



Appeal Decision

Site visit made on 6 January 2025

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 21st January 2025

Appeal Ref: APP/C3810/W/24/3348396

Land West of St John's Close, Woodgate, Aldingbourne PO20 3TH

- 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 Luke Crossley of Briarsgate Homes Limited against the decision of Arun District Council.
 - The application Ref is AL/132/23/PL.
 - The development proposed is Construction of 9 No. residential dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary matter and main issues

2. The revised National Planning Policy Framework (Framework) came into force in December 2024. The main parties have had the opportunity to comment on the relevant changes, and the comments received have been considered.
3. The main issues are:
 - the effect that the proposed development would have on the character and appearance of the surrounding area, regarding Tree T1, and
 - whether the proposal would increase flood risk elsewhere.

Reasons

Tree T1

4. The appeal site is situated within a mainly residential area within the built up area boundary. The part mostly bramble/scrub covered and part back garden site is reached from the roughly west end of St John's Close. The proposal would include 9 mostly 2 storey dwellings with front and back gardens, with some on-plot parking, parking courts and soft landscaped areas, reached from the proposed road. The early mature Tree T1 is subject to Tree Preservation Order Individual Order for T1- Pedunculate Oak/*Quercus robur* at Springfield and Land to rear, Hook Lane Aldingbourne TPO/AL/1/20 (Year 2020), and it is situated near the site's roughly west boundary where it adjoins the back gardens of the dwellings at 8 and 9 Autumn Gate. Whilst Tree T1 is referred to as tree T13 in the appellant's evidence, I shall refer to the tree as Tree T1.
5. Tree T1 is important to the partial sylvan backdrop in Autumn Gate, and its upper parts can be appreciated from the nearby parts of Hook Lane and St John's Close. Moreover, as one of the few good-sized trees within the site, it would be an important feature of the proposal, and its benefits should increase

as it continues to grow. Thus, Tree T1 makes a significant positive contribution to the character and appearance of the surrounding area, and so, to amenity.

6. The appellant's evidence explains that Tree T1 has an asymmetrical crown due to past pruning by the site's roughly west boundary, and 2 hanging branches, which should be removed. Even so, due to its age, as Tree T1 appears to be in good health, and as there is more recent growth from its pruned limbs, its crown should recover. Whilst the lower part of Tree T1 would, unfortunately, be partly screened by the dwellings on Plots 6 and 7 on entering the site from St John's Close, it would contribute positively to the character and appearance of the proposal, and it would also have benefits for biodiversity. As Tree T1 has good potential for future growth, it should be given sufficient room above and below ground to allow the tree to recover its natural form, and to flourish.
7. The main stem of Tree T1 would be situated within the partly soft landscaped open area between Plots 6 and 7, and part of its present canopy would overhang the roughly north side of the back garden at Plot 6. Whilst the root protection area (RPA) of the present tree would be outside the footprint of the dwelling, part would be within that back garden. The main parties agree that some pruning could be acceptable to enable Tree T1 to develop a more balanced shape. Even so, for reasons including that most of Tree T1's root system is likely to have endured despite the unsympathetic previous pruning and storm damage, Tree T1's canopy would be likely to overhang the back garden at Plot 6 to a similar extent as at present within a relatively short time, and it would be close to the back of that dwelling.
8. As the back garden at Plot 6 would be about as wide as the narrow dwelling and little more than the minimum depth advised in the Arun District Design Guide Supplementary Planning Document, the cycle store, bins and paving in that garden would leave little room for growing plants and/or a lawn. Even after the advised ivy removal, Tree T1's present form would have a significant oppressive impact on the outlook from the back of that dwelling and its back garden, and its root system, whether inside or outside the present RPA, would restrict the occupiers' planting aspirations in their modest space for planting. So, for these and other reasons, including the inconvenience of dealing with fallen leaves, twigs and other detritus associated with Tree T1, and as the tree should continue to grow, the occupiers of Plot 6 could come to resent the tree. Thus, in time, the Council would be likely to come under pressure to allow repeated pruning of Tree T1, which would diminish its health and erode its natural form, to the detriment of its longevity and its contribution to the sense of place. As the occupiers' living conditions would be relevant, the Council could find that pressure hard to resist if the proposal were to be permitted.
9. As there would be reasonable scope for a similar number of dwellings to be provided within the site whilst leaving room for Tree T1's reasonably unrestricted growth, including the spread of its crown and its root system, the proposal's layout would not be acceptable. However, as LP Policy ENV DM1 is concerned with Sites of Biodiversity or Geological Importance, it is not one of the most relevant policies.
10. Regarding my colleague's appeal decision ref APP/C3810/W/23/3335883, some of the trees and/or their RPAs in or by that nearby scheme would be closer to the dwellings than Tree T1 to the proposal's Plot 6 dwelling, but there is little evidence that any of the trees other than the protected beech tree in or

by that site are statutorily protected. Moreover, as the back gardens of the detached dwellings in that nearby scheme would be much wider than the back garden of the Plot 6 dwelling, and as the form and character of the relevant trees and the orientation of the relevant dwellings and their plots in the 2 schemes differ, her appeal decision provides little support for the proposal.

11. Therefore, I consider that the proposed development would harm the character and appearance of the surrounding area, regarding Tree T1. It would be contrary to Policy ENV SP1 of the Arun Local Plan 2011-2031 (LP) which promotes the preservation, restoration and enhancement of the natural environment, LP Policy ENV DM5 which aims to protect existing habitats, and the Framework which aims for existing trees to be retained wherever possible.

Surface water drainage

12. Plan numbered KNC2128/602-01J (the appellant's plan) shows that the surface water drainage strategy would include 2 catchments with attenuation features that would discharge at a controlled rate into existing drainage features to roughly north and south. The south attenuation feature and the foul drainage would each drain through the grounds of Woodland, which is not within the control of the appellant, to connect to each of the roughly parallel surface water and foul drainage systems in or by Hook Lane. However, there is no acceptable mechanism before me to secure the off-site works at Woodland.
13. Moreover, whilst some of the appellant's evidence refers to the 'surface water sewer', the Council has confirmed that there are no mapped public surface water sewers in the relevant part of Hook Lane. Instead, the Council has advised that the proposed receiving pipework would be either public highway drainage, which is owned and managed by West Sussex County Council, or a culverted ordinary watercourse with landowner/riparian responsibility, and that it is not clear which of the 2 systems is relevant to the surface water connection point in Hook Lane.
14. The appellant's plan shows that the pipework from the south attenuation feature would connect to the 'culverted water course' under or by the pavement on the roughly north east side of the Hook Lane carriageway. As the appellant's closed-circuit television survey explains that, in its current condition, the storm water system in Hook Lane is most likely nonfunctional, the proposal would increase flood risk in Hook Lane. So, the appellant has submitted a planning obligation which seeks to ensure that remedial drainage works in Hook Lane would be carried out prior to development commencing. This unilateral undertaking has been put to me on the basis that consent for the works would be granted by the Council. However, as the status of the watercourse or network to which the surface water pipework would connect has not been ascertained, and as the obligation does not specify the off-site works in explicit terms, I shall not take the obligation into account.
15. Thus, I consider that the proposal would be likely to increase flood risk elsewhere. It would be contrary to LP Policy W DM3 which aims for development to incorporate a range of Sustainable Urban Drainage Systems and to ensure that there is no flooding, LP Policy ECC SP1 which seeks to support development which is designed to adapt to impacts arising from climate change such as flooding, and the Framework which aims to meet the challenge of climate change and flooding.

Other matters

16. The site is within the 12 km zone of influence (ZoI) of the Singleton and Cocking Tunnels Special Area of Conservation (SAC). In determining this appeal, I am the competent authority for the purposes of The Conservation of Habitats and Species Regulations 2017 (as amended).
17. The qualifying features of the SAC include Barbastelle and Bechstein's bats, so the ZoI takes into account matters including important flight lines and functionally linked habitats for commuting and foraging. The proposal would increase the amount of development and activity within the ZoI, but the appellant's bat survey considers that no likely significant effects on roosting and foraging bats, including Barbastelle and Bechstein's bats, would occur as a result of the proposal.
18. Even so, as the proposal is not directly connected with or necessary for the management of the SAC, it would be necessary for me to undertake an appropriate assessment of the implications of the proposal for the SAC in view of its conservation objectives. I could only grant planning permission if I were to ascertain in that appropriate assessment that the integrity of the SAC would not be adversely affected. However, as the proposal would not be acceptable for other reasons, it is not necessary for me to undertake an appropriate assessment. So, I have not pursued the matter further with the parties.
19. The Council cannot demonstrate a 5 year supply of deliverable land for housing (HLS). The shortfall in HLS is significant. So, Framework paragraph 11 d) is relevant. The proposal's benefits would include 9 welcome new homes within a reasonably accessible location, jobs during construction and the future occupiers' likely local spend. However, even if the proposal were to not have a significant adverse effect on the integrity of the SAC, and taking into account the appellant's assessment of the HLS shortfall, the harm identified in my main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. So, planning permission should not be granted.

Conclusion

20. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
21. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR