



Appeal Decision

Site visit made on 30 April 2024

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2024

Appeal Ref: APP/R0335/W/23/3323741

Land to the rear of Furzefield, Locks Ride, Bracknell, Berkshire, SL5 8FZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Nicholas King Homes against Bracknell Forest Borough Council.
 - The application Ref is 23/00200/FUL.
 - The development proposed is Construction of 5no. detached dwellings (4no. four beds and 1no. five bed), with associated garages, parking, access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal has been made against the failure of to determine the proposal within the prescribed period. As such, the Council did not issue a decision notice or accompanying reasons for refusal.
3. A legal agreement made under Section 106 of the Town and Country Planning Act 1990 has been submitted along with the appeal which deals with mitigation to address any effects arising from the proposal on the integrity of the Thames Basin Heaths Special Protection Area (SPA), and which will secure biodiversity net gain on the site.
4. Since the appeal was lodged, the Council has adopted a new Bracknell Forest Local Plan on 19 March 2024 (the BFLP). The newly adopted Local Plan supersedes the previous saved policies from the Bracknell Forest Borough Local Plan (2002), and the Bracknell Forest Core Strategy (2008). As a result, the newly adopted policies are afforded full weight in my decision. The appellant has had the opportunity to comment on the implications of the newly adopted BFLP on the appeal and I have had regard to their response in reaching my findings.
5. In December 2023, the Government published a revised National Planning Policy Framework (The Framework), which I have had regard to in reaching my decision. The parties were invited to provide comments on any implications arising from changes to national policy brought about by the publication of the latest version of the Framework. I have considered these responses as part of my determination of the appeal.

Main Issues

6. As the appeal has been made against a failure to give notice within the prescribed period of a decision on an application for planning permission, having regard to the matters set out above and the submitted appeal documents, the main issues are:
- Whether the proposal is in a suitable location for new residential development having regard to local policy;
 - the effect of the proposal on the character and appearance of the area having regard to trees;
 - the effect of the proposal on flood risk; and
 - the effect of the proposal on highway safety.

Reasons

Suitable Location

7. The appeal site is located on the edge of Winkfield Row to the rear of an existing residential development known as 'Furzefield'. The appeal site is bounded to south and west of the site by other residential dwellings.
8. Policy LP1 of the BFLP sets out the overall spatial strategy for the Borough which indicates sites have been allocated at Winkfield Row consistent with its position within the settlement hierarchy.
9. Policy LP2 of the BFLP indicates Winkfield Row is within Tier 4 of the settlement hierarchy reflecting the more limited services and facilities available in the area. Policy LP2 goes on to state that development within defined boundaries will be acceptable in principle, and outside of such in the countryside, development will be restricted to that which requires a countryside location. Although part of the proposed access to the site would fall within the defined settlement boundary, the majority of the appeal site would be located outside, and as a result, it would fail to accord with Policy LP2 of the BFLP.
10. Policy LP35 of the BFLP sets out the exceptions for the types of development that would be acceptable in the countryside. As the proposal does not comprise of dwellings for rural workers or result in the conversion of disused buildings or replacement dwellings, it would also fail to accord with the exceptions of the policy.
11. Policy LP3 of the BFLP sets out the sustainable development principles which proposals will be permitted subject to. I note that the previous appeal decision on the site¹ considered the suitability of the location for residential development and found that the site would be in a location consistent with the character, accessibility and provision of infrastructure and services. These points are not in dispute between the parties in this appeal and there is no evidence before me to come to an alternative finding on them. As such, I find no conflict with Policy LP3 in this regard.

¹ APP/R0335/W/22/3290821

12. Notwithstanding the above, the proposal would nonetheless be in a location that would conflict with the spatial strategy and settlement hierarchy policies of the recently adopted Development Plan.
13. The appellant has drawn my attention to an appeal decision² which allowed 20 dwellings at Swinley Road, Ascot. However, the appeal decision was dated 27 October 2023 which is prior to the latest iteration of the Framework, but also the Council's recent adoption of the BFLP. As a result, the prevailing policy position was materially different at the time of the Swinley Road appeal than is the case in this appeal due to the status of the Development Plan and national planning policies. Therefore, this decision is of limited weight in my findings.
14. In light of the above, I conclude the proposed development would not be in a suitable location for new residential development having regard to local policy. It would therefore conflict with Policies LP1, LP2 and LP35 of the BFLP for the reasons set out above.

Character and appearance having regard to trees

15. The appeal site is a flat field laid to grass with mature trees and hedging to the boundaries. The site includes trees covered by Tree Preservation Orders (TPO) (TPO 1230, TPO 1254 and TPO 81). The trees on the site boundary are substantial and make an important contribution to the wider character of the area as the appeal site forms a transition between the existing built form and the surrounding countryside.
16. The appeal proposal would result in the felling of four trees; one oak and two apple trees (T21, T23 and T24) and a silver birch (T27) which the submitted evidence identifies as being dead. The oak tree was removed from the TPO whilst the apple trees have been identified in the assessment as being unsuitable for retention due to being partially collapsed and splitting apart. Whilst the trees proposed to be removed would allow for some longer views into the site, the remaining trees and vegetation along the northern boundary would nonetheless maintain the character of the area as a transition between built development and the surrounding countryside.
17. The submitted arboricultural assessment indicates that there would be an incursion of around 1.17 sqm of Root Protection Area (RPA) of T38 due to a service strip. The RPA would not be subject to incursion on all sides and due to the small percentage involved (around 0.6% according to the assessment), any impact on the trees would be limited.
18. The proposed access road would run broadly east to west across the site with the dwellings facing towards the access road. The plans indicate that access would be widened and brought further within the RPA of Trees T42-46, and T49. Concerns have been raised that the RPAs of trees opposite the existing development at Furzefield have not been accurately represented. However, there is evidence before me within the submitted Arboricultural Integration Report that the RPA have been identified. As the proposed access on to Locks Ride would not be significantly altered, even if the RPA were to differ as the Council suggests, I find that the limited extent of incursion would not be harmful.

² APP/R0355/W/23/3321229

19. The proposal would result in the pruning of a red oak (T30 (TPO T7) which would be located within the proposed garden of Plot 1 for reasons of maintenance. Whilst the Council considers the extent of pruning to be unnecessary, the proposed pruning would nonetheless maintain the tree as part of the wider landscape which would be visible from within and beyond the site. There is no clear evidence the tree would be adversely affected by the proposal, and I do not find the extent of pruning would be harmful to the health of the tree or the wider character of the area.
20. Evidence submitted with the appeal indicates that the gardens of the proposed dwellings would be between approximately 10.7 metres to 13.9 metres depth away from the nearby tree canopy. I am satisfied that the positioning of the proposed dwellings in a linear arrangement, combined with the separation distances of the dwellings from the canopies would be sufficient to avoid post-development pressure on the trees.
21. The proposed development would provide 5 dwellings which would continue on the alignment of the dwellings to the west within the Furze field development. The proposal would be surrounded on three sides by existing residential development, and whilst the proposed the dwellings would be of a slightly greater scale and mass to the existing detached dwelling to the rear of Furze fields, they would not be out of scale with the nearby properties and the two-storey nature of the dwellings would provide a consistency of skyline with the existing development when viewed from beyond the site boundary. Overall, the scale of development would not result in a harmful relationship with the trees or the surrounding landscape.
22. The proposed development would result in the loss of some trees, and the Arboricultural Integration Report indicates that dead oaks T42 and T46 would be veteranized. However, the report makes clear that the trees to be lost have a limited lifespan and it would be impractical to retain them within the scheme. Alternative planting has been proposed including native specimen trees along with additional hedgerow planting. Whilst this would take some time to establish, it would provide an acceptable mitigation for the trees and vegetation which would be removed. Overall, the proposal would not undermine the wider landscape value that the tree-lined boundary to the north of the site provides, and a significant verdant boundary interspersed with mature trees would still be retained.
23. As a result, I conclude the proposal would not result in harm to the character and appearance of the area having regard to trees. It would therefore accord with Policies LP28 and LP54 of the BFLP which requires all development to amongst other things, achieve a high standard of design and include high quality landscaping, and secure the sustainable retention and enhancement of trees and native hedgerows wherever possible and that retained trees and hedgerows should be integrated effectively into site layouts.

Flood Risk

24. The appellant has submitted a Drainage Technical Note (DTN) (dated 30 May 2023) which seeks to address concerns raised by the Lead Local Flood Authority (LLFA) regarding the appeal proposals drainage configuration and connectivity. The DTN demonstrates that the outfall rate has been revised to 1.0 l/s including 1:100 year plus climate change requirements as requested by the LLFA. As a result, the proposal would be acceptable in this regard.

25. The LLFA had also sought confirmation the receiving ditch and its clear downstream connectivity has been established. The DTN indicates that the proposal would include a flow control chamber and a weir wall will be set at maximum level to control exceedance. Furthermore, the DTN shows a new outfall into the existing ditch using an 'Aco Swale Inlet'. Evidence from the appellant's drainage engineers indicates that the receiving ditch appears to be connected from the appeal site to Forest Road/ Blaziers Lane via an existing ditch. Whilst the evidence indicates the existing ditch would benefit from maintenance, there is sufficient evidence of connectivity.
26. The proposal includes Sustainable Drainage Systems (SuDs) which would route rainwater pipes from roofs and parking areas. The DTN confirms that SuDs storage would not be included within private areas of the site, and in this regard would satisfy the expectations of the LLFA. The proposal would also make use of the surface water storage tank for existing Furzeffield development as part of the overall drainage strategy. Overall, I find that the proposal would not result in increased flood risk to the proposed dwellings on site.
27. Concerns have also been expressed regarding the impact of drainage arrangements on trees to northern boundary of the site. However, the drainage arrangements in respect of the ditch and the connectivity to the wider ditch network off-site would enable drainage flows to be satisfactorily managed. The appellant has indicated the proposal would connect to the ditch on the northern boundary via the existing Furzeffield outfall connection. Therefore, there is no evidence this arrangement would result in harm to the protected trees on site.
28. In light of the above, the proposal would not result in harm to flood risk. It would therefore accord with Policy LP28 of the BFLP which seeks to, amongst other things, include measures to minimise climate change and alleviate its effects.
29. The proposal would also accord with paragraph 173 of the Framework which seeks to ensure that flood risk is not increased elsewhere.

Highway Safety

30. The appeal proposal's access point would utilise the existing entrance to the 'Furzeffield' development from Locks Ride albeit this would be widened along its length. The access point would have adequate visibility in both directions.
31. The proposed access road would only be wide enough for a single vehicle, and a turning head has been proposed by plot 5. Although the turning head would not enable larger vehicles such as a refuse lorry to access all of the proposed dwellings, the scheme would allow waste collection vehicles to get within 25 metres of the refuse storage area. Whilst the Council consider that the access should be widened along its full length, vehicle refuges are proposed along the access which would enable vehicles to pass. Whilst I note the Council's Highways Officer has suggested some revisions to the scheme which might overcome their concerns, there are no revised plans before me.
32. The previous appeal decision at the site found there would be opportunities for future occupiers to access local services and facilities by modes of transport other than private vehicles. There is no evidence before me to reach any alternative finding on this point.

33. In light of the above, I conclude that the proposal would not result in harm to highway safety. It would therefore accord with Policy LP26 of the BFLP which indicates developments will be permitted where they improve or do not cause unacceptable impact on highway safety and provide effective, convenient and safe delivery, collection, servicing, refuse and recycling collection and emergency access arrangements.

Other Matters

34. The appeal proposal would be located approximately 4.5 kilometres from the Thames Basin Heaths Special Protection Area (SPA). The appellant has submitted a Unilateral Undertaking (UU) made under Section 106 of the Town and Country Planning Act 1990 which includes an obligation to pay a contribution of £35,238 towards off site Suitable Alternative Natural Greenspace (SANG) and £5,415 Strategic Access Management and Monitoring (SAMM) to fund visitor access management measures. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further.
35. Concerns have been raised that the proposal had not secured a financial contribution to fully secure proposed delivery of the Biodiversity Net Gain requirements. As I am dismissing the appeal for other reasons, it is not necessary to consider this matter further.
36. Interested parties raised concerns regarding lack of local public transport and overdevelopment. The previous appeal decision considered the site would provide suitable opportunities for accessing services and facilities elsewhere by modes of transport other than private vehicles. There is no evidence before me to reach an alternative finding in this regard.

Planning balance and conclusion

37. Paragraph 76 of the Framework indicates that where a Local Plan is less than 5 years old and identifies over five years housing supply at adoption the Council is not currently required to identify and update a supply of specific deliverable sites to provide for 5 years worth of housing for decision-making purposes. The recent adoption of the new BFLP earlier this year confirmed these requirements and this means that the Framework's tilted balance at paragraph 11(d), and the provisions of footnote 8 would not be engaged.
38. The appeal proposal would result in clear conflict with the adopted spatial strategy in respect of the location of development. Whilst I find no harm to the character and appearance of the area having regard to trees, flood risk and to highway safety, the proposal would nonetheless conflict with the Development Plan when read as a whole.
39. The proposal would result in a number of benefits. Economic benefits would arise as a result of the construction of the proposal through the provision of local employment and in the accompanying materials supply chain. The proposal would also make a contribution to meeting housing need in the area. There would also be social benefits arising from future residents utilising local services and facilities and engaging in community activities. Whilst the proposal would secure Biodiversity Net Gain, this is expected of development of this scale and is therefore of limited weight in my decision.

40. Notwithstanding the benefits set out above, I do not find these or the other considerations advanced would be sufficient to outweigh the conflict with the Development Plan. Therefore, I conclude that in this instance, the proposal should be determined in accordance with the Development Plan.

41. In light of the above, the appeal is dismissed.

Philip Mileham

INSPECTOR