



Appeal Decision

Site visit made on 11 December 2023

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/N1730/W/23/3316106

**Land at the Old Mortuary, Winchfield Court, Pale Lane, Winchfield
RG27 8SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs R Kite against Hart District Council.
 - The application Ref 22/01933/FUL, is dated 18 August 2022.
 - The development proposed is the erection of a dwelling, garage and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a new Winchfield Neighbourhood Plan (WNP) has been produced and has been approved at referendum on 23 November 2023. It has therefore come into force as part of the statutory development plan and replaces the previous Neighbourhood Plan which was referred to by the parties in their submissions. The relevant policies have been provided and the parties have had the opportunity to comment on the implications of the WNP for the appeal.
3. A revised National Planning Policy Framework (NPPF) was published on 19 December 2023. The parties have been given the opportunity to comment on any implications for the appeal.

Main Issues

4. The Council did not determine the application within the statutory period (as extended) but has provided details of its putative concerns. It follows that the main issues are as follows:
 - Whether the site is a suitable location for the development having regard to the spatial strategy set out in the development plan and the NPPF,
 - The effect of the development on the character and appearance of the site and surrounding area, including the former mortuary building,
 - The effect of the development on protected species in the locality,
 - Whether the development would provide suitable pedestrian and vehicular access to the highway,

- Whether the development would affect the integrity of the Thames Basin Heaths Special Protection Area (SPA).

Locational suitability

5. The site is in the open countryside adjacent to but outside of the settlement boundary which has been defined around Winchfield Court, a cluster of development at a former hospital. The development plan for the area includes the Hart Local Plan (adopted 2020) (HLP), saved policies in the Hart District Local Plan (adopted 2002) (HDLP) and the WNP. HLP Policy SS1 establishes the district's spatial strategy and distribution of growth. Development will be focused within defined settlements, on previously developed land in sustainable locations, and on allocated sites. Housing outside defined settlements will be considered in accordance with HLP Policy NBE1, which sets out exceptions to the policy of countryside restraint. Criterion j) of Policy NBE1 sets out an exception which provides support for proposals located on suitable previously developed land (PDL) that is appropriate for the proposed use. WNP Policy BE1 states that development outside the settlement boundaries will only be supported if it is in accordance with other policies or the NPPF.
6. The term 'PDL' is defined in the glossary to the NPPF as land which is or was occupied by a permanent structure, including the curtilage of the developed land. The site is an area of open land that contains the single storey former mortuary building. It was found in 2019 not to be PDL by an Inspector who dismissed two appeals¹ for the redevelopment of a larger area of land which included the appeal site. The wider site contained the mortuary building and other less substantial buildings that were overgrown with vegetation and only covered a small part of the extensive site of more than 1 hectare.
7. The appeal site is a considerably smaller portion of the site and therefore a greater proportion of the site is developed than was the case with the previous appeals. Nonetheless, the majority of the site is open and undeveloped, consisting of mown grass, trees and undergrowth. The mortuary building has an access from Pale Lane with a small area of hardstanding between the lane and the entrance to the building. Beyond this small area of hard surfacing, I have seen no evidence that the surrounding land forms the curtilage of the former mortuary. I do not therefore find that the entire site is PDL. Furthermore, the proposal is not to redevelop the building but to develop the adjacent land. It does not benefit from the exception in HLP Policy NBE1 j).
8. Although the site is located adjacent to the densely developed Winchfield Court, it is otherwise surrounded by open countryside with only scattered development. It is some distance from services and facilities in nearby settlements with no lit footways to access them. The area is not served by a bus service and Winchfield Station is a short drive away. Cycling to nearby villages and the station is possible but is unlikely to be sufficiently convenient to allow future occupiers to avoid reliance on the private car. I concur with the Council's view that future occupiers would be mostly reliant on the private car on a day-to-day basis. The site is therefore in a location that does not have good access to facilities and services. As such, it would not accord with the sustainable pattern of growth sought by the NPPF.

¹ Appeals ref APP/N1730/W/18/3210487 & APP/N1730/W/18/3210488

9. As a result of these factors, the site is not a suitable location for the development, having regard to the spatial strategy set out in the development plan and the NPPF. It is therefore in conflict with HLP Policies SS1 and NBE1, and WNP Policy BE1, insofar as they seek to focus new housing development according to the specified hierarchy. It is also contrary to the NPPF.

Character and appearance

10. The former mortuary building is a single storey building set close to the road. It has a simple form with a pitched roof hipped to the front and rear, and brick walls with decorative rendered quoins. Due to its age and association with the adjacent former Winchfield Hospital which was previously a workhouse, the former mortuary has a degree of historic significance such that it is a non-designated heritage asset.
11. With the exception of the mortuary building, the site has an undeveloped and rural appearance. The open part of the site is largely screened from Pale Lane by the mature trees and undergrowth but is visible in glimpsed views. It is highly visible from the access drive to Winchfield Court and provides the former hospital buildings with an open and rural setting. The development would result in a substantial dwelling and detached garage on the site where currently there is only a small building. This would give the site a more urban and residential character and would have a significant harmful effect on the open and rural appearance of the site. It would extend built form into open countryside beyond the well-defined limits of Winchfield Court and would be apparent in views from Pale Lane. The house has been designed to reflect the detailing and materials of the former hospital buildings, but there is no evidence that the site layout or building form has been influenced by the adjacent historic buildings at Winchfield Court.
12. The former mortuary building has recently been reroofed and would be used for storage. While it is generally beneficial for historic buildings to be maintained and used; it is not clear how the development would affect the building as a heritage assessment has not been provided. Paragraph 203 of the NPPF requires that the effect on the significance of a non-designated heritage asset is taken into account in determining the application and requires a balanced judgement taking into account the scale of any harm or loss and the significance of the heritage asset. In the absence of a heritage assessment, I cannot conclude that any effects on the mortuary building would be acceptable.
13. The development would therefore be harmful to the character and appearance of the site and surrounding area, including the former mortuary building. It would thus be in conflict with HLP policies NBE1, NBE2, NBE8 and NBE9, saved HDLP policy GEN1 and WNP Policies BE4 and HE2 which seek, amongst other things, to ensure that new development is in keeping with local character and that development which would affect a heritage asset is supported by a heritage statement. It would also be in conflict with the NPPF.

Protected species

14. A preliminary ecological appraisal has been carried out and has identified potential habitat for protected species on the site. It recommends further surveys for reptiles and bats, while precautionary measures are put forward in relation to breeding birds, badgers and amphibians. It identifies low potential for bats to be using the former mortuary building, while there is potential for

common reptiles in the grassland, edges of bramble patches and log piles. I have no reason to disagree.

15. The former mortuary would be retained but it is not clear whether works to the building are required in order for it to be used for storage. In the absence of any information regarding the use of the site by bats, the extent and implications of any changes to the building, it is not possible for me to conclude that there would be no adverse effects on bats. As most of the site comprises grassland, it seems to me that there is potential for harm to occur to reptiles if present. In the absence of the suggested further surveys, it is not possible for me to conclude that the development would not be harmful to reptiles. These are not matters that can be dealt with through a condition, as it is not clear whether any harmful effects could be adequately mitigated.
16. The development is therefore likely to have harmful effects on protected species, contrary to HLP Policy NBE4, insofar as it seeks to conserve and enhance biodiversity. It would also be in conflict with the NPPF.

Highway safety

17. The site has an existing access to Pale Lane, which crosses over a ditch onto the highway verge. The proposal makes reference to the provision of parking and turning and I note that the Tree Report indicates a no-dig driveway. It seems to me therefore that the access would be surfaced in order to serve both the construction works and the residential use of the site, particularly for vehicles. The verge and ditch do not appear to be included in the red line of the appeal site and as the crossover is not currently hard surfaced it is likely that works within the highway would be required. I have not been advised of any specific highway safety concerns in relation to the use of access by pedestrians and vehicles. My observations on the site do not lead me to conclude otherwise. The Highway Authority has not raised any objection on highway safety grounds and states that works on highway land would need to be delivered by suitable highway licence.
18. I therefore consider that the provision of pedestrian and vehicular access to the site are matters that could be adequately dealt with through the use of conditions, if I were minded to allow the appeal. It is not therefore the case that the development could not provide safe, suitable and convenient pedestrian and vehicular access. The proposal would not therefore be in conflict with HLP Policies NBE9 and INF3, which seek, amongst other things, to ensure that new development provides safe, suitable and convenient access for all potential users.

Thames Basin Heaths SPA

19. The site lies between 400 metres and 5km of the SPA, where further residential development, in combination with other plans and projects, is likely to lead to additional recreational pressure and as a result a significant detrimental effect on the integrity of the SPA. Saved Policy NRM6 of the South East Plan, and HLP Policies NBE3 and NBE4 require adequate measures to avoid or mitigate any potential adverse effects on the SPA. As competent authority, I must carry out an appropriate assessment to consider the potential effect of the development on the integrity of the SPA, and whether this can be adequately mitigated. I note that Natural England has advised that it has no objection to the development subject to securing appropriate mitigation for recreational impacts

on habitat sites. Nonetheless, the responsibility for carrying out an appropriate assessment lies with the competent authority.

20. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information in order to undertake an appropriate assessment. The appropriate assessment would have required me to consider whether any mitigation was required, and if so, whether it would be adequate, effective, and could be appropriately secured and delivered in a timely manner. The appellant has provided a signed unilateral undertaking, in which the owner/developer undertakes to pay Hook Parish Council a financial contribution towards the cost of works and measures identified in the Thames Basin Heaths Special Protection Area Avoidance and Mitigation Supplementary Planning Document. The Council has raised various concerns. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of the appeal.

Other considerations

21. The appellant states that the existing trees and understorey would be retained. Additional planting and biodiversity enhancements could be secured through a planning condition. The proposal is for a self-build dwelling which is encouraged by national planning policy.
22. The appellant sets out that the proposal will meet sustainable construction requirements in the Building Regulations, and will provide adequate drainage, sewage disposal and parking. Compliance with policy and regulatory requirements are neutral considerations.

Planning balance and conclusion

23. The NPPF seeks to significantly boost the supply of housing, but the limited benefits of the proposal, in terms of the provision of a single self-build dwelling with biodiversity enhancements, would not outweigh the fundamental conflict with the Council's spatial housing policies, the character and appearance of the area and protected species. Although I have found that the proposal could provide a safe, suitable and convenient pedestrian and vehicular access, this does not override the harm I have identified.
24. The proposal conflicts with the development plan when taken as a whole. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. The development does not therefore represent sustainable development for which the NPPF indicates a presumption in favour.
25. For the reasons given above, having regard to all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR