



Appeal Decision

Site visit made on 5 September 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2024

Appeal Ref: APP/W0340/W/23/3334321

Premier Inn, Pinchington Lane, Newbury RG19 8XS

- 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 Whitbread Group PLC against the decision of West Berkshire District Council.
 - The application Ref is 21/00636/OUTMAJ.
 - The development proposed is described as 'outline planning application for up to 9 no. dwellings and all associated works. Matters to be considered Access, Layout and Landscaping'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline. As originally submitted, it included details of access only, but the application was amended to include details of access, layout and landscaping. I have considered the proposal on that basis and have used the amended description in the banner heading above. As the appearance and scale of the proposed development are reserved for future consideration, I have treated drawings which illustrate proposed external elevations as being indicative.
3. A Unilateral Undertaking (UU) dated 29 May 2024, under section 106 of the Town and Country Planning Act 1990, was provided with the appeal. This makes provision for affordable housing and the Council has confirmed that this addresses the matters raised in the third reason for refusal.
4. Amended plans were provided with the appeal, increasing the number of parking spaces for the proposed dwellings from 20 to 23. Both parties confirm that the same amendments are included in a revised planning application¹, which is undetermined at the time of writing.
5. The Procedural Guide: Planning appeals - England makes clear that the appeal process should not be used to evolve a scheme and that any amended plans provided at appeal stage will be considered against the principles in *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018). This requires consideration of whether any substantive changes are proposed and whether any procedural unfairness would arise.

¹ West Berkshire Council application reference 23/02643/OUTMAJ

6. Amongst several smaller changes, the amended layout would alter the siting of the proposed dwelling on plot 1 and would introduce a double width access to serve plots 1 and 2. While this affects only one part of the site, it would be a substantive change within this particular stretch of Deadmans Lane and would change the relationship with the existing properties opposite.
7. I cannot be confident that interested parties, including those living opposite, have noted the amended parking layout. Although I have been provided with copies of representations responding to the revised application up to the date of the Council's Statement of Case, I cannot tell whether any further representations were received after that point. In any case, full details of the revised application are not before me. As such, it is not appropriate for me to rely on representations submitted on that separate application when considering this appeal.
8. Therefore, having applied the principles in the Holborn judgement, I have not taken into account the amended parking layout for 23 spaces, since it would amount to a substantive change to the proposal and there is a risk of procedural unfairness arising.
9. An updated Biodiversity Net Gain (BNG) Assessment was also provided with the appeal. This does not alter the proposed layout or landscaping to any substantive degree. The Council and interested parties have had the opportunity to comment and I have taken it into account. I have also taken into account the appellant's Ecology Addendum dated May 2024. Although this was received at a late stage, the Council has been given the opportunity to respond, with input from its Ecologist. The Addendum responds to a specific point in the Council's Ecology Statement of Case, which is unlikely to influence views already articulated by interested parties regarding the effect on biodiversity. As such, I am satisfied that no procedural unfairness would result to any party as a result of my having considered this additional evidence.

Main Issues

10. The main issues are:

- the effect of the proposal on highway safety and the flow of traffic, having regard to the proposed provision for off-street parking,
- the effect on biodiversity.

Reasons

Highways and Parking

11. The appeal site contains a hotel in landscaped grounds, with car parking in several bays around the edge. Vehicular access is through the adjacent retail park and currently only pedestrian access is available to Deadmans Lane. The proposed dwellings would occupy the existing parking bays along the southern boundary, with replacement hotel parking to be provided in front of the building. They would be accessed from Deadmans Lane; some sharing a central access and private drive and the others having individual driveways.
12. Parking standards for new residential development are set out in Policy P1 of the Housing Site Allocations DPD². Based on the requirements in that policy,

² West Berkshire Council Housing Site Allocations Development Plan Document (2006-2026), adopted 2017

the parties agree that 23 spaces are required. The appellant's transport evidence is based on provision of 23 spaces, as was the Highways Authority's response, which raised no highway safety objection. However, amendments prior to the Council's decision reduced the number of spaces to 20, which would not comply with Policy P1.

13. Although Policy P1 allows for parking that does not accord with the standards in exceptional circumstances, no such circumstances have been proposed. Indeed, the appellant has taken steps to address the shortfall through a revised planning application. However, for reasons given above, that is not the layout upon which I have reached this decision.
14. Deadmans Lane is a generally narrow, quiet road which provides access to several residential streets to the south of the appeal site. It does not accommodate two-way traffic along its full length, although there are some wider sections and passing places. The appellant's Transport Statement reports no records of accidents and traffic speeds appeared relatively low at the time of my site visit. However, there were regular vehicle movements entering and leaving the nearby streets and the houses directly fronting Deadmans Lane. Interested parties also report that the lane is used as a pedestrian route, including by children walking to school.
15. There are no apparent parking restrictions along most of Deadmans Lane, but nor were any vehicles parked on the lane at the time of my site visit. Given the limited width, the introduction of parked cars would be likely to obstruct the flow of traffic and could limit visibility for drivers entering and exiting the proposed development or negotiating the narrow sections of lane while seeking to pass oncoming traffic safely. As such, overspill parking resulting from the shortfall against parking standards would have an unacceptable effect on highway safety, as well as holding up the flow of traffic to and from nearby dwellings.
16. For the above reasons, I conclude that the proposal would be unacceptably harmful to highway safety and the flow of traffic, having regard to the proposed provision for off-street parking. It conflicts with relevant requirements in Policy P1, as summarised above. It also conflicts with Policy CS13 of the Core Strategy³, which amongst other things requires that development improves and promotes opportunities for safe travel, and with paragraph 115 of the Framework which indicates that development may be refused where it would have an unacceptable impact on highway safety.

Biodiversity

17. Policies CS14 and CS17 of the Core Strategy require amongst other things that development should provide, conserve and enhance biodiversity and create linkages between green spaces and wildlife corridors. Policy CS17 also includes a requirement that all new development should maximise opportunities to achieve net gains in biodiversity.
18. The hotel grounds include maintained lawns with decorative planting, various parcels of amenity grassland and tree and shrub belts around the perimeter. The proposed dwellings would reduce and fragment the belt of trees and vegetation along Deadmans Lane. This would undermine the benefit from that

³ West Berkshire Council Core Strategy (2006-2026), adopted 2012

particular habitat on the site, which is overlooked and valued by nearby residents. However, the landscape strategy would include a new, linear belt of tree and hedge planting between the proposed dwellings and the hotel. While this would not provide similar screening along Deadmans Lane, it would re-establish a meaningful and well-connected area of new vegetation, which is likely to be attractive to birds and small mammals. The development would also include garden land, which is itself of some biodiversity value.

19. Relevant protected species surveys are included in the 2021 Ecological Appraisal⁴ (EA). Appropriate mitigation measures are proposed, including measures to avoid disturbance of nesting birds and maintain connected habitat for foraging/commuting bats. Although the EA is now over three years old, it was updated in 2024. This update is not before me, but both parties confirm that it shows there have been no substantive changes in habitats or protected species present on the site. Furthermore, at the time of my site visit, those features likely to be of biodiversity value appeared substantially as described in the 2021 EA. The May 2024 Ecology Addendum addresses the omission of the hotel car park area from the original surveys and the updated Biodiversity Net Gain Assessment addresses previous flaws in methodology and concludes that a measurable biodiversity net gain would be achieved.
20. Following consideration of the appellant's ecological evidence in full, the Council has confirmed that the matters raised in the second reason for refusal could be adequately addressed through the imposition of conditions. These would encompass submission, approval and compliance with a Construction and Environmental Management Plan and Landscape and Ecological Management Plan, maintenance of up-to-date ecological evidence to inform the detailed proposals, measures to protect nesting birds, appropriate forms of external lighting and installation of bird/bat boxes and bee bricks.
21. Subject to the above conditions, based on the evidence before me, I am satisfied that there would be adequate protection of existing habitats and that a measurable net gain in biodiversity could be achieved through the proposed landscape strategy and other ecological enhancements. I therefore conclude that the effect on biodiversity would be acceptable and there would be no conflict with Policies CS14 and CS17, as summarised above. Nor would the proposal conflict with relevant paragraphs in the Framework, including the requirement in paragraph 180 that development should minimise impacts on and provide net gains for biodiversity.

Other Matters

22. On sites providing 5 to 9 dwellings, Policy CS6 of the Core Strategy requires affordable housing provision at a rate of 20% and the Planning Obligations SPD⁵ elaborates on how that requirement should be implemented. While the Framework says that affordable housing provision should not be sought for residential developments that are not major developments, the proposal is defined as a major development based on the appeal site area, so the requirements in Policy CS6 are applicable.
23. The UU makes provision for two affordable dwellings, one being available for social rent and the other a First Home. This is broadly in line with tenure

⁴ Aspect Ecology Ltd Ecological Appraisal October 2021

⁵ West Berkshire Council Planning Obligations Supplementary Planning Document 2014

requirements in Policy CS6 and the SPD, given subsequent national changes to the definition of affordable housing. The Council has confirmed that the UU is acceptable and would be sufficient to secure the appropriate provision of affordable housing, and I agree. I am furthermore satisfied that the UU meets the relevant tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. That being the case, the proposal would contribute to the supply of affordable housing, as well as to the supply of housing in more general terms.

24. The appeal site is in an urban area which is the focus for the majority of development, as set out in Core Strategy Area Delivery Plan Policy 1. There are services and facilities within walking distance, as well as access to public transport. Family sized housing is proposed, which is supported in Core Strategy Policy CS4, outside town centres. While both parties indicate that there is no shortfall in the Council's required housing land supply, the proposal would contribute to the windfall component of projected supply and would make more efficient use of a previously developed site.
25. Land to the south of the appeal site is within the Sandleford Priory Grade II Registered Park, the significance of which relates to its design by Lancelot 'Capability' Brown. However, the adjacent part of the Registered Park has been developed with modern housing. The listed buildings at Sandleford Priory are some distance beyond that housing, and consequently have no visual or functional relationship with the appeal site. No harm to heritage assets was alleged by the Council. Based on the evidence before me I concur that the setting and significance of relevant heritage assets would be preserved.
26. The Council has not alleged any harm to the character and appearance of the area and relevant requirements for energy efficiency, electric vehicle charging, cycle storage, drainage and noise insulation could be addressed through conditions. However, these are neutral factors which weigh neither for nor against the proposal.
27. The benefits arising from the delivery of additional housing, including affordable housing, would be at the expense of safe conditions on the highway, affecting future residents of the proposed dwellings and those living nearby. Furthermore, similar benefits could potentially be achieved through an alternative layout, addressing this outstanding matter. Against that background, while I recognise the benefits of the proposal, as summarised above, they do not outweigh the harm arising from the shortfall in parking.

Conclusion

28. The proposed development would conflict with the development plan. No other material considerations indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR