
Appeal Decision

Site visit made on 22 May 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/K0425/W/23/3329455

Land adjacent to Summerhill, Heavens Lea, Hedsor SL8 5EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by St John Homes (Thames Valley) Ltd against the decision of Buckinghamshire Council - West Area (Wycombe).
 - The application Ref is 23/06257/OUT.
 - The development proposed is the erection of two detached self-build/custom build dwellings with detached garage buildings, access, parking and amenity space, together with new footpath link, community orchard, landscaping and the provision of informal public open space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline except for access, all other matters were reserved for future consideration. I have assessed the proposal on the same basis and treated the drawings as being an illustration of how the proposal could ultimately be configured.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area taking account of the fact that the appeal site is designated as green space.

Reasons

4. The appeal site has an extensive planning history, including three previous unsuccessful appeals. The first was determined over 30 years ago and since then there has been significant changes in the planning policy context. Although I have taken account of that Inspector's view in relation to the impact on the character and appearance of the area of that scheme, of greater relevance are the more recent decisions in 2017¹ (The 2017 appeal) and particularly the appeal decision for a single detached dwelling in 2021² (the 2021 appeal).
5. Like the Inspector who determined the 2021 appeal, I observed that the appeal site comprises a sloping field which forms part of a tear drop shaped piece of land which is enclosed by the narrow lanes of Hedsor Road, Hawks Hill and

¹ APP/K0425/W/16/3160690

² APP/K0425/W/21/3270736

Heavens Lea. The northern part of this land, which falls outside the appeal site boundary is occupied by residential dwellings on large plots and such dwellings are characteristic of the area.

6. There is mature vegetation along the appeal site boundary which means that from many vantage points, the site is not particularly prominent, and views are limited when walking along most of the existing footpath to the south of the appeal site. However, there is a field gate that provides a break in the existing hedge and vegetation along the southern boundary of the appeal site, which allows extensive views across the appeal site towards a wider countryside landscape because of the slope of the land.
7. The character of the appeal site is open and verdant that provides relief from the surrounding residential development. This creates a sense of verdant spaciousness. This sense of spaciousness and the visual link the appeal site provides to the wider landscape makes an important contribution to the character and appearance of the area.
8. Policy DM11 of the Delivery and Site Allocations Plan July 2013 (DSAP) seeks to ensure that the green infrastructure network will be conserved and enhanced. The explanatory text in support of the policy highlights that the green infrastructure operates at all scales and encompasses a network of greenspaces, access routes, landscapes and natural and historic elements that intersperse and connects Buckinghamshire's urban and rural settlements with each other and the surrounding countryside and provides multi-functional benefits for the economy, wildlife and health and wellbeing of local people and communities. This policy and the definition of green infrastructure is consistent with the National Planning Policy Framework (the Framework) which supports strategic policies that conserve and enhance the natural environment, including green infrastructure.
9. Taking account of my findings above and bearing in mind the definition as set out in DSAP and the glossary of the Framework, the appeal site falls within the definition of green infrastructure. The explanatory text of Policy DM11 also sets out that Policy DM12 of DSAP aims to protect key green infrastructure assets including green spaces.
10. The appeal site is located within the settlement boundary of Bourne End and Hawks Hill/Harvest Hill but is designated as green space in the DSAP. Policy DM12 sets out that development that would result in the loss, fragmentation or reduction in size of green spaces will be refused except in exceptional circumstances. The explanatory text in support of the policy reinforces the point that designated green spaces are a key element of the District's green infrastructure, the retention of which is important.
11. An illustrative plan has accompanied the appeal proposal. Although this shows a new public footpath, new community orchard and public open space with additional planting, it also shows that a significant part of the site would be taken up by an access drive, a parking court, the footprint of the proposed two dwellings and associated hardstanding. Although, details could change at the reserved matters stage, taking account of the existing and future development within the area, the introduction of two detached dwellings with detached garage buildings on the appeal site along with the associated works would result in the harmful erosion of the spacious character of the appeal site.

12. Notwithstanding the indicative maximum height of the buildings, the introduction of the proposed development on the appeal site would also unacceptably undermine the existing visual link that the appeal site provides to the wider landscape. As a result, the proposal would result in the loss, fragmentation and reduction in size of a designated green space.
13. Consequently, the proposal would unacceptably harm the character and appearance of the area, would fail to conserve or enhance the green infrastructure network and would result in the loss, fragmentation and reduction in size of a designated green space. As a result, the proposal would be at odds with Policy DM11 and DM12 of the DSAP for the reasons set out above.
14. Further, the proposal would conflict with Policy WBE/HH1 of the Wooburn and Bourne End Parish Council Neighbourhood Development Plan 2013-2033 (WBE NP) which among other things seeks to ensure schemes respond positively to the character of the area. The proposal would also be at odds with the Framework, which seeks to maintain and enhance networks of green infrastructure. Overall, I afford substantial weight to the harm the proposal would have on the character and appearance of the area and the loss, fragmentation and reduction in size of a designated green space.

Other Matters

15. The appellant has once again argued that Policy DM12 of DSAP should be considered out of date and as a result there should be no objection to the principle of the proposed development. The same point was made by the same appellant to the Inspector who determined the 2021 appeal. The Inspector reached a clear conclusion that there remained a clear justification for the green space designation and that it broadly accorded with the relevant criteria set out in the Framework and consequently did not treat Policy DM12 of DSAP as being out of date.
16. The appellant considers that the Inspector in that case misdirected themselves, but I do not agree. I accept that based on the available evidence there does not appear to have been a specific review of this particular green space for some time. However, the more up to date Wycombe District Local Plan which was adopted in 2019 (WDLP) is also relevant and I agree with the appellant that notwithstanding that the Council have cited no conflict with it, Policy DM34 of the WDLP which deals with green infrastructure is relevant. As set out above, I am satisfied that the appeal site meets the definition of green infrastructure as set out in the DSAP and the Framework.
17. The explanatory text in support of Policy DM34 of WDLP explains that it acts as an umbrella over Policy DM11-DM16 of the DSAP which also address matters of green infrastructure and is consistent with Policy DM11 and DM12 and the Framework as it seeks to ensure that all development should protect and enhance green infrastructure features and networks. It follows that given that Policy DM12 of DSAP is specifically mentioned in a later relevant development plan policy and is consistent with the Framework, like the previous Inspector I consider that it is not out of date.
18. Even, if I am mistaken, the Framework is clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. So even if the

policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

19. It is therefore necessary to consider other benefits of the scheme and undertake an overall planning balance in this case. I will also consider whether there are exceptional circumstances to justify allowing the appeal.
20. So, I turn now to consider the fact that the proposal would result in two additional self-build houses. The Council has a duty under the Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet identified demand for the district.
21. The Framework supports small sites to come forward for self-build and custom-build housing. Although I accept that Policy DM22 of the WDLP, does attempt to address the situation by requiring that on large sites (developments that include 100 houses or more), 5% of the proposed dwellings would be self-build plots, I accept the appellant's evidence that the Council has fallen well short of meeting demand.
22. The addition of self-build dwellings would help to address this shortfall. However, the weight afforded is tempered by the small number of proposed dwellings. Nevertheless, the provision of two detached self-build/custom dwellings would amount to a benefit of modest weight. I also accept that there would be other limited social and economic benefits associated with the proposal, such as employment during the construction phase and the support that future occupants would have to local services and facilities.
23. I afford other benefits including, the provision of improved footpath connectivity, which is supported by the rights of way officer, public open space and the proposed biodiversity and ecological improvements a cumulative moderate weight.
24. Although, the proposal would retain an element of green space, given my findings above on the overall harm including to the green space, this does not weigh in favour of the proposal. Further, the fact that there are no objections from the highways authority, environmental health, the Arboricultural officer and the lead local flood authority are neutral factors in the determination of the appeal.
25. I note that the refusal notice, also mentioned Policy WBE/PD8 of the emerging WBE NP. In the made plan, this has become WBE/PD6. The appellant sets out that as the appeal site does not fall within the relevant designation, this policy is not relevant to the proposal. I agree. However, that does not alter my view in relation to my overall findings on the main issue as outlined above.

Planning Balance

26. Overall, I afford the totality of benefits that would be secured as a result of the proposed development significant weight. However, I afford substantial weight to the harm the proposal would have on the character and appearance of the area and the loss, fragmentation, and reduction in size of a designated green space. Consequently, the adverse impacts of granting planning permission for

the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Moreover, there are no exceptional circumstances that would justify allowing the appeal.

27. In reaching that view, I have taken account of the appeal decisions that have been brought to my attention. In relation to a number of cases, the appellant has provided the appeal decisions which has allowed me to undertake a meaningful comparison. These include cases at Brize Norton³, Shrivenham⁴ and Billingshurst⁵. However, the circumstances of these other cases are materially different. None of these other cases are located in the same district and so do not involve the same development plan context.
28. Further, in relation to the cases at Shrivenham and Billingshurst, the proposals involved significantly more dwellings and so the contribution to the shortfall of self-build/custom build houses was materially different. Further, in relation to the case at Billingshurst, the Council was also unable to demonstrate a five-year supply of housing and the Inspector found that the harms and policy conflict were more limited than the benefits and collectively weighed moderately against the proposal whereas he afforded the benefits substantial weight. Similarly, in relation to the case at Shrivenham, the Inspector afforded moderate weight to the adverse impacts of the proposal whereas he found that the benefits were considerable.
29. Although in the case at Brize Norton, the number of self-build/custom-build houses was the same, the Inspector in that case found that the adverse impact on the character and appearance of the area was small. In contrast I have afforded the harm caused by this proposal substantial weight. As a result, for these cases the circumstances are materially different from the case before me, and this lessens their weight as material considerations.
30. In some other appeal cases mentioned by the appellant, very little information has been provided and so it has not been possible to meaningfully assess whether they are relevant or not. However, each case is determined on its own individual merits and given that in each case a planning balance would have been necessary, the existence of these other appeal decisions does not justify harmful development at the appeal site where I have found that the harm significantly and demonstrably outweighs the benefits.
31. As a result, given the material differences between these cases and the appeal before me I give the other appeal decisions limited weight in the determination of the appeal.

Conclusion

32. The proposal conflicts with the development plan and the Framework and material considerations do not indicate that the appeal should be decided other than in accordance with the development plan. Therefore, the appeal should be dismissed.

S Rawle

INSPECTOR

³ APP/D3125/W/21/3274197

⁴ APP/V3120/W/22/3297610

⁵ APP/Z3825/W/21/3283823