanently retained in the approved form and used for no purpose other than the temporary storage of refuse and recyclable materials.
- 13) The use of the site is limited to holiday or short let caravans/lodges and shall not be used, sold or sub-let as separate dwellings.