



Appeal Decision

Site visit made on 24 November 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/H1705/W/22/3302783

Land east of 2 Heathrow Copse, Baughurst, Tadley RG26 5JG

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.

- The appeal is made by Jacolyn Tankaria against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 22/01491/PIP, dated 23 May 2022, was refused by notice dated 29 June 2022.
 - The development proposed is construct one residential dwelling with garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application. In this instance, permission in principle has been sought for the erection of a maximum of one dwelling at the appeal site. For the avoidance of doubt, I have determined the appeal on that basis, having regard to the requirements of the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 and the PPG.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, particularly in respect of the Basingstoke Upstream Critical Drainage Area and the effect on trees.

Reasons

6. Heathrow Copse is a quiet, residential cul-de-sac within the settlement boundary of Baughurst. The appeal site consists of part of the former garden of 2 Heathrow Copse. It now forms part of a separate site, which is accessed via its own pedestrian access. There are 2 existing sheds sited on the site, as well as a number of mature trees scattered throughout the appeal site.
7. The character of Heathrow Copse derives from the significant number of woodland trees which exist in the cul-de-sac. I note that the trees in the cul-de-sac, including those trees on the appeal site, are protected by an area Tree Preservation Order (TPO)¹. Whilst the majority of houses are 2 storey, there are also bungalows in the cul-de-sac, including that of No 2 immediately adjacent to the appeal site. A number of the existing plots are substantial in size but there is some variety within Heathrow Copse, with some slightly smaller, resulting in some dwellings situated close together.
8. The location of the proposal, in regard to the Council's spatial strategy, would be acceptable as it would represent an additional dwelling within the recognised settlement boundary of Baughurst. Furthermore, it is in an existing residential cul-de-sac where the surrounding development are other residential properties. The proposal would involve the introduction of 1 dwelling, which would inevitably lead to a change in the character and appearance of the site. I acknowledge that this is a permission in principle application, where the technical details are to be agreed at a later stage. However, given the existing variation in Heathrow Copse, subject to precise design, siting and landscaping, it is considered that the additional built form could be introduced without eroding the established character in the cul-de-sac. Accordingly, the proposed dwelling would not contrast with the prevailing pattern of development within Heathrow Copse.
9. However, the Council's Strategic Flood Risk Assessment (SFRA) (July 2021) has identified the site as being within the locally defined Basingstoke Upstream Critical Drainage Area (UCDA). Policy EM7 of the Basingstoke and Deane Local Plan 2011-2029 (Local Plan) (adopted 2016) states that development within areas of flood risk from any source of flooding (including UCDA) will only be acceptable if it is clearly demonstrated that it is appropriate at that location, and that there are no suitable available sites at a lower flood risk in order to steer vulnerable development away from areas affected by flooding. This is supported by Paragraph 159 of the National Planning Policy Framework 2021 (the Framework), which states 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). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
10. The appellant notes that the site is on the highest ground within Heathrow Copse and has provided me with photographs of the site, allegedly taken after several days of heavy rain, showing that the land is well drained. However, neither a Flood Risk Assessment (FRA) nor a sequential test, to demonstrate that the proposal is appropriate at this location, and that there are no suitable available alternative sites at a lower flood risk, have been submitted with the appeal. As it has not been demonstrated that it would not be possible for the

¹ Area A1 of Tree Preservation Order No.30 TPO

development to be located in an area with a lower risk of flooding, then it has not been satisfactorily established that the location is acceptable in this respect. Furthermore, in the absence of an FRA being submitted with the appeal application, it has not been demonstrated that development in this location would not increase flood risk elsewhere.

11. While specific details of the drainage could be supplied as part of a subsequent application for technical details consent, the absence of both a sequential test and FRA means that I cannot be sure that the location in principle would be acceptable on flood risk grounds given its location in the UCDA.
12. Turning to the effect on trees, it is not possible at this stage to foresee the precise nature of future tree works. However, due to the number of trees on site, it is acknowledged that some trees would have to be lost.
13. The appellant mentions that a tree survey has been carried out, albeit the survey itself has not been submitted as part of the appeal. However, they have summarised the findings of the survey in their statement, stating that it found that there were 4 graded U trees, 4 graded C trees, 13 graded B trees and none graded A. Based on the evidence before me, and as a result of my observations on my site visit, it appears that the trees on the site are of varying physical condition and characteristics. Therefore, there would be scope for some works to be undertaken.
14. There are already 2 sheds on the site, one of which is relatively large. These existing structures provide a clearing between the trees in the middle of the site. Therefore, there is an opportunity to utilise this existing clearing to limit the scope of tree work to be undertaken. Therefore, I am satisfied that further matters in regard to the effect on trees, including details of trees to be lost or retained, relevant protection measures and additional planting, are matters that can reasonably be addressed at the technical details consent stage.
15. To conclude, I have found that the provision of detailed information relating to the loss of trees, the relevant protection measures and additional matters, are not necessary at permission in principle stage. It would be in accordance with Policy EM1 of the Local Plan, which requires development to be sympathetic to the character and visual quality of the area concerned, paying particular regard to the visual amenity and scenic quality, and to trees and ancient woodlands.
16. However, for the reasons set out above, the appeal site is not suitable for residential development, having regard to its location and the proposed land use, particularly in respect of the UCDA. It would be contrary to local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would conflict with Policy EM7 of the Local Plan, which sets out the Council's approach in managing flood risk, which includes requiring both an FRA and a sequential assessment to be submitted for sites within the UCDA. The proposal would also be contrary to the principles within Chapter 14 of the Framework, which seek to ensure that flood risk is not increased elsewhere.

Other Matters

17. Concerns have been raised by representors regarding the effect of the proposal on highways safety, disturbance to neighbours, capacity of local services and harm to wildlife features. However, these issues can be addressed as part of

the technical details stage and there can be no guarantee that where permission in principle has been granted, that approval of technical details would necessarily follow. It takes approval of both stages for a planning permission to be secured.

18. I have also had regard to the alleged covenant which restricts further development within Heathrow Copse. Whilst there is no detailed or definitive evidence presented to demonstrate this to be the case, in any event for the purposes of the assessment of an application for permission in principle, matters related to a possible covenant on the land would be separate to and would not ultimately influence the assessment of the planning merits of the proposal.
19. I have not been provided with the full details of another planning application for a new 5 bedroom detached house close to the appeal site, which has been cited by the appellant. Nevertheless, the circumstances in each proposal are likely to be different, and in any event the fact that an apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out.
20. Moreover, while precedent is raised as another concern, there is nothing firm or substantive before me to indicate other applications would come forward as a result of this appeal. In any event, they would be considered on their own merits should they be pursued.
21. Finally, the appellant has expressed concerns regarding the lack of contact and co-operation with the case officers during the application process. Whilst this may have caused some regrettable frustration to the appellant, this is not a matter to which I can ascribe weight in this decision.

Planning Balance and Conclusion

22. The development would provide a dwelling in an area where the Council is unable to demonstrate a five-year housing land supply. The proposal would make a small contribution towards the provision of housing and would also provide social and economic benefits. However, it has not been demonstrated that the proposed development is in an appropriate location having regard to flood risk policies. Therefore, this is a situation in terms of paragraph 11 (d) (i) of the Framework, where the presumption in favour of sustainable development is not engaged because the application of the policies in the Framework that protect areas at risk of flooding provides a clear reason for refusing the development proposed.
23. The proposal is in conflict with the development plan as a whole and there are no material considerations, including the Framework, which outweigh that conflict.
24. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Laura Cuthbert

INSPECTOR