



Appeal Decision

Site visit made on 9 January 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/W0340/W/24/3336982

Hambridge Lake, Hambridge Road, Newbury, Berkshire RG19 3TR

- 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 Steve Hamilton of RPS Group against the decision of West Berkshire Council.
 - The application Ref is 23/00989/FULMAJ.
 - The development proposed is described as 'Construction of 9 holiday chalets and clubhouse with access from Hambridge Road, parking areas, new pedestrian links and ancillary works.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, a new National Planning Policy Framework has been published (the Framework). The policies which are most relevant to the determination of the appeal have not been subject to substantive changes and I am satisfied that the parties have not been prejudiced by my taking it into account.
3. The Council's Local Plan Review is currently undergoing examination and consultation has been undertaken on main modifications. Based on the information before me, it is not clear how far those policies are away from adoption or what form they may take. As such I have given limited weight to the policies of the Local Plan Review at this time.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the landscape character and trees, and;
 - the effect of the proposal on biodiversity, with particular regard to protected species and whether the proposal would deliver an appropriate level of biodiversity net gain.

Reasons

Character and Appearance

5. The appeal site is an area of green space on the edge of Newbury. It previously contained a gravel extraction pit but now comprises a modest sized lake and abundant mature vegetation including trees. It forms part of a wider network of

lakes and water courses which extend to the south and east and which are largely free from built form.

6. The landscape of the area has been described within a number of studies as set out by the main parties. The site lies within National Landscape Character Area NCA129 which describes its landscape attributes as including restored gravel pits and wet woodland of the Kennet Valley floodplain. It also references the ecologically rich wet woodland, reedbed marsh and ditches. The West Berkshire Landscape Character Assessment 2019 (the LCA), which covers a more local landscape, describes the western side of the Kennet Lower River Valley Character Area as comprising a semi-enclosed character which provides a rural setting to Thatcham and Newbury. Its key characteristics include its wetlands and its landscape strategy seeks, among other things, to maintain the intrinsic landscape quality of the woodland floor.
7. The Inspector of the earlier appeal¹ found the site to make a significant and positive rural contribution to the urban edge of Newbury to the north and west. They also set out that the adjacent built form did not lessen the rural woodland character of the site, rather its proximity highlighted and enhanced the sharp contrast that existed between them. Based on the findings of my site visit, this continues to be the case and I have no strong reason to reach a different view on these matters. The wooded character of the appeal site contrasts heavily with the utilitarian appearance of the busy roads which enclose it to the north and west and the residential character beyond them. As such it enables the edge of the settlement to be clearly perceived in localised views.
8. The appeal site lies outside but adjacent to, the settlement boundary of Newbury as defined by the West Berkshire Core Strategy 2012 (the CS). The boundary wraps around the site to the north and west and encompasses commercial development further south beyond the River Kennet. The boundary of Thatcham lies further to the east of the site. As a result, this group of lakes and woodland form part of a break between the built forms of those settlements and part of their setting which is experienced by users of the adjacent roads, footways and cycle paths.
9. The LCA identifies pressure for development adjacent to the urban areas of Newbury and Thatcham to be encroaching on the valley character, resulting in a blurring of the physical distinction between the two settlements. I observed that, while there is somewhat limited physical separation between Thatcham and Newbury, the site plays an important role in contributing to their distinction and separation. The combination of these attributes results in the site incorporating valued landscape qualities.
10. The proposal would see the introduction of built form on the site, as well as associated access and infrastructure including parking areas and bin stores close to the western site boundary. The proposed chalets would be located on platforms constructed over a combination of open parts of the lake and small isolated islands currently accommodating groups of trees. Together they would occupy a significant portion of the width of the northern side of the lake and would rise to two storeys in height with a series of asymmetrical pitched green roofs above including rooflights. While the use of a natural palette of materials and green roofs would

¹ Appeal decision APP/W0340/W/20/3259296 – 30 November 2021

assist in providing some affinity with the natural setting, the scale of the buildings including their angular forms and their detailed design including high level glazing, would appear heavily at odds with the character of the site and accentuate the presence of built form within it. Together with the associated alterations to the site, including the club house and parking areas, they would introduce a more domestic character and more activity including vehicular movements within the site, causing a fragmentation of its character.

11. The proposal entails a number of individual tree removals as well as three groups of trees and the partial removal of one further group, close to the proposed access. The tree protection plan also shows the removal of much of group G13, being on the islands of the lake and providing extensive canopies. Despite dispute surrounding the grading of the trees to be removed, and although some may have a limited life expectancy, together they have a collective value to the landscape character of the site. The previous Inspector summarised the woodland as a whole to make a very significant contribution to the character of the surrounding area, and I have no reason to reach a different view. The proposal would increase pressure to prune or remove the remaining trees on the site, in particular close to the buildings and parking areas. Despite details of new planting and on-going management, this additional pressure would further undermine the rural character of the site and potential screening, and adds further to my concerns.
12. The appellant has provided a Landscape Visual Impact Assessment (LVIA) which considers the extent of visual impacts which would arise from the development, with particular regard to the effects on localised views surrounding the site. It has previously been accepted that those are where the effects of development on the site would be most likely to be apparent and based on the findings of my site visit I consider that would still be the case.
13. At the time of my site visit there was very little foliage on the trees on the site and views were possible into and across parts of the site towards the lake from the footpaths of London Road and Hambridge Road. While the extent of existing screening would inevitably vary throughout the year, it is currently the case that users of the footpath, cycleway and the road can appreciate the verdant qualities of the site and parts of its wetland character. This is particularly the case when using those paths directly adjacent to the site boundaries and where the ground level of the highway is higher than that of the site. Given the raised location of properties on the northern side of London Road, their occupants also experience varying degrees of visibility into the site.
14. A number of trees would be removed to facilitate the access from Hambridge Road, which would effectively open up this part of the site's wooded boundary and allow increased views into the site towards the clubhouse and chalets. This matter was considered by the earlier Inspector who found the experience of those views by cyclists and walkers would be adversely affected, and to a lesser degree by motorists. While the extent and height of development is now much reduced, the proposal, including its high level south facing glazing and angular roof forms, would be apparent in those views from Hambridge Road around the access and the experience of the site in those views would be adversely affected, including at night. Overtime the proposed replacement planting would help screen views from around the access to some extent and I note the appellants LVIA finds a minor beneficial effect in terms of trees and vegetation. However, this would take some

time to become established, and the extent to which it would provide effective screening throughout the year is not apparent.

15. New planting is similarly proposed around the northwestern corner of the site, which is uncharacteristically open as a result of infrastructure works in recent years. Given the difference in ground levels between the site and adjoining roads here, together with the proposed extent of parking and turning areas and their proximity to the site boundary, the new activity in this part of the site would be apparent to users of the highway around the junction. In views from around the junction this prominent corner of the site would display a more urban character, more akin to those settlement areas to the north and west.
16. In views from London Road it is likely the development would be less prominent, given the retained trees and proposed planting on the northern boundary, together with the more simple design and materials of the north facing elevations of the chalets. Nonetheless, based on the evidence and even accounting for the new planting becoming established, occasional glimpses of the buildings would be likely in winter months. This would particularly be the case for users of the cycleway which runs adjacent to the site boundary, car users queuing on the southern side of the road approaching the junction and in private views from the houses on raised ground opposite. In those views the proposal would contribute to the visual merging of Newbury and Thatcham through the introduction of built form, as well as to the loss of the appreciation of the urban edge of Newbury, which would consequently spill into the appeal site.
17. For these reasons, and having regard to the evidence before me, the proposal would cause harm to the landscape character through the dilution of its rural and verdant attributes. In turn, the proposal would blur the existing strong edge of Newbury, cause a loss in the appreciation of the break between settlements and of the important distinction which the site provides between the urban and rural character areas.
18. The quantum of development has been significantly reduced since the earlier appeal scheme, and full details of the proposal including scale and appearance are now provided for consideration, giving a greater degree of certainty surrounding the effects of the development. As a consequence of its reduced quantum and amended extent of tree works, the visual effects of the proposal on the landscape character have been reduced from the earlier scheme. However, for the reasons set out, its effects would nonetheless remain harmful.
19. I see no reason that concerns relating to construction arrangements and installation, for example, of boardwalks and bridges, could not be addressed through the imposition of planning conditions to secure further bespoke details to prevent damage or loss of those nearest trees if the proposal were otherwise acceptable. A reasonable justification has also been provided for the omission of a horse chestnut tree from the survey, given its distance from the area of proposed works.

Character and Appearance Conclusion

20. The proposal would have harmful effects on the character and appearance of the area and the landscape character. The proposal would conflict with Policy CS19 of the CS which relates to the conservation and enhancement of the landscape character, as well as policies CS14 and CS18 which require design to contribute

positively to local distinctiveness and protect and enhance the District's green infrastructure.

21. Insofar as this main issue is concerned I do not find conflict with Policy ADPP1 of the CS, which contains the Council's Spatial Strategy for the location of new development. Policy DM2 of the Local Plan Review has not been relied upon by the Council in its reasons for refusal. The proposal would conflict with Policy DM2 insofar as it resists development which would detract from the open or rural character of the gap between Newbury and Thatcham, however, as set out above, given the uncertainty surrounding the final form which this policy may take post examination, I give that conflict little weight.

Biodiversity- Protected Species

22. It is agreed that the site supports foraging and commuting bats as well as roosting bats. The appellant's Ecological Appraisal of March 2023 included field surveys undertaken in November 2022. Survey data from 2021 is also used and was considered in date by the March 2023 Appraisal. While this provides some understanding and a picture of the extent of bat presence on the site in previous years, the original survey data is now some years old. Bats are a mobile species and the site may have developed, altered, or lost, features over the intervening period which may be used by bats, including the specific trees identified as having roost potential. Given the age of the surveys, the effects of the proposal on bats can not be established with certainty. Given the need to understand those impacts prior to the grant of planning permission, a condition would not be appropriate for that purpose.
23. Furthermore, the previous Inspector raised a number of specific reasons why they were not convinced that an external lighting scheme along the woodland edges and lake would be achievable. While the current appeal relates to a much reduced scheme, it still entails similar installations to the site in terms of the access road, parking and buildings. Based on the information provided, and adopting a precautionary approach, it has not been satisfactorily demonstrated that the concerns of the earlier Inspector in this regard have been addressed, or that a condition would now be an acceptable approach.
24. The western side of the site is identified as an area with high potential to support reptiles, and previous surveys have confirmed their presence. Accordingly, the works to this area, including the new access road, could present adverse effects including habitat fragmentation. Based on the information before me, this matter was considered by the earlier Inspector, who found that despite the increased risk the reptile population would move and adapt to new surroundings. There is not evidence which would lead me to doubt those findings or now reach a contrary view.
25. Further details of how species of Desmoulin's whorl snail would be monitored, and the updating of management plans relating to precautionary measures for otters and of the fishing platforms, could be adequately dealt with by condition.

Biodiversity- Biodiversity Net Gain

26. The application pre-dates the mandatory requirement for biodiversity net gain (BNG). Policy CS17 of the CS states that all new development should maximise opportunities to achieve net gains in biodiversity, particularly in Biodiversity

Opportunity Areas, such as the appeal site. The Framework also seeks to minimise impacts on and provide net gains for biodiversity. The appellant has provided a BNG Assessment which finds the proposal could deliver a 5.72% habitat unit gain, as well as a 100% hedgerow unit gain. This relies on retention of some of the existing habitats and newly created and enhanced habitats, including wet woodland, which occupies a significant portion of the site.

27. The Council have identified a number of concerns with the proposed enhancements, including the wet woodland habitat along the western side of the lake, given that it would be fragmented and its quality potentially affected by the access road. These are factors which could significantly affect this part of the site's ability to deliver biodiversity enhancements, and this is also an area of proposed tree losses. The evidence does not contain adequate assurances on this matter, and the other issues raised by the Council add to my concerns in this regard. Together these factors create significant uncertainty surrounding the extent of enhancement which could occur.
28. The site is of a scale that other enhancements could be installed beyond its western edge, such as newly created wet woodland, reedbeds and green roofs to the proposed buildings. However, in combination the factors above create significant uncertainty surrounding the extent of enhancement which could occur across the site as a whole and I cannot be certain that the development maximises opportunities for biodiversity net gain, as required by the development plan, particularly for an identified Biodiversity Opportunity Area.
29. The appellant would be willing to provide additional BNG through off-site contributions to be secured by a Grampian condition. Despite this, there is not information before me of such a scheme or the form which such an off-site contribution would make or its prospects. As such, and having regard to the advice in the Planning Practice Guidance (PPG) for Grampian conditions, I am not satisfied that this would be an appropriate means to maximise opportunities for BNG.

Biodiversity Conclusion

30. It cannot be established that the proposal would have acceptable effects on protected species, or would maximise opportunities for biodiversity net gain. Policy CS17 of the CS gives criteria where development that may cause harm to habitats and species will be permitted. Irrespective of the benefits of the scheme which I return to below, it has not been satisfactorily demonstrated that there are no reasonable alternatives, which is the first part of the test. Accordingly, the proposal would conflict with Policy CS17 of the CS, which relates to biodiversity including maximising net gain and protected species. There would also be conflict with the biodiversity objectives of the Framework.

Other Matters

31. The boundary of the Kennet and Avon Canal East Conservation Area (CA) wraps around the appeal site to the west and south. There is not evidence to suggest any historic links between the appeal site and the CA, but the site forms part of the setting in which the CA is experienced. Having regard to the findings of the previous Inspector on this matter, and given the reduced scale of the proposal which would reduce its visibility from viewpoints along the river, the proposal would preserve the setting of the CA.

32. It is reported that the proposal may have effects on the River Lambourn Special Area of Conservation (SAC) and the Kennet and Lambourn Floodplain SAC, as well as nearby SSSIs, as a result of its effects on waterways. However, Regulation 63(1) of the Habitats Regulations² indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is being dismissed on other grounds it is not therefore necessary to address this in any further detail.
33. I note pre application advice was given by the Council prior to the submission of the planning application, and that the appellant has made a considerable reduction to the quantum of development proposed. However, these matters do not provide a reason to alter the above judgements.

Planning Balance

34. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal has been found to cause conflict with the development plan in respect of its harm to the landscape character and its unacceptability in terms of BNG and protected species. These issues also present conflict with the Framework as set out above. I note the previous Inspector's finding regarding the consistency of the relevant basket of policies with the Framework and I have no strong reason to reach a different view.
35. Nonetheless, the proposal would provide accommodation for tourists, providing clear economic benefits both through the construction process, expenditure into the local economy by its users as well as employment associated with the ongoing operational stage of the development. The proposal would provide a fairly unique facility for tourists in this area, but the benefit of increased access to the lake would be limited given it would remain private.
36. The site is adjacent to a settlement boundary and would comply with Policy CS10 relating to diversification of the rural economy. The site has good accessibility to services and facilities including public transport, which would encourage the use of sustainable transport by its users and employees to some extent. Given the above findings in respect of biodiversity and habitats, I do not attach those elements weight in favour of the development. Overall, the weight of the benefits which weigh in favour of the development is moderate, given the scale of the proposal.
37. Accordingly, there are not material considerations of sufficient weight which indicate that a decision should be made other than in accordance with the development plan as a whole.

Conclusion

38. For the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR

² The Conservation of Habitats and Species Regulations 2017