

Appeal Decision

Site visit made on 4 September 2024

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2024

Appeal Ref: APP/H1705/W/24/3341394

45 Richards Field, Chineham, Hampshire RG24 8JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr James Westby against the decision of Basingstoke and Deane Borough Council.
 - The application Ref is 23/02560/RET.
 - The development proposed is described as change of use from amenity land to residential and erection of close boarded fence on the land to the rear of 45 Richards Field.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is no dispute between the parties that the change of use applied for has taken place. I saw on site that new fencing has been erected to enclose the land subject to the change of use. The appeal site has also been cleared of the dense understorey vegetation that formed part of the existing landscape. All trees appear to have been retained. For the avoidance of doubt, I have determined the appeal on the basis of the submitted plans.
3. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I have not sought further submissions.

Main Issues

4. The main issues in this appeal are the effect of the proposal on:
 - the provision of open space and the green infrastructure network;
 - biodiversity; and
 - the character and appearance of the area.

Reasons

Open space and green infrastructure

5. Richards Field is part of a modern residential development comprising houses and residential blocks, located adjacent to the A33, the principal road between Reading and Basingstoke. The residential development is separated from the A33 by a reasonably wide and dense landscape buffer. The appeal site lies adjacent to the rear garden that serves No. 45 Richards Fields and prior to the change of use, formed part of this landscape buffer.
6. Policy EM5 of the Basingstoke and Deane Local Plan (2011 to 2029) (2016) (Local Plan) seeks to provide, protect, and maintain green space throughout the borough by, among other things, only permitting the redevelopment of public and private open spaces where a proposal would meet certain criteria.
7. I saw on my visit that the understorey vegetation in the landscape buffer is dense and as a result largely impassable, meaning the appeal site cannot presently be accessed by the public. However, in this case, the appeal site would still meet the definition of open space set out in the Framework. Its public value derives from its contribution to the landscape buffer, which provides visual amenity to the wider area.
8. From the evidence before me and my observations on site, it appears that the landscape buffer has not been recently managed or maintained, partly due to there being no registered owner of the land. The appeal site previously comprised a large amount of bramble and bamboo along the rear garden boundary of No. 45 Richards Field, and I have no reason to dispute that this was doing damage to the property. Nonetheless, while I sympathise with the appellant, this does not prevent the site from meeting the definition of open space set out in the Framework.
9. The existence of other green spaces in the area, including Binfield's woodland park, surrounding fields, and woodland flanking the A33 does not clearly demonstrate that the open space provided by the appeal site is surplus to local requirements. Nor does the lack of maintenance of the landscape buffer.
10. The appellant refers to not having been given the opportunity to provide a financial contribution to another facility, such as the small local park on the estate, to mitigate the loss of the appeal site. However, there is nothing before me to suggest what level of contribution would be required, nor is there any mechanism for the contribution to be secured. Accordingly, the proposal would conflict with Policy EM5 of the Local Plan.
11. Notwithstanding this, there is no substantive evidence before me that the appeal proposal would harm the implementation of the Council's Green Infrastructure Strategy or result in undue pressure on the network. The understorey vegetation that has been removed as part of the proposal, was located on the edge of the landscape buffer and, although this has reduced the depth along part of it, the buffer has not been dissected or fragmented and would continue to provide a green corridor. The proposal would therefore not conflict with Policy EM5 of the Local Plan in this regard.

Biodiversity

12. There is very limited information before me to enable a proper assessment of the implications for biodiversity. To undertake a proper assessment, an understanding of the biodiversity value of the appeal site prior to the clearance of the understorey vegetation would be required to identify suitable habitat creation or enhancement to mitigate its loss.
13. Nevertheless, there is nothing before me that demonstrates that there is a reasonable likelihood of a protected species being present. I am therefore of the view that this information and subsequently biodiversity enhancements could be secured by condition.
14. I understand that the site is not in the ownership of the appellant, and this has meant that an on-site ecological survey could not be carried out to date. I also note the Council's concerns regarding enforcing a condition requiring a specific mix of planting within a private rear garden. However, there is nothing to suggest there is no prospect of appropriate biodiversity enhancements being implemented within a reasonable period. Therefore, in this case, the biodiversity enhancements required to mitigate the loss of the understorey vegetation could be secured using a condition.
15. Any condition would need to include a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the biodiversity enhancements before the development takes place. It would also need to ensure that the development can be enforced against if the requirements are not met.
16. Accordingly, subject to an appropriate condition requiring biodiversity enhancements, the proposal would not conflict with Policy EM4 of the Local Plan, which seeks to conserve and enhance the borough's existing biodiversity assets.

Character and Appearance

17. The landscape buffer, together with woodland to the west of Richards Field and a tree belt to the east, create a verdant backdrop to Richards Field and the wider residential development.
18. No. 45 Richards Field forms part of a short terrace made up of two houses and a residential block, known as Ash House. It is located at the end of the terrace adjacent to the landscape buffer. Given this, views of the appeal site from public vantage points are limited. On my visit, I was only able to see the very top of the new fencing from the rear parking court that serves Ash House.
19. The appeal proposal has therefore had a limited effect on the character and appearance of the area. While the amount of understorey vegetation that has been removed is not insignificant, it is modest relative to the size of the landscape buffer. Given this and that the trees have been retained, its removal has not had a detrimental impact on overall appearance of the landscape buffer, which continues to provide a verdant backdrop to the residential development.

20. I appreciate that, in plan, the linear line of the rear boundary fencing between the residential development and landscape buffer is an evident and consistent feature. Nonetheless, on the ground, given it is set a long way back from the street scene, it is not a noticeable characteristic of the built environment and does not make any appreciable contribution to local distinctiveness.
21. Accordingly, for the reasons above, the proposal would not result in any harm to the character and appearance of the area. While, given the nature of the proposal, it would not directly meet all the identified criteria in Policy EM10 of the Local Plan, it would not conflict with the overarching aim of this policy, which seeks to achieve high quality development across the borough by, among other things respecting the local context. It would also improve the living conditions of the appellant, as well as future occupants of 45 Richards Field, by increasing the utility of the garden space. Thus, it would accord with Policy EM10 of the Local Plan in this regard.

Other Matters

22. The appellant is willing to reduce the amount of land associated with the change of use to a one metre strip along the original rear garden boundary, as he believes this land to be in his ownership. Nonetheless, this would not fully address the conflict I have identified with Policy EM5 of the Local Plan.

Planning Balance and Conclusion

23. Overall, I have found that the proposal would not harm the character and appearance of the area, the green infrastructure network or, subject to conditions, biodiversity. Nevertheless, the loss of the appeal site as an open space would conflict with Policy EM5 of the Local Plan.
24. The proposal would have some modest benefits as it would improve the living conditions of the current and future occupants of 45 Richards Field by increasing the utility of the garden space. Also, by stopping further damage to the property by the unmanaged understorey vegetation. However, these benefits would neither outweigh nor address the conflict with Policy EM5 of the Local Plan. The proposal would therefore conflict with the development plan read as a whole.
25. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR