



Appeal Decision

Site visit made on 13 June 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2023

Appeal Ref: APP/T3725/W/23/3314991

Land off Charingworth Drive, Hatton Park CV35 7SY

- 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 KACH Capital Estates Ltd. against the decision of Warwick District Council.
 - The application Ref W/21/2283, dated 22 December 2021, was refused by notice dated 22 July 2022.
 - The development proposed is 'Redevelopment to provide 7no. residential dwellings, associated parking and landscaping'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A unilateral undertaking as a planning obligation under s106 of the Act has been provided by the appellant in support of the proposed development. This is a matter I return to below.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the locality
 - biodiversity.

Reasons

Character and appearance

4. The site is a roughly triangular area of inclined scrub grassland set to the rear of the pavement on the southern side of Charingworth Drive. It is backed by protected woodland, including an area of ancient woodland, which forms part of the Smiths Covert Local Wildlife Site (LWS).
5. The site sits within part of the redeveloped Hatton Park hospital area. Along with Barchester Drive, Charingworth Drive forms an element of the main orbital road through the planned townscape of phased housing. Modest estates of modern houses – some set about retained converted older buildings from the area's former use, are predominantly set within regular cul-de-sac enclaves that edge onto the circular route.
6. The arrangement of development consists of distinct blocks of developed housing set within a wider rural landscape. Blocks of parklands, agricultural fields, gardens and woodlands intertwine with the estates to play a significant

role in the structured layout of development. Those intervening green areas assist in bringing the countryside into the townscape. They make a defining contribution to the intended green setting and semi-rural character of the settlement.

7. The site has a high degree of prominence on account of its location opposite a prioritised junction on the main orbital road. Along with established treed and landscaped areas on the northern and western sides of Charingworth Drive, it forms part of a green break amongst the existing and developing housing areas. It provides a sense of spaciousness and openness between houses fringing the junction area. It gives rise to a greater sense of natural enclosure where only glimpsed views of buildings predominate when compared to other parts of the estate.
8. As part of the existing green infrastructure, the site enhances the local built environment, contributes to the wider sense of place and provides a natural setting to the important woodland beyond. Together those natural assets are a significant part of the townscape and a positive aspect of the character and appearance of the area.
9. The development of the land would remove the significant proportion of the naturalised area providing the setting to the woodland. It would introduce a line of closely-sited 2 and 2½ storey dwellings. Although the scale and design of the houses would reflect that of other homes in the locality, their height and regimented positions would form a visual barrier in one of the principal views of the woodland.
10. Although sight of the woodland would remain as a backdrop due to the height of the trees and through small gaps between the houses and garages, when considering the local topography and consecutive buildings, visibility would be significantly reduced. Even when accounting for some visual moderation through proposed areas of frontage landscaping, the line of prominent houses fronted by the extensive hard areas of the shared drives and forecourt parking would dominate the streetscape.
11. This would contrast starkly with the overriding green character of this part of the settlement. It would diminish the significant visual contribution of the woodland when travelling along the adjacent road corridor. Furthermore, the effect would be to consolidate existing visually separate blocks of housing. It would cause a significant adverse change to the character and appearance of the locality and the wider structure of the townscape.
12. Policy HS2 of the Warwick District Local Plan 2011-2029 [2017] (the LP) seeks to protect the multifunctional benefits of open spaces in the interests of health and wellbeing. Where loss of such open space would result, it imposes justification requirements or compensatory provisions. The policy and associated definitions are consistent with the approach set out in the National Planning Policy Framework (the Framework).
13. Whilst recognising that natural open spaces can enhance people's quality of life and have benefits for nature, the tests in the Framework are primarily concerned with providing access to open spaces as an element of promoting healthy and safe communities.

14. Although there is evidence of informal use of the site to access the woodland beyond, as land in private ownership, public accessibility is not secured. As open space it therefore has limited direct health benefits. Notwithstanding that the definitions of 'open space' are intended to be wide-ranging, and that there would be an effect on local visual amenity as a matter of public value, I do not consider the requirements in Policy HS2 are justified in the circumstances.
15. Nevertheless, for the above reasons, I find the proposal would reduce the visual contribution of the site as it provides a natural framing to the woodland and integrates it into the townscape as a break in the continuity of buildings. It would cause a significant adverse effect on the character and appearance of the area. It would conflict with Policies BE1 and NE4 of the LP as they seek development to enhance the existing settlement in terms of form, reinforce the established urban character of streets and spaces, enhance important key landscape features, and avoid detrimental effect on features which make a significant contribution to the character of the settlement.

Biodiversity

16. The site lies adjacent to ancient woodland, an irreplaceable habitat. Although the development site lies beyond the boundary of the LWS, as a semi-natural area linking the treed area to other open spaces nearby, it provides an important degree of continuity with those green spaces.
17. The Planning Practice Guidance¹ (PPG) advises that locally designated LWS's are 'areas of substantive nature conservation value and make an important contribution to ecological networks and nature's recovery. They can also provide wider benefits including public access (where agreed), climate mitigation and helping to tackle air pollution. They can be in rural, urban or coastal locations, can vary considerably in size, and may comprise a number of separate sites'. It states that 'National planning policy expects plans to identify and map these sites, and to include policies that not only secure their protection from harm or loss but also help to enhance them and their connection to wider ecological networks'.
18. The proposal would introduce a substantially continuous line of built development, hard surfacing and enclosures across a significant part of the site. Despite that these would avoid encroachment into a buffer strip meeting the minimum 15m offset distance advised for ancient woodland by Natural England and the Forestry Commission, they would cumulatively significantly reduce the opportunities for the lateral movement of wildlife across the site and to linking areas of green space to the north and west.
19. Site habitat and ecological assessments (including the woodland) have been undertaken by the appellant. These demonstrate that losses of limited existing habitat value on the site could be compensated and enhanced by domestic and buffer zone landscaping. Notwithstanding a dispute between the main parties as to whether biodiversity net gain would be achieved by the submitted planting proposals, I have little doubt this could be secured through a suitable matrix of planting and compensatory trees across those areas.
20. In conjunction with conditional requirements that could be imposed, the submitted unilateral undertaking would provide a degree of certainty to secure

¹ Paragraph 013 Reference ID: 8-013-20190721

- the establishment, long-term maintenance, and monitoring of the buffer zone habitat creation. This could be effective for the lifetime of the development.
21. Additionally, precautionary working practices could avoid adverse effects on wildlife using the site. A requirement for an exclusion area to protect the adjacent woodland during the construction phase of the development could be secured by condition/s.
 22. However, although buffer planting could complement the woodland fringe and retain some provision for wildlife movement, the direct effect of the development on the LWS, as measured by the appellant, would be 'slight negative'.
 23. The PPG is clear that 'species may require habitat comprised of dispersed areas which are accessible and part of a functional network. Individual sites (both wildlife and geological) need to be considered in terms of the contribution they make to wider ecological networks'². Paragraph 174 of the Framework refers to the need to minimise impacts on biodiversity and to provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
 24. Although not necessarily as habitat for defined species, the site has clear potential for linking parts of the local ecological networks and important habitats. As an integral adjoining element of a main landscape feature, I have little doubt that the site will have essential importance for the migration, dispersal and genetic exchanges of plants and animals including those necessary to help biodiversity adapt to climate change.
 25. In the context of the extent of existing enclosure of the WLS by built-up areas, which is to be increased due to the development of an area along its southern boundary, the site constitutes a significant proportion of the remaining naturalised area bordering the protected woodland. As a steppingstone to the wider green network, the presence of the development upon it would doubtlessly increase the bottleneck between the WLS and the linkages to the areas of open scrub and gardens to the north-west, and the parkland beyond. It would increase the degree of isolation of the wildlife site in the local network of wildlife refuges.
 26. In support of the scheme, the appellant contends that benefits may accrue through preventing easy access to the woodland and provide a degree of incidental surveillance about part of its border. It is also asserted that the development would screen the woodland from road lighting and noise effects. However, as this would largely be replaced by domestic sources of noise, light and disturbance at closer proximity to the woodland fringe, these are not clear benefits in favour of the proposal.
 27. Taking all of the above together, I find that whilst the balance of biodiversity could be maintained or enhanced on the site, there is little to demonstrate that the proposal would either preserve or enhance the network of green spaces or their integration. The wider effects on the network of local green spaces and therefore the function of the LWS have not been suitably described. It has not therefore been conclusively shown that there would be no adverse effects on the biodiversity value of the adjacent designated site. Accordingly, I cannot be

² Paragraph: 014 Reference ID: 8-014-20190721

certain that the balance of any on-site enhancements would offset the nature and scale of potential losses associated with the designated site as part of the wider network.

28. On the balance of evidence, I am not persuaded that the scheme would meet the requirements of Policies NE1, NE2, NE3 and NE4 of the LP as together they seek to conserve, enhance or restore important landscape features and green infrastructure assets, and to contribute to biodiversity, nature conservation and connectivity for the benefit of nature, people and the economy. For similar reasons, it would conflict with the Framework.

Other Matters

29. In support of the proposals the appellant highlights that the site is located in a village identified for expansion such that the principle of housing in the locality is accepted. The proposal could meet requirements with respect to amenity and parking space standards, and without direct adverse effects on existing residents. As requirements of the local plan, these are not benefits in favour of the development.
30. However, the scheme would deliver 7 new residential units on a windfall site. This would contribute to local housing delivery and the Government's objective of significantly boosting the supply of homes. This is a benefit of considerable weight.
31. I note the frustrations of the appellant as to the level of communication by the Council with regard to certain aspects of the development in the run up to the appeal. However, this is not a matter for the appeal.
32. I acknowledge the other concerns raised by local residents in relation to such matters as local service and infrastructure capacities, housing need, drainage and highway safety. However, my decision does not turn on those matters.

Planning Balance and Conclusion

33. The proposal would cause harm to the character and appearance of the locality. It would reduce green infrastructure connectivity and potentially reduce the biodiversity value of an important local wildlife site and irreplaceable ancient woodland habitat within the local network of green spaces. I find the benefits of the delivery of a limited number of new homes would not outweigh the identified harm in the particular circumstances of the case. The proposal would therefore conflict with the development plan taken as a whole and there are no other considerations, including the Framework, that outweigh this conflict. For the reasons given, the appeal should not be allowed.

R Hitchcock

INSPECTOR