



Appeal Decision

Site visit made on 19 October 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2023

Appeal Ref: APP/W0340/W/23/3316050

Sylvan House, Fishers Lane, Cold Ash, Thatcham RG18 9NG

- 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 Millen Homes Ltd against the decision of West Berkshire District Council.
 - The application Ref 21/02702/OUTD, dated 20 October 2021, was refused by notice dated 1 December 2022.
 - The development proposed is a serviced self-build plot at land adjacent to Sylvan House, Fishers Lane, Cold Ash.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with all matters reserved except for access and layout. Appearance, landscaping, and scale would be matters for future consideration. Whilst an indicative plan detailing the proposed front elevation has been submitted, this is for illustrative purposes only. The Council considered the appeal proposal on this basis, and I shall do the same.
3. A Flood Risk Assessment and Technical Drainage Note have been submitted with the appeal. Although these documents were not before the Council when the planning application was determined, the additional information does not fundamentally change the scheme that was considered by the Council and the interested parties. Further, several additional points have been raised by the Council in relation to the main issues which were not explicit within the reasons for refusal. However, the appeal procedure has provided an opportunity for the parties to comment on the additional information and points raised, and, I have taken account of the comments received in determining the appeal. As such, I am satisfied that no party has been prejudiced.
4. A signed Unilateral Undertaking (UU) dated 7 August 2022 accompanies the appeal. The Legal Agreement commits the developer to market the appeal site in accordance with the marketing approach set out therein. I shall return to the UU later in this decision.

Main Issues

5. Having regard to the evidence before me, the main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area, including protected trees;

- whether the proposed development would provide adequate foul and surface water drainage.

Reasons

Character and appearance

6. The site subject to the appeal lies within the settlement development boundary of Cold Ash, which for the purposes of the West Berkshire Core Strategy (the Strategy) is defined as a Minor Rural Centre. The village is characterised by low density development comprising mostly of detached dwellings which are set back from the highway and occupy well proportioned, maturely landscaped plots. These characteristics provide for a verdant and spacious setting which contributes positively to the semi-rural character and appearance of the area.
7. The appeal site extends to approximately 0.14 hectares and forms part of the garden area of Sylvan House. The topography of the site falls by some 6m from the host property to the north-western boundary. Many of the larger trees along this boundary together with those adjacent to Fishers Lane are collectively protected by a Tree Preservation Order. These protected trees are substantial in size and prominent within their immediate setting and, together with the well-established, dense roadside hedgerow make a strong and attractive contribution to the local character.
8. I observed at my site visit that there are modest variations in plot sizes and site coverage along Fishers Lane. Whilst the proposal would reduce the overall extent of the host plot, the two resulting plots would still be generous. The plot to building ratio would be comparable to the existing properties in the locality and the positioning of the proposed dwelling as indicated on the submitted plan would ensure adequate distance between the host property and the proposed built form. For these reasons, I do not consider that the proposal would appear unduly cramped in comparison to the prevailing pattern of development or indeed read as a visual intrusion of built form. I appreciate that this conclusion differs to that of the 2012 and 2013 appeal decisions. Whilst I do not have the benefit of the earlier plans, it would seem from the Inspectors commentary that the schemes were materially different to the one before me in terms of the site area and extent of built form. As such, they do not lead me to a different conclusion in this regard.
9. The larger, mature trees would be retained and incorporated into the proposed development. However, a section of the denser, low-level vegetation along Fishers Lane would be lost. Whilst compensatory planting is indicated on the proposed plans, the canopy of the new understorey planting would start at a height of 2 metres and would be set back, to the rear of the visibility splays. This would leave the site more open to views from Fishers Lane but more significantly it would result in the introduction of lengthy, deep, and tapered splays which are not commonplace along Fishers Lane. Whilst the proposed landscaping could be supplemented by additional planting, this would not adequately mitigate the discordant form of the visibility splays and the loss of mature landscaping.
10. The proposed access and driveway would encroach into the Root Protection Areas (RPAs) of several trees, including the protected grade 'A' Oak trees, identified as T1, T2, T3 and T9. To minimise root disruption, the proposed driveway would be constructed using a 'no dig' method. In addition, a ramp

would be installed to bridge the difference in ground levels between the site and Fishers Lane. This would require excavation of a 200mm x 200mm concrete toe adjacent to the highway which, the Arboricultural Impact Assessment (AIA) explains would be undertaken by hand, based on a 1 in 10 slope and RPAs shown.

11. While the details suggest a ramp system is feasible, the AIA plots the RPAs of the protected trees as roughly perfect circles. When taking account of the nearby hardstanding including Fishers Lane and the adjacent driveway, it is likely that the root systems will have developed to compensate for this. Given the uncertainty regarding the extent of the true RPAs and the noted change in ground levels required to achieve the necessary access gradient, I cannot be certain that the proposed measures could be undertaken without damaging the roots of the protected trees. For the same reason, I cannot conclude with any degree of certainty that the foundations of the proposed dwelling would not affect the roots of those trees along the adjacent boundary. Therefore, the imposition of a condition requiring further details would not be appropriate. These trees make a significant positive contribution to the verdant character and appearance of the area and their loss or diminution would be harmful to the locality.
12. Overall, I find that the proposal would significantly harm the character and appearance of the surrounding area, including the protected trees contrary to Policies CS 14 and CS 19 of the Strategy. Amongst other aspects, these policies seek to ensure that development is appropriate to the pattern and character of the existing settlement and conserve and enhance the diversity and local distinctiveness of the area. It would be inconsistent with the Council's Quality Design – West Berkshire Supplementary Planning Document 2006 (the Design SPD) where it seeks to safeguard identifiable features including prominent trees and minimise the loss of hedgerows and would undermine the objectives of the Cold Ash and Ashmore Green Village Design Statement where they seek to safeguard existing character. It would also be inconsistent with the design objectives of the National Planning Policy Framework (the Framework).
13. The Council's decision notice alleges conflict with Policies CS 17 and CS 18 of the Strategy which relate to biodiversity and green infrastructure respectively. Whilst the removal of the hedgerow may affect biodiversity, the Council does not allege any harm in this regard. Further, given the Strategy's definition of 'Green Infrastructure', I am not persuaded that this would be relevant to this proposal. Therefore, these policies are not determinative to this main issue.

Foul and surface water drainage

14. Policy CS 16 of the Strategy indicates that development within areas of flood risk from any source of flooding, including Critical Drainage Areas (a CDA) and areas with a history of groundwater or surface water flooding, will only be accepted if it is demonstrated that it is appropriate at that location, and that there are no suitable available alternative sites at a lower flood risk.
15. The appeal site lies within Flood Zone 1 and therefore is at low risk of flooding from rivers and the sea. It is also at low risk from surface water flooding. However, the evidence indicates that the appeal site is in an area of high groundwater. Indeed, the Council's Strategic Flood Risk Assessment shows that groundwater over part of the appeal site is likely between 0.025 metres and 0.5 metres below ground surface. To this end, in accordance with Policy CS 16

and footnote 55 of the Framework, the appeal is accompanied by a Flood Risk Assessment¹ (FRA).

16. The FRA indicates that foul waste would be disposed of via a private treatment plant and that the treated effluent would be pumped into a drainage mound located within the appeal site, where the flows would be allowed to infiltrate. Surface water would be disposed of via a sustainable drainage system, with the intention of dealing with surface water at source via infiltration so as not to increase the risk of flooding elsewhere. The appellant submits that the drainage strategy is compliant with the drainage hierarchy and has been designed up to and including the 1 in 100 year +40% climate change event.
17. BGS borehole records have been used to derive the infiltration rates. However, the boreholes, albeit located in the same underlying bedrock foundation are located some 250 metres from the appeal site. I have no assurance that the rates of infiltration at the site would be comparable to the borehole records. Further, whilst 2012 percolation test results demonstrated suitable ground conditions, a considerable period has since elapsed. Therefore, although the appellant submits that the proposed system would be a betterment to the earlier scheme which was accepted by the Environment Agency, I cannot be sure that 2012 test results can be relied upon for the purpose of this appeal and that infiltration would be an appropriate means of drainage at the appeal site.
18. Accordingly, I find that the proposed development would not provide adequate foul and surface water drainage. It would therefore conflict with Policy CS 16 of the Strategy, where it seeks to ensure that development does not increase flood risk elsewhere. It would also be inconsistent with the Design SPD, and the SuDS Supplementary Planning Document 2018 where they seek to ensure that new development manages surface water run-off. Further, it would be inconsistent with the Framework in so far as the development would not include appropriate surface water management measures to ensure that it would be made safe for its lifetime without increasing flood risk elsewhere.

Other Matters

19. The Council's delegated report and decision notice indicate that the proposed development would have a likely significant effect on the River Lambourn Special Area of Conservation through additional nutrient loading. Whilst having had regard to the appeal decisions put to me by the appellant, for the reasons set out above, I find that the appeal scheme is unacceptable. Therefore, in dismissing the appeal, it has not been necessary for me to consider the effect of the proposal on the designated site as this could not lead me to a different conclusion.
20. The appeal site lies within the settlement boundary where the principle of development is acceptable. In addition, the Council's evidence indicates that there is a considerable unmet need for self-build dwellings. The signed UU indicates that the plot would be marketed as a self-build opportunity in the first instance and thus would contribute to the noted shortfall. In addition, the proposal would bring short-term benefits in terms of construction expenditure and employment and would contribute to the local economy and viability of

¹ Flood Risk Assessment – LE22678-SY-LE-GEN-XX-RP-CE-FRA01-P1 dated January 2023

local services. Whilst these benefits are acknowledged, given the scale of the development, I find that they would be limited.

21. Further, the appellant submits that the landscape proposals would compensate for the loss of the existing vegetation and would enhance biodiversity through the new specimen tree planting within the site, green walls and the provision of bat and bird boxes. However, based on the evidence, the extent of the benefit in comparison to leaving the site undeveloped is not clear. I therefore give this limited weight. Consequently, and notwithstanding the Framework's objective of significantly boosting the supply of housing, the other considerations set out above do not outweigh the harm that I have identified or the conflict with the development plan.
22. There are no designated heritage assets within proximity of the appeal site. Furthermore, I have no reason to doubt that the proposed dwelling would be of be of a high-quality, both in terms of its design and energy performance. I also recognise that adequate on-site parking would be provided together with cycle and refuse storage and that no harm to living conditions is alleged by the Council. However, the lack of harm in relation to the above neither weighs in favour or against the proposal.

Conclusion

23. The appeal proposal would conflict with the development plan as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. The appeal is therefore dismissed.

H Wilkinson

INSPECTOR