



Appeal Decisions

Site visit made on 31 October 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decisions date: 8 November 2023

Appeal A Ref: APP/C1760/W/23/3314244

Oaklands, Lower Common Road, West Wellow, Romsey, Hampshire SO51 6BT

- 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 P Turner against the decision of Test Valley Borough Council.
 - The application Ref 22/02353/FULLS, dated 9 September 2022, was refused by notice dated 4 November 2022.
 - The development proposed is erection of a detached house.
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Appeal B Ref: APP/C1760/W/22/3309155

Oaklands, Lower Common Road, West Wellow, Romsey, Hampshire SO51 6BT

- 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 P Turner against the decision of Test Valley Borough Council.
 - The application Ref 22/00716/FULLS, dated 2 March 2022, was refused by notice dated 9 May 2022.
 - The development proposed is erection of a detached house.
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Appeal C Ref: APP/C1760/W/23/3321718

Oaklands, Lower Common Road, West Wellow, Romsey, Hampshire SO51 6BT

- 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 P Turner against the decision of Test Valley Borough Council.
 - The application Ref 23/00582/FULLS, dated 28 March 2023, was refused by notice dated 26 April 2023.
 - The development proposed is erection of detached dwelling.
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Decisions

1. Appeals A, B and C are dismissed.

Procedural Matters

2. As set out above there are three appeals on this site. The proposals are all for single dwellings, however they differ in scale and design details. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the three schemes together, except where otherwise indicated.

3. Attention has been drawn to the Wellow Neighbourhood Plan. It is understood that this draft Plan has now been submitted to the local planning authorities. However, the draft Plan has not yet been subject to independent examination and therefore there may be unresolved matters. As such I attached limited weight to this emerging plan in this appeal.

Main Issues

4. The main issues for Appeals A, B and C are:
- The effect of the proposals on the character and appearance of the area:
 - Whether the proposals would provide satisfactory living conditions for future occupants of the dwellings, with regards private garden space; and
 - The effect of the proposals on the ecology in the site.

Reasons

Character and Appearance

5. The appeal site is a plot of land on the eastern side of Lower Common Road. The character of the eastern side of this road varies considerably along its length, from relatively closeknit dwellings in cul-de-sacs near the main road to the open fields at its northern section. Near the appeal site, properties are characterised by spacious plots and there are numerous mature trees in the area. As such this section of road has an attractive verdant appearance.
6. The four dwellings at the rear of the appeal site are set well back from the road and this is the case with the property at Kingsmead which neighbours the site. This is not so at the properties to the side and opposite the appeal site and Kingsmead, which largely have built forms closer to the road. As such, while Oaklands and Kingsmead may differ from the wider prevailing pattern of development in the area, the relatively undeveloped space at their frontage, which includes the appeal site, provides a distinct green break in the built form in this section of the road.
7. Although materials and equipment are currently being stored in the central part of the appeal site, this is understood to be a temporary arrangement associated with the construction of the four dwellings which appeared to be largely complete. Even with an area of hardstanding the site appears a relatively undeveloped space that is dominated by attractive, mature trees. With these attributes, the site contributes positively to the verdant local character of this part of the settlement. Moreover, while this appeal site may not be a public open space, its positive attributes are clearly visible from the highway and in the public realm.
8. All three proposals would comprise a single dwelling at the appeal site. The proposed floor space under Appeal B would be the largest of the three schemes. While the scheme under Appeal A would be somewhat smaller, both of these proposals would be sizeable, two storey dwellings. The proposal subject of Appeal C would be a dormer style dwelling, with a floorspace significantly smaller than the proposed two storey dwellings.
9. While the floor space and height varies significantly between the proposals, all three developments would result in a detached, family sized dwelling. As such,

even with gardens at both sides, the smallest proposed dwelling would result in a sizable built form at the appeal site, and a significant portion of the site would be covered by development. Even taken account of the relatively large plot size, this would considerably alter the existing undeveloped quality of the site.

10. The valued trees at the site would be retained such that a considerable section of the proposed gardens would be covered by the canopy of the trees. While future occupants may welcome the verdant appearance of the site, it is likely that overtime occupants of the proposed family dwellings would find the concentration of trees, in both garden spaces, a nuisance in terms of either shading or foliage litter.
11. Also, the trees could be perceived as posing a risk in respect of falling branches such that the gardens would be considered unsafe for children to play in and for occupants of the dwellings to sit and relax. In turn, this would create pressure to significantly prune or remove the trees. While consent would be required for felling or pruning that goes beyond general maintenance, substantial tree works in the future may be difficult to resist if the safety of the occupants of the dwelling was at issue. In this regard the proposals would significantly increase the likelihood that trees in the appeal site would be substantially reduced or lost.
12. The loss or substantial reduction in the size of mature trees at the appeal site would significantly diminish the existing verdant character of this area. Moreover, such an adverse impact on valued trees, alongside the introduction of a sizeable built form at the appeal site, would considerably alter the appearance of the site in the street scene.
13. The significant and harmful erosion of verdant and undeveloped qualities of the appeal site, that would occur with all three proposals, would not be countered by the proposed dwellings being consistent in design detail with existing dwellings in the area. The resultant substantial visual changes in the appeal site, with the erosion of positive features, would have a significant harmful impact on the prevailing local character.
14. There are a number of Tree Preservation Orders (TPOs) in the area, and this includes the Group TPO that covers the whole of the appeal site and land to the rear. I note the advice on this matter set out in Planning Practice Guidance as well as the appellant's assertion that trees on the site do not merit a TPO.
15. Be this as it may, the recent decision on the TPO works application at the appeal site was part consent, part refusal. This TPO decision notice refuses the felling of four trees on the appeal site, stating their removal would have a negative impact on the character of the area. In respect of the part consent, the evidence indicates that the trees that can be felled are diseased or at the end of their life. Also, while the TPO consent has permitted the removal of some trees, this is subject to a condition requiring replacement trees close to those that are felled in the appeal site. Moreover, the tree species specified by this condition are likely to be sizeable when matured, such that a considerable part of the appeal site would be covered by trees, and the site will continue to positively contribute to the verdant character of this area.

16. While noting that the replacement trees will take time to mature, I must consider the lifetime of the developments. The Arboriculture evidence asserts that trees within the site would be protected during construction. I find no evidence to refute this, and this matter could be addressed through conditions. However, this would not address the likely threat to the trees in the long term.
17. Planning permission for four dwellings at the rear of the appeal site largely reflects the original pattern of development of the former nursing home at Oaklands on the wider site. As such that permission generally retained the verdant undeveloped character at the front of the site. This would not be the case for these proposed developments for the reasons outlined.
18. Also, it is understood that there is a landscaping scheme required by condition of that planning permission. This should safeguard and enhance green features at the front boundary of Oaklands. However, the proposals before me would require a significant break in this green boundary for the front access of the proposed dwellings. Consequently, this would erode a benefit secured under that planning permission. These matters do not weigh in favour of these proposals for these reasons.
19. The visual change would be localised, nonetheless the proposals would have a significant and harmful effect on the character and appearance of the area. In this regard the proposals would be contrary to Policies COM2, E1 and E2 of the Test Valley Borough Revised Local Plan (Local Plan). These Policies collectively state that development will be permitted if it is of a high quality in terms of design and local distinctiveness; to achieve this, development amongst other matters, should integrate, respect, and complement the character of the area in which the development is located.
20. The proposals would also be contrary to guidance set out in the Wellow Village Design Statement, which seeks to safeguard the local character of the area.

Living Conditions

21. Regardless of the variation in floorspace, all the proposals would comprise a family sized dwelling with good sized gardens. However, plans show that a considerable portion of the proposed garden to the south would be covered by tree canopies. There are some smaller trees in the northern garden space. However, as outlined above, these include replacement trees that overtime are likely to be sizeable such that their canopies, combined with existing mature trees in this space, would cover a considerable portion of this proposed section of garden. As such, retaining the valued trees at the appeal site would result in a considerable section of the proposed gardens being covered by tree canopies. This would likely cause a nuisance to the occupants of the proposed dwellings in terms of shading or foliage litter.
22. I have had regard to the submitted overshadowing assessment and the level of light that would reach the gardens. However, even if I was to agree with the conclusions of that assessment, given the extent of canopy cover from sizeable trees at the site, future occupants would likely perceive these trees as a risk in respect of falling branches, such that the gardens would be considered unsafe for children to play in and for occupants of the dwellings to sit and relax.

23. General maintenance may reduce the risk of falling branches. However, given the extent of tree coverage over both proposed gardens, it is likely that the trees would be seen as a safety risk. Safe outside seating and play areas is a reasonable expectation for future occupants of a family dwelling. I am not satisfied, given the concentration of trees in this site, that the proposed gardens would provide a safe and useable outdoor space in the long term. In this regard, the proposals would fail to provide satisfactory living conditions for future occupants of the dwellings.
24. While existing plots 1 and 2, at the rear of the appeal site, may include sizeable trees, these trees are not located in the principal garden space, which in those properties is to the rear. This would not be the case with these proposals. There are notable properties in the wider area that have a substantial number of trees in their garden, including Woodland Cottage and The Anchorage opposite the site. However, many surrounding gardens, while sylvan in character, have significant space that is unaffected by tree canopies.
25. The evidence also suggests that there are five existing dwellings affected by TPOs in the immediate area, and that this has not resulted in harm to trees in those cases. However, limited information is provided to consider that matter. In any event, while it may not be uncommon for properties in the wider area to include mature trees, this is not a justification for development which would provide unsatisfactory living conditions at the appeal site.
26. Also, the site may be deemed suitable for a construction compound, but this is a temporary use. This is distinctly different from a proposed property intended as living accommodation and suitable for a family.
27. The appellant asserts that Local Plan Policies relevant to this matter are incomplete without supplementary planning guidance. However, Policy LHW4 seeks to protect residential amenity, and this is largely consistent with the National Planning Policy Framework, which requires a high standard of amenity for existing and future users. These matters have not altered my findings for these reasons.
28. In light of the above, I find that the proposals would not provide satisfactory living conditions for future occupants of the dwellings, with regards private garden space. In this respect, the proposals would conflict with Policy LHW4 of the Local Plan. This Policy states development will be permitted provided that, amongst other matters, it provides for private open space in the form of gardens or communal open space which are appropriate for the needs of residents.

On-site Ecology

29. The proposals are supported by an updated preliminary ecology report. The evidence identifies limited habitat value at the core of the appeal site. However, the evidence shows that the boundary habitats has some potential to support foraging and commuting bats. Although this potential is considered low, the report also suggests mitigation measures in respect of this matter, involving control of lighting and compensatory tree planting, with reference to native species.

30. Lighting could be controlled by condition. Also, the replacement trees required by the TPO consent would be in keeping with this proposed mitigation. However, as already outlined, I have found that the proposals would provide unsatisfactory living conditions because of the trees and that there would be significant pressure to remove trees in the site. As such a condition requiring trees as mitigation is unlikely to make these developments acceptable. Consequently, I have not been persuaded, based on the limited evidence presented, that on-site mitigation in respect of bats could be accommodated in the appeal site.
31. Some measures have been proposed to enhance on-site biodiversity, which include planting in favour of native species, swift and bat boxes and provisions for hedgehogs. However, I have limited information before me such that it is not clear whether these proposed enhancements, or the enhancements secured by the planning permission for the four dwellings at the rear of the appeal site, would compensate for the potential adverse effect on the identified habitats on the site which support bats. Therefore, I am not convinced that a condition would make the developments acceptable in respect of this matter.
32. In light of the uncertainties outlined above, I find insufficient information to conclude that the proposals would not have a harmful effect on ecology in the site. In this regard the proposals would fail to accord with Policies COM2 and E5 of the Local Plan. These Policies collectively require that development in the Borough that will conserve, and where possible restore and / or enhance, biodiversity will be permitted.
33. In respect of this matter, the proposals would potentially fail to accord with the requirements of the Conservation of Habitats and Species Regulations 2017 (As amended) (Habitat Regulations).

Other Matters

34. The appeal site is within the zone of influence for the New Forest Special Protection Area and Solent and Southampton Waters Special Protection Areas and Special Areas of Conservation (SACs). Natural England, in respect of these designations, advises that any new dwelling in this area would likely have a significant adverse impact on the integrity of these protected habitats either through the increase of recreational activities, or by increased nutrients into water courses.
35. To comply with the Habitats Regulations, Policies COM5 and E5 of the Local Plan and related guidance, mitigation is required to address the adverse impacts. Related to the Habitat Regulations, I also note the appellant's comments about Mottisfont Bats SACs. However, given my findings on the other main issues in this case it is not necessary to consider these matters further in these appeals.
36. The appellant asserts that a biodiversity net gain could be achieved through these proposals. However as already highlighted, I have found uncertainties in respect of this issue such that it does not significantly weigh in favour of the developments. The proposals would contribute to the Government's objective to significantly boost housing supply. The small windfall site in a settlement could be built out quickly and there would be economic benefit during the construction phase. There would also be social and economic benefit to the

rural area from future occupants of the dwelling. However, the social, economic and environmental benefits of the proposals would be small given the scale of development. While noting some support has been expressed for these proposals, even when considered cumulatively the limited benefits identified in this case would not outweigh the significant harm to the character of the area and the harm to future occupants of the dwellings.

37. Existing residents at the four dwellings at Oaklands have not submitted objections to the proposals. Be this as it may, I must consider future occupants of the area. The Council has not raised concerns about highway matters, subject to conditions. The Council has also not raised issues about impacts on neighbouring residents. However, development should not result in such harms, and these are neutral factors in this case.
38. Attention has been drawn to policies that are not in dispute in this case. However, I have found harm in respect of character and the living conditions of future occupants, as well as uncertainty with regards impacts on on-site ecology, and therefore conflict with the development plan when read as a whole.

Conclusion

39. For the reasons stated above and having regard to the development plan and other material considerations, the appeals should be dismissed.

A J Sutton

INSPECTOR