
Appeal Decision

Site visit made on 25 October 2022

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/R0335/W/22/3290821

Land rear of 89 Locks Ride, Ascot SL5 8QZ

- 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 Wesley McCarthy of Nicholas King Homes against the decision of Bracknell Forest Council.
 - The application Ref 20/00571/FUL, dated 21 July 2020, was refused by notice dated 3 December 2021.
 - The development proposed is the construction of 9 no dwellings with associated garages, parking, access and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of development set out above, which is taken from the original application form, it is clear from the plans and accompanying details that the development comprises the demolition of the existing buildings and the erection of seven dwellings with associated garages, parking, access and landscaping. In Part E of the appeal form it is stated that the description of the development has changed from nine to seven dwellings. The Council dealt with the proposal on this basis and so shall I.
3. The Council refused the original application for two reasons. The second reason was concerned with the adverse effect of the proposal on the special features and integrity of the Thames Basin Heaths Special Protection Area (SPA). During the appeal, the appellant submitted a completed S106 Legal Agreement (S106) securing payment for avoidance and mitigation measures to alleviate the harm to the internationally important site. The Council has stated the contribution is in accordance with SPA mitigation measures and that it thereby addresses the second reason for refusal. Having regard to the provisions of the S106 and the comments of the Council, the appeal turns on the remaining reason for refusal.

Main Issues

4. The main issues in this case are: firstly, the effect of the proposed development on the character and appearance of the area, including the impact upon protected trees; and, secondly, whether the location of the site is suitable for residential development.

Reasons

Character and Appearance

5. The appeal site comprises an area of rough grassland positioned to the west of the houses at Furzefield. To the north of the site there are fields, with Furzefield being a group of houses to one side of a cul-de-sac that accesses onto Locks Ride. To either side of Locks Ride there are a variety of houses and bungalows that face the public highway behind front gardens. There are also a number of residential cul-de-sacs in the area, including to the south and west of the appeal site and a further group opposite at Alderson Court.
6. The appeal scheme would extend the existing cul-de-sac to provide an additional seven detached houses that would extend the linear form of the development that has already occurred at Furzefield. Whilst the Council consider the scheme would be significant backland development, the addition of seven houses would be comparable with the size of other nearby developments that have and are and will be occurring in the area, including to either side of Locks Ride and Chavey Down Road. Furthermore, there are other residential cul-de-sacs that project development beyond the ribbons of houses and bungalows that front the main roads, such as those that border the western and southern boundaries of the appeal site.
7. The undeveloped nature of the site is such that its openness contributes to the countryside setting of the nearby housing, an impact that is enhanced by the presence of trees and hedges. The site is surrounded on three sides by residential development, and the positioning of the houses to the southern side of the access road would form a logical extension of Furzefield as well as relating to the surrounding development. The dwellings would fill a gap that currently exists between the houses that bound the site to the east and west. As most of the trees and hedges to the northern boundary of the site are proposed for retention and would be supplemented with additional tree planting, the verdant linear separation of the houses from the surrounding area would be maintained.
8. The appellant's Landscape and Visual Impact Assessment refers to the maintenance of skyline views in part due to the retention of the trees, but also because the houses would have a similar height, style and be constructed of similar materials to those in Furzefield, thereby creating a visual harmony along the cul-de-sac. The proposed dwellings would face the access road, and would have a size and form that would be in broad

accordance with those to the west and south. They would have smaller plot sizes than some nearby houses, but they would be similar to those in Furzefield.

9. An integral element of the proposed development and how it relates to its context is the presence of trees along the site boundaries. Many of these trees have been protected with Tree Preservation Orders (TPOs), and a defining feature of the area is the prevalence of tall trees, both along the public highway as is the case with Locks Ride and also delineating field boundaries. Trees are an important feature of both the countryside and also the nearby built-up areas, and their presence amongst the buildings gives a verdant maturity.
10. Whether the trees are growing within the appeal site or in neighbouring properties, taken together they contribute positively towards the distinctiveness of the locality. They form leafy linear boundaries that maintain the character and appearance of the area, and they would also serve to soften the transition of the development with the adjoining fields, providing a leafy setting and skyline to the houses, and a sense of enclosure to the proposed and surrounding dwellings. Given this, the retention of the trees is a key element of the development of the site, an objective which accords with the importance of trees and the contribution they make to an area as required by the National Planning Policy Framework (the Framework).
11. At my site visit I saw that there has been little recent management of the trees. Five oaks on the northern boundary have been ring-barked, and of these, three are dead, one has only a few remaining live limbs, and the other has maintained a mostly full canopy, albeit evidence of stag-heading was beginning. Apart from these trees, most of the others have grown unchecked, with several having broad crowns that extend into the site. Many have forms that have developed from growing in linear groups, and there are a variety of species present, with a mix of native and ornamental deciduous and evergreens.
12. Having regard to the shape of the site, future occupiers of the houses would have to live with the presence of nearby trees, both in terms of day-to-day impacts, such as light levels and shading, and also the ongoing issue of managing the growth of the trees and seasonal maintenance works, including leaf and seed litter. Such impacts would not be unusual in an area where mature trees are a feature, and it would be the case that the Council would have control over the works that could occur to the trees. However, given the proximity of the trees to the houses and their gardens, and that many will continue to grow in height and breadth, they would impact upon the living conditions of future residents, with ongoing and regular maintenance of the trees thereby being a necessity.
13. Furthermore, for Plot 13 the canopies of the nearby trees would be very close to and in the case of the red oak would extend over the roof. The

red oak has a broad sweeping crown, as is typical of this species, and its close proximity to the proposed house would necessitate pruning both to accommodate the development and with regard to ongoing regular maintenance. The development of this plot would also require works to occur within the root protection areas. Whilst the Council and the appellant suggest that such matters could be a conditional requirement, having regard to the close proximity of the trees and the combination of works to the crowns and within the root protection areas, it cannot be assumed, nor has it been demonstrated with regard to those trees affected that their long-term health and vitality would be ensured following the development.

14. The presence of trees is a consideration that should inform site layout and design, and a positive aspect of the proposal is that few trees would be felled. Of those that are to be retained BS5837 – Trees in Relation to Design, Demolition and Construction makes some allowance for disturbance to the roots and crowns of trees during construction works. In addition to my concerns above, the access road would be close to the trees on the northern boundary. Tree protection fencing would be erected under the crowns of the trees that are to be retained, and works would be occurring within their root protection areas. Given the circumstances of this case, including the totality of the works to the trees and the importance they make to the character and appearance of the area, whether conditions would be sufficient to protect the trees during construction and ensure their long-term health and vitality has not been demonstrated.
15. The trees make an important contribution to the character and appearance of the area and their loss would make the development unacceptably conspicuous, eroding the distinct verdant appearance. Where trees are present that make an important contribution, there is always a balance to be struck between achieving the development of the site and retaining the trees. Whilst new planting, including tree planting has been proposed along the boundaries, it would take many years if ever to make a similar contribution as the existing trees.
16. The appellant has drawn my attention to a number of appeals that are considered to be of relevance to the case before me. Some of the examples provided were concerned with much larger developments, and as such do not form a comparison with the issues before me (ie APP/R0335/W/19/3228697 and APP/R0335/W/19/3231875). Appeal APP/R0335/W/21/3275530 was concerned with the erection of ten dwellings, and shares some similarities with the appeal scheme, including the importance of landscaping. Whilst these cases provide evidence of the consistency of development plan policies with regard to the Framework (including APP/R0335/W/19/3242594), it does not appear that they impacted upon TPOs. I am obliged to consider the scheme before me with regard to the particular issues raised in this

case, and on that basis the differences are such that they do not form binding precedents for approving the appeal scheme.

17. Having regard to my findings, the proposed development would unacceptably impact upon trees that contribute positively to the character and appearance of the area. The appeal site lies beyond the settlement boundary and for this reason the development would be in conflict with Policies EN8 and H5 of the Bracknell Forest Local Plan (2002) (LP) and Policies CS1, CS2, and CS9 of the Council's Core Strategy Development Plan Document (2008) (CS). These policies seek, amongst other things, to focus development within defined settlements, and to protect the countryside. The proposal would also fail to accord with LP Policy EN1 which requires, amongst other things, that development would not result in the destruction of trees and hedgerows that are important for retention and to the character and appearance of the landscape.

Location

18. The Council and local residents are concerned that future occupiers would be some distance from services and facilities, with the absence of a local bus service thereby increasing the number of trips made by private vehicles. The appellant has referred to a nearby bus stop and services, some of which are dedicated to supermarkets, and that there is a railway station approximately 2.5km away. In addition to the wide range of services and facilities within towns, there are also a variety of more local services, including community halls, public houses, restaurants and primary schools.
19. There are a variety of services and facilities in the nearby area, albeit given the location of the site there would be a need for future residents to travel to them. Some of the distances would be longer than 800m, but the propensity to walk and cycle is influenced not only by distance, but also by the quality of the experience. In this instance the level nature of the area would be such that cycling and walking would be an alternative means of travel, and there is a footway along one side of Locks Ride. This road is also lit, and speed restricted. Future residents would have options available to them other than the private car.
20. Having regard to the circumstances of this case, future occupiers would be in a location whereby there would be alternative means of travel other than by private cars. The houses would also be in a location consistent with the character, accessibility and provision of infrastructure and services, as required by CS Policy CS1 and CS2.

Other Matters

21. The site is approximately 4.5km from the boundary of the Thames Basin Heaths SPA, whereby a net increase in the number of dwellings would be unacceptable without appropriate avoidance and mitigation of the impact of future occupiers upon this important site. The application was refused

because the likely significant effects arising from the development had not been mitigated, and the development would therefore result in an adverse effect upon its integrity. In the absence of such mitigation the development would fail to protect the SPA as required by CS Policy CS14, LP Policy EN3, and the Thames Basin Heaths Special Protection Area Supplementary Planning Document (2018).

22. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes. This responsibility falls to me in the context of this appeal with regard to the impact of the proposal upon the Thames Basin Heaths. I will return to this matter below.
23. Local residents have raised a number of matters, including road safety, parking, drainage, pollution, construction disturbance, loss of privacy, phasing of the works, and the appellant's notification of nearby residents. Notification of the appeal was undertaken by the Council, and of those concerns relevant to the planning considerations of the case, following my findings on the main issues, I have no need to consider them further.

Planning Balance

24. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the Framework is engaged, whereby planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
25. The provision of seven dwellings would contribute towards the supply of housing, and this social benefit carries weight. There would also be a small, time-limited economic benefit arising from the construction phase of building additional homes, and future residents would contribute to the local economy, albeit given the number and size of the homes, this contribution would be a moderate benefit. There would also be environmental benefits arising from additional landscaping provision.
26. Weighing against these benefits would be the significant environmental harm arising from the development of the site. The proposal would deliver additional high-quality family homes, but in doing so would cause unacceptable harm to the distinct character and appearance of the area through the impact of the proposal on trees in and near the site. This harm weighs against the scheme.
27. In considering these matters, I have found conflict with both CS and LP policies concerning the impact on the character and appearance of the area. Given the Council's housing land supply, the consistency of these policies with the Framework has to be considered. LP Policy EN1 imposes a restriction on development that would result in the destruction of trees and hedges. Although the terminology of the policy

does not reflect the more positive wording of the Framework, it does seek to protect trees and hedges that are important to the character and appearance of an area, thereby reflecting objectives of the Framework. This policy carries weight in determining the case.

28. As regards the CS Policies CS1 and CS2, these seek to guide development, setting out locational principles. CS Policy CS9, and LP Policies EN8 and H5 all seek to protect the countryside for its own sake, rather than reflecting the Framework's more nuanced approach of recognising the character and beauty of the countryside, and this limits the weight that can be attributed to these policies.
29. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse environmental impacts in this case amount to cumulative environmental harm which carries substantial weight, and this thereby significantly and demonstrably outweighs the economic benefits and even the weight that derives from the social benefits, when assessed against the policies in the Framework as a whole.
30. Returning now to the matter of the protected Thames Basin Heaths, if I had come to a different conclusion, it would have been necessary for me to undertake an Appropriate Assessment and further consideration of the likely effectiveness of mitigation measures. In doing so I would have had regard to the provisions of the S106 and whether there would be significant effects arising from the proposal, either alone or in combination with other schemes, as I would have to be certain that the integrity of the protected site would not be adversely affected. However, as I am dismissing the appeal for other reasons, this assessment has not been necessary.

Conclusion

31. The scheme would cause unacceptable harm to the character and appearance of the area. The proposal would conflict with the development plan, and objectives of the Framework, and there are no considerations that outweigh this conflict. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR