



Appeal Decision

Site visit made on 10 May 2024

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2024

Appeal Ref: APP/X0360/W/24/3336349

Land between Nos 7/8 & 9/10 Tanhouse Lane, Wokingham, Berkshire RG41 2RL

- 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 Blueking Holdings Ltd against the decision of Wokingham Borough Council.
 - The application Ref 231385, dated 7 June 2023, was refused by notice dated 3 August 2023.
 - The development proposed is the construction of 2No. 2 bedroom flats and 2 No. 1 bedroom flats over carports and parking.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Five-year housing supply is a matter both main parties refer to. Having regard to the application of the National Planning Policy Framework (the Framework) I sought their comments on whether footnote 7 to paragraph 11 applies in this case.

Main Issues

3. The main issues are the effect of the development on: -
 - i) the character and appearance of the area;
 - ii) flood risk; and
 - iii) protected species and biodiversity.

Reasons

Background

4. Planning permission has previously been refused, and subsequently dismissed on appeal, for the construction of 8no. maisonettes on the site (appeal reference APP/X0360/W/18/3202950). There have also been a number of other applications for the site for different forms of residential development which have either been refused or withdrawn.

Character and Appearance

5. Tanhouse Lane is a cul de sac of residential properties. Sited along the western side of the road, the appeal site comprises a row of derelict garages and is overgrown. The site is currently fenced off and the side of the road in front is being used for parking. Running along the rear boundary of the site is a river, Emm Brook, with adjacent trees and industrial units to the other side.
6. The existing two-storey properties along Tanhouse Lane have a consistency in scale and design. The long terraces towards the end of the cul-de-sac are set around green spaces and the appeal site provides a physical and visual gap to the western side of the road.
7. The proposal would continue the linear pattern of development. The length of the proposed building would not be dissimilar to some of the terraces but would extend up to three floors in the central element with the subservient wings to each side just below the height of the existing two-storey properties. It is designed with hipped roofs and dormer windows in the roof space to reduce the massing, although the different roof planes and projections, would contrast with the relative simplicity and regularity of the modest two-storey houses. There would be a separation to the side, between the proposed building and the neighbouring terraces, however, this section of the road does not have the spaciousness of the southern end, with the flank elevations and side boundaries to Nos. 41 to 43, opposite, positioned close to the road. Set slightly further forward than the neighbouring properties and due to the height and scale of the development there would be a notable increased sense of enclosure to Tanhouse Lane.
8. The proposal has been reduced in scale from that previously considered at appeal, and while the development is only for four units it would still be a substantial building. The entire ground floor would comprise under-croft parking with accommodation above. The impact on parking provisions for the residents of Tanhouse Lane was a particular concern of the previous scheme and this proposal would incorporate 14 tandem spaces. While the appellant indicates that the spaces would help alleviate the existing parking pressures, and there is support from some residents for parking, there is no information in relation to the distribution of spaces or how they would be managed. Moreover, there is no mechanism to secure any provision for existing residents; therefore, this is not a matter to which I can attach significant weight.
9. The redevelopment of the unkept, derelict site would enhance the area. Notwithstanding this, the scale and extensive length of the building and row of parked vehicles would erode the visual break in built form and views of the greenery beyond, which contributes to the street scene. Any potential for landscaping would be limited and restricted to the side and rear of the building. That space is also likely to be reduced further with the relocation of the refuse storage for accessibility and other operational elements sought by the Council's highway officer.
10. Overall, I find that the height, scale, and design of the proposal would be an intrusive form of development, out of keeping with the character and appearance of the area. It would therefore be contrary to policies CP1 and CP3 of the adopted Wokingham Borough Core Strategy 2010 (CS), and the Design Guide Supplementary Planning Document (SPD), which together, seek to

secure high-quality design which is respectful of the local character and landscape.

11. Policy CC01 of the Wokingham Managing Development Delivery Local Plan 2014 (MDD), also referenced in the reason for refusal, is a general policy relating to the presumption in favour of sustainable development. It therefore does not directly relate to this main issue, but the approach to development which I consider below under planning balance.

Flood Risk

12. The site is located within Flood Zone 3 as shown on the Environment Agency Flood Risk Maps with the source of flooding being Emm Brook immediately to the rear of the site. Based on modelling and topographical information the appellant's Flood Risk Assessment (FRA) suggests that the majority of the site lies within Flood Zone 2 with the north-west Corner remaining within Flood Zone 3.
13. The FRA submitted with the application did not carry out a sequential test. That information has been provided as part of the appeal, as well as other details in relation to the exception test, exceedance and evacuation plans. The appellant's sequential search is restricted to sites within Zone 1 or Zone 1 and 2. However, those entirely within Zone 2 would also be sequentially preferable. Additionally, there is nothing before me, to suggest that the Environment Agency has agreed to the zoning position as set out in the Appellant's FRA, and, the Council has not responded to the additional information.
14. The sequential assessment uses the Council's Housing and Economic Land Availability Assessment 2021 (HELAA) as a basis for alternative sites and filters out small sites with similar capacities. The three sites identified are then discounted as not being deliverable. There is, however, nothing specific regarding the capacity of the appeal site or the type of residential accommodation proposed. Thereby larger sites available for residential development could also accommodate four flats and would still be contributing to the overall housing provision across the Borough.
15. As required by MDD Policy CC09 and paragraph 168 of the Framework development must be guided to areas of lowest flood risk by applying the sequential approach. The information before me on other sites is limited, but I am not persuaded that there are no other sites, at lower risk of flooding, elsewhere in the Borough.
16. I acknowledge the residential accommodation would be elevated, however allowing for climate change the northwest of the site could be subject to flooding. The appellant indicates that this represents an overestimate based on +20%, nonetheless, the entrance and stairwell for two of the units is to be located within that area. In my view, the layout of the development has not had due regard to the site's flood risks and conflicts with the Framework (paragraph 173(a)) as it has not been demonstrated that within the site the most vulnerable development is located in the area of lowest flood risk and there are no overriding reasons for the design proposed.
17. Even where an FRA shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be

satisfied. The sequential test has not been passed and as such it is not necessary for me to progress to the exceptions test, and I have not considered the other additional flooding information any further.

18. Overall, it is not possible from the evidence before me to conclude that there are no more potential alternatives to this site away from high flood risk areas. The proposal, therefore, does not meet the requirements of the Framework to avoid, where possible, flood risk to people and property and would conflict in that regard with CS policy CP1 and MDD policies CC09 and CC10.

Protected Species and Biodiversity

19. The Council's reason for refusal advised that there was insufficient information to determine the impact upon bats. The appeal is accompanied by a preliminary Roost Assessment prepared by Plan Ecology Ltd. Whilst this concludes that the remains of the garages have negligible roosting potential, it does not assess the site for bat activity.
20. The assessment was undertaken in November outside the active bat season of May- September. The Council advise that the site provides a habitat suitable for foraging, there are trees along the river and third parties indicate they have seen bats. From the information provided, I am unable to conclude that the site does not support bats. Additionally, sited immediately adjacent to Emm Brook there is potential for the site to support other wildlife as part of the river corridor. Whilst the Roost Assessment recommends some biodiversity enhancements the ecology of the site has not been fully assessed. Therefore, there is insufficient information in relation to the presence or otherwise of protected species to demonstrate any impacts of the development would be mitigated, or that there would be an enhancement of biodiversity.
21. Thus, the development would fail to accord with CS Policies CP3 and CP7 and MDD Policies CC03 and TB23. Amongst other things, these policies seek a high-quality environment with proposals that maintain or enhance sites important for nature conservation, including protected species and habitats, and that schemes incorporate new biodiversity. The development would also conflict with the Framework (section 11) and Circular 06/2005 which seek to protect and enhance biodiversity.

Other Matters

22. In coming to my decision, I have had regard to the various matters raised by third parties, in particular parking and accessibility along Tanhouse Lane. Issues relating to the maintenance and upkeep of the site and the Council's notification of the planning application are outside the scope of this planning appeal.
23. Pre-application advice was sought from the Council and whilst the appellant considered the concerns raised had been addressed any discussions are not a formal determination. Additionally, the application was not supported by specific information in relation to flood risk and biodiversity as advised in the Council's detailed pre-application response (Appellant's Statement appendix 3).

Planning Balance

24. The Council accepts that they do not have a 5-year supply of housing land; therefore, paragraph 11(d) of the Framework is relevant. However, specific

Framework policies relating to locations at risk of flooding (footnote 7) indicate that development should be restricted. While the appellant suggests the footnote is not applicable, they do not provide any evidence to support that position. The site is within an area of flood risk, and even if mitigation could be achieved, the presumption in favour of sustainable development does not apply. As such, the planning balance that applies here is a weighing of the benefits of the proposed development against the harm, having regard to the three dimensions of sustainable development, as set out in the Framework, without applying a 'tilt' in favour of the grant of planning permission.

25. In support of the development, paragraph 124 of the Framework requires the Council to give substantial weight to the value of using suitable brownfield land within settlements for homes and supports opportunities to remediate derelict sites. The development would also contribute to boosting the supply of houses in a location close to facilities, and there would be associated economic benefits. Nonetheless, at four units the social and economic provisions would be limited. From the information provided it has not been demonstrated that the development would not have adverse impacts on protected species and flood risk, and therefore, the proposal does not support the environmental objectives.
26. For the reasons set out above, I find that the planning balance here falls against the proposal. I do not consider that the scheme would be sustainable development, and so it would not accord with MDD Policy CC01.
27. I have found against the development on the three main issues and there would be conflict with the associated policies. There are no material considerations in this case which indicate that the appeal should be determined other than in accordance with the development plan.

Conclusion

28. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.