



Appeal Decision

Hearing held on 8 November 2022

Site visit made on 8 November 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/R0335/W/21/3280399

Winkfield Park, Winkfield Row, Bracknell RG42 6NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wilson against the decision of Bracknell Forest Borough Council.
 - The application Ref 20/00809/OUT, dated 8 October 2020, was refused by notice dated 25 May 2021.
 - The development proposed is replacement stables and all-weather arena.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Wilson against Bracknell Forest District Council. This application is the subject of a separate decision.

Preliminary Matter

3. The original application was made in outline. All matters were reserved for future determination. I have had regard to the submitted plans and the indicative layout of the proposed development as shown in these drawings, but have regarded all elements of these drawings as indicative.

Main Issues

4. The main issues are:
 - whether the location would be suitable for the proposed development, with particular regard to flood risk;
 - the effect of the proposed development on protected species and habitats on The Cut river corridor; and
 - whether there is an essential need for the proposed accommodation in the countryside.

Reasons

5. The appeal proposal includes the removal of a number of equestrian buildings and an existing arena. Two new equestrian buildings would be provided comprising accommodation for 38 horses, tack rooms, storage, toilets and accommodation for four grooms within the roofspace of the new buildings. In addition, an enlarged all-weather arena would be provided.

Flood risk

6. The Framework sets out at paragraph 159 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
7. Paragraph 167 sets out that development should only be allowed in areas at risk of flooding where, in the light of the site-specific flood risk assessment (and the sequential and exception tests, as applicable) it can be demonstrated that within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location.
8. The appellant has submitted a Flood Risk Assessment which identifies that the appeal site lies within Flood Zones 2 and 3. The proposed equestrian buildings would be predominantly sited within Flood Zone 3, the western part within Flood Zone 3b, the functional floodplain, and much of the remainder in Flood Zone 3a, an area which has a high probability of flooding.
9. Paragraph 027¹ of the Planning Practice Guide (PPG) confirms that the sequential test should be applied to major and non-major development proposed in areas at risk of flooding. Certain exceptions apply, none of which are relevant to the appeal scheme. Given the location of the proposed development, in accordance with both the Framework and the guidance set out at paragraph 027 of the PPG, the sequential test should be applied.
10. The PPG explains at paragraph 023² that the aim of the sequential approach is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding.
11. The sequential approach compares the site proposed for development with other available sites to find out which has the lowest flood risk. The appellant stated that the relocation of the buildings onto higher ground fully outside of Flood Zones 2 and 3 had been considered but rejected. This was on the grounds that these areas are pastureland with a perimeter exercise track and the location of the buildings here would compromise the efficient use of the pastureland; would be more prominent within the landscape due to its elevated position; and would require a vehicular access track across the exercise track itself, thereby compromising the practical use of the exercise track itself.
12. Whilst the Council has not disputed this, it has nevertheless pointed out that the appellant has submitted an application for new equestrian buildings wholly located outside of Flood Zone 3b. This application is currently pending decision. I have not been provided with the full details of this alternative proposal, and whether it would be acceptable in other respects and therefore a sequentially preferable site.
13. Until that application has been determined, I cannot be satisfied that there is not a reasonably available, lower risk site, suitable for the proposed development. In view of the importance that the Government and I give to the

¹ Paragraph: 027 Reference ID: 7-027-20220825

² Paragraph: 023 Reference ID: 7-023-20220825

avoidance of increasing flood risk, I give the pending application great weight in my assessment. Thus, whilst I acknowledge the appellant's alternative approach about reducing the extent of impermeable development within Flood Zone 3, this would not outweigh the sequentially preferable approach of locating the development in an area at lower risk of flooding.

14. Given my findings in this regard, it has not been necessary for me to go on to consider whether or not the proposed development would satisfy the requirements of the exception test.
15. I therefore conclude that the location would be unsuitable for the proposed development, with particular regard to flood risk. The proposal would therefore conflict with the Framework and the PPG as referred to above.

Protected species

16. Paragraph 99 of the Government Circular 06/2005: Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system (the Circular) states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it, '...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'.
17. The appellant submitted an Ecological Assessment in 2020³. This was informed by earlier ecological surveys of the wider Polo Club land in January 2018 and October 2019. These surveys did not include the part of the appeal site where the proposed buildings would be located. The 2020 assessment included a preliminary bat roost assessment of the existing buildings and a habitat survey of the appeal site to determine the presence of notable or protected species as well as the potential of the site to support such species. It concluded that the proposed equestrian buildings would result in the loss of an area of species poor grassland, of negligible ecological value.
18. The River Cut corridor lies a short distance from the proposed location for the new equestrian buildings. The proposed replacement arena would also extend to around 10m from the river edge. The river corridor is a more heavily vegetated area and includes a number of trees along the riverbank.
19. The Council's biodiversity officer raised a concern that the river corridor is likely to be used by bats commuting and foraging as well as other creatures moving through the area. The presence of bats roosting within a tree along this river corridor has been found in previous surveys. The submitted survey did not consider the effect of the proposal on birds.
20. The appeal proposal is made in outline and the precise position of the proposed equestrian buildings would be a matter to be determined at a later stage. Nevertheless, the proposed buildings would be positioned in close proximity to the river corridor where there are currently no buildings. The replacement arena would occupy a similar position in relation to the river as some of the existing stable buildings, although it would be a different type of development.

³ Ecological Assessment, Derek Finnie Associates, September 2020

21. Given the proximity of the proposed development to the river corridor and that previous survey information has indicated protected species are present, the absence of a survey of the area beyond the red line of the appeal site, does not enable a full assessment to be made of the extent to which any protected species may be affected by the proposal.
22. Whilst I note that paragraph 99 of the Circular states that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. In the circumstances here, the presence of protected species seems highly likely given earlier survey information.
23. Although the proposal is in outline, I consider that the requirement to firstly, establish what protected species and habitats exist; and then, to use this information to inform the decision as to whether the principle of the development is acceptable, is both reasonable and necessary.
24. The qualifications of the appellant's ecologist are not disputed. I also note that the survey was undertaken in line with sectoral guidance from the Chartered Institute of Ecology and Environmental Management and the British Standards⁴. Nevertheless, the extent of the survey is limited and insufficient for the reasons set out above.
25. In the absence of adequate survey information, I am unable to conclude that there would be no harm to protected species and habitats on The Cut river corridor. The proposal would therefore be contrary to Policies EN3 and EN20 of the Bracknell Forest Borough Local Plan 2002 (the Local Plan) and Policies CS1 and CS7 of the Core Strategy Development Plan Document 2008 (the Core Strategy). These policies together permit development that protects and enhances the quality of natural resources, including biodiversity; promotes biodiversity; and prevents development in a river corridor which would adversely affect nature conservation interests.

Essential need for the proposed accommodation

26. The appeal site lies in an area designated as 'Land Outside Defined Settlements' in the Local Plan. It therefore lies in the countryside for planning purposes. Most relevant to the assessment of need for the proposed development within the countryside are Saved Policies H5 and EN8 of the Local Plan. These policies only permit development where it would not adversely affect character, appearance or function of the land and would not damage its landscape quality. Policy EN8 sets out the types of development permitted within the countryside, including development required for agriculture and forestry.
27. Whilst the policy itself does not specify residential uses, the supporting text sets out that dwellings required in connection with agriculture or forestry uses will need to establish that it is essential for a farm or forestry worker to live at or near their place of work. It sets out a number of tests to establish this. This includes that the use is genuine, reasonably likely to materialise and capable of being sustained for a reasonable amount of time.
28. The supporting text is clear that the keeping and breeding of horses for private, commercial or recreational use does not fall within the definition of 'agriculture'

⁴ BS42020:2013 Biodiversity – Code of Practice for Planning and Development

as defined in the Town and Country Planning Act 1990. However, it goes on to explain that when considering proposals for accommodation required in association with horse related activities, the Council will assess these on the same basis as proposals for agriculture or forestry dwellings.

29. There was no agreement between the parties as to the overall number of horses and ponies being stabled at the site. The Council nevertheless confirmed that the requirement for six grooms in association with the equestrian activities on site was reasonable. It also did not disagree that four grooms would be required on site overnight to deal with any emergencies. There was also no question that the polo club and stables are not well-established.
30. The Council disputes that there is a need for the proposal on the grounds that there was existing accommodation on the site that the appellant has replaced with market housing. The grooms' accommodation is therefore additional accommodation.
31. In relation to this, the appellant has planning permission⁵ to erect five cottages and one detached house, described as 'forming the manager's house', following demolition of five existing cottages. In addition, a further planning permission⁶ has been granted for a scheme involving the demolition of an existing residence, Brockhill House, and its replacement with a block of nine flats on the wider site. From the submissions, it appears that there had been an annex to Brockhill House that had previously been used as accommodation by grooms. However, this was not tied to the equestrian or operational use of the site.
32. The Planning Statement explains that the proposal includes relocating the grooms' accommodation into the roof space of the proposed building. However, it emerged at the Hearing that whilst the grooms previously lived on the site, none of the existing buildings were formally grooms' accommodation and nothing in those previous schemes made reference to the loss of any such accommodation.
33. Furthermore, whilst the dwelling forming the manager's house is described as such, there is no condition restricting occupancy on that dwelling and I am told that at the time permission was granted in 2007, the applicant specifically stated that they did not require such a restriction. I recognise that the current circumstances now indicate that staff are required on site overnight. However, this may not have been the case in 2007. I have no substantive evidence as to how the appeal site operated at that time.
34. At the Hearing, it was explained that the site is functionally split, with the polo club and equestrian activities being operated by tenants and therefore functionally separate from the residential properties. Whilst it would appear somewhat short-sighted of the appellant to have not made provision for grooms' accommodation, I also accept that there was no specific requirement to do so and that the recently constructed accommodation now on the site may not be suitable for staff accommodation, due to its size, location in relation to the stables and cost.
35. I was told that grooms are currently living off site. It was not made clear to me at the Hearing how this works in practice on site, particularly overnight.

⁵ Council Ref: 09/00285/FUL

⁶ Council Ref: 19/00931/FUL

However, the submissions support the appellant's position that on site groom's accommodation is required, which the Council has not disputed.

36. Drawing together this matter, it is clear that grooms have previously resided within the wider site. The accommodation they used has now been replaced with market housing that is unsuitable for use as grooms' accommodation. That accommodation was not subject to any restriction or tie to the equestrian use on the wider site. In this regard, I find the proposed development has not been fully justified.
37. Notwithstanding these findings, I return to whether the proposed development would accord with the objectives of the policy which is to safeguard the existing open, rural and undeveloped character of the countryside and to enhance its quality to protect it from inappropriate development, which may adversely affect its character, function and visual amenity.
38. The proposed accommodation would be in the roofspace of an equestrian building. It would not be a dwelling house with a domestic curtilage, but instead an ensuite bedroom with a shared communal area. The Council has not found that these buildings would be harmful to the existing open, rural and undeveloped character of the countryside. Whilst there would be some activity associated with people residing within these buildings, there is likely to be limited difference between grooms having to attend on the site both day and night compared to grooms staying above the stables where they are on hand to deal with any emergencies that may arise.
39. The Council has acknowledged that the principle for 'replacement' stables and grooms' accommodation would not normally be considered to conflict with countryside policies. Therefore, on balance, subject to a condition restricting occupancy, I find that the provision of this roofspace grooms' accommodation would not conflict with the overall aim of the development plan.
40. I therefore conclude that there is an essential need for the proposed accommodation in the countryside. As such, the proposal accords with Saved Policies H5 and EN8 of the Local Plan as referred to above. It would also comply with Policies CS1, CS7 and CS9 of the Core Strategy and Saved Policy EN20 of the Local Plan which seek sustainable development and the protection of character, appearance and function.

Planning Balance and Conclusion

41. I have found that there is an essential need for the proposed accommodation in the countryside. However, the proposal fails to demonstrate that it would be in a suitable location with regards to flood risk and that it would not adversely affect protected species and habitats on The Cut river corridor.
42. Consequently, I find that the proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tom McArdle	Rural Land Manager
Jack Clegg	Rural Land Manager

FOR THE LOCAL PLANNING AUTHORITY:

Paul Corbett	Senior Planning Officer
Margaret McEvit	Principal Planning Officer
Inderjit Bhatti	Solicitor for Council
Rosie Lear	Biodiversity Officer
Andy Wells	Senior Development Management Engineer

INTERESTED PARTIES:

Katie Bradford	Flood Risk Advisor, Environment Agency
Judith Montford	Planning Officer, Environment Agency

HEARING DOCUMENTS

HD1 Email copy of Environment Agency response to changes to the Planning Practice Guidance on Flood Risk and Coastal Change

POST-HEARING DOCUMENTS

PHD1 Email response from appellant dated 14 November 2022 setting out intention to make a costs application and including Glanville Response (PHD2) and Additional Conditions (PHD3)

PHD2 Glanville Response to Environment Agency (HD1)

PHD3 Additional Conditions

PHD4 Appellant's application for an award of costs

PHD5 Council's cost response

PHD6 Appellant's costs response final comments