



Appeal Decision

Site visit made on 11 September 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 October 2025

Appeal Ref: APP/R0335/W/24/3358133

148 Fernbank Road, Bracknell Forest, Ascot SL5 8LA

- 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 and Ms James and Kat Buick against the decision of Bracknell Forest Council.
- The application Ref is 24/00207/FUL.
- The development proposed is for the erection of a self-build 3-bedroom home with access, landscaping, boundary treatments and associated works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Sequential Test has been submitted with the appeal. Following a review of this by the Lead Local Flood Authority, the Council considers that the test has been satisfied and so, no longer wishes to defend its reason for refusal in relation to groundwater flooding.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect on the living conditions of occupiers of 146 Fernbank Road and whether the proposed dwelling would provide suitable living conditions for its future occupiers;
 - the effect of the proposed development on the Thames Basin Heaths Special Protection Area (SPA); and,
 - flooding.

Reasons

Character and appearance

4. The appeal site is within a predominately residential area. There are a mix of house types, although typically most dwellings are set within reasonably sized or large plots and front onto a roadway. The host dwellings, 146 and 148 Fernbank Road (Nos 146 and 148) are typical of other 2 storey semi-detached dwellings on this side and part of Fernbank Road, set back slightly from the road with parking and garden areas in front, within long plots and have large rear gardens. There are numerous large trees along road frontages or within gardens nearby, which form prominent features within the street scene and provide a pleasant verdant

character to the surrounding area. This includes a number of large trees close to the side and rear boundaries of the appeal site and large street trees close to the site access along Fernbank Road, many of which are protected by a Tree Preservation Order.

5. The proposed scale and design of the new dwelling would not be out of keeping with that of surrounding dwellings and its design would utilise the sloping topography of the site. Also, due to its position behind other dwellings, it would not appear overly prominent within the street scene. However, due to its backland position and lack of road frontage, its siting would not follow the prevailing urban form found in the surrounding area, with the new house facing the rear of the existing dwellings, contrary to the guidance set out in the Council's Design Supplementary Planning Document (SPD) (March 2017) for backland development.
6. Even though the new dwelling would have a reasonable sized plot, the rear gardens of Nos 146 and 148 would be considerably shortened. While the density of development and resultant gardens of Nos 146 and 148 would be comparable to that of dwellings in Kaynes Park, it would be anomalous with the plot sizes and garden lengths of other dwellings found along and fronting this part of Fernbank Road. This would give the appearance of an overly cramped form of development, comparable to other dwellings along this part of the road.
7. No trees are to be removed as part of the proposal and the existing large trees are already in an urban context. Also, the proposed dwelling itself would be outside the root protection area (RPA) of existing trees and the current vehicular access to No 146 is to be used, with adaptations, limiting the amount of additional hardstanding close to the nearby road frontage trees. However, there would be some development within the RPAs, including the access driveway, underground services, and parking areas, with the potential for such and construction works to harm the integrity of the trees, even if specialist foundation and construction techniques and cellular confinement are used. Additionally, due to the close proximity of the new dwelling to large trees and the orientation of trees to the dwelling and its garden, there would likely be overshadowing and loss of outlook caused to the future occupiers of the new dwelling. Subsequently, this would likely lead to future pressure to prune and/or even remove the preserved trees.
8. Furthermore, as set out in the evidence provided, some of the nearby protected trees have already suffered significant crown reductions due to their proximity to existing dwellings in Kaynes Park. Despite the current vigour of the trees, another new dwelling close to them would likely increase pressure to prune or even remove the protected trees in the future, particularly as the proposed development would result in built development close to the trees on two sides. Additionally, in light of the highway authority's comments, there is uncertainty regarding the acceptable methods of construction and surfacing materials within the highway. Therefore, although the additional hardstanding area required for the altered access would be relatively small, it could still adversely affect the root systems of protected trees along the road frontage.
9. Even if other permitted development, including the outbuildings granted certificates of lawfulness within the gardens of Nos 146 and 148 could have a greater impact on existing trees than the proposed development, such development is different to the construction and occupation of a new dwelling. Furthermore, there would be obligations to avoid harm to protected trees even for permitted development.

Therefore, this would not justify or overcome the harm that would likely be caused to trees by the proposed development. Any damage to, or loss of, nearby important trees as a result of the proposal would have a detrimental impact on the verdant character and appearance of the local area.

10. In view of the above, the proposed development would have a harmful effect on the character and appearance of the surrounding area. This would be in conflict with Policies LP 28, LP 50 and L 54 of the Bracknell Forest Local Plan (March 2024) (LP) and Policy W2 of the Winkfield Neighbourhood Plan (NP), which amongst other matters, require development to be of high quality design that is appropriate to the character of an area, including that it protects and enhances trees and not affect the amenity and/or appearance of the area.

Living conditions

11. The proposed access to the new dwelling would be close to the side of No 146 and the proposed dwelling and its parking area would wrap round at the rear, adding vehicular movement and heightened activity associated with its domestic occupation behind the existing dwelling. This would likely cause undue noise and general disturbance to the occupiers of No 146, even with boundary treatments in place, due to the close proximity and current tranquil nature of its existing garden. While there are examples nearby of similar arrangements with access to the side of existing dwellings and the proposal is only for one dwelling, no substantive evidence, including the site history of such examples have been provided to allow full comparison with the appeal proposal. Furthermore, while they are not that far away from the appeal site, they are on different sites with different site contexts.
12. It is undisputed that the separation distance between the proposed dwelling and the rear of No 146 falls slightly short of the required distance separation for a standard back to back relationship between facing windows of two storey dwellings, as set out in the Council's Design SPD. However, given that the new dwelling would be set at a lower ground level than No 146, a greater distance separation is necessary to prevent undue overlooking of the new dwelling. While the majority of proposed habitable rooms would be located at the rear, a ground floor bedroom is proposed at the front of the new dwelling. Due to insufficient separation, this bedroom would likely be unduly overlooked by the occupiers of No 146, harmful to the living conditions of the future occupiers of the proposed dwelling.
13. Although the new dwelling would be set within a reasonably sized plot and achieve appropriate separation distances to other neighbouring dwellings¹, it would appear very enclosed and crammed in at the rear of existing properties, due to its backland location and the significant number of large trees overhanging the site. The tree canopies would cause considerable overshadowing to the garden and rear windows of the new dwelling, due to the location and size of the trees and the southerly orientation of them to the new dwelling. This would likely provide an oppressive feel to the occupiers of the dwelling and reduce the enjoyment of the garden area.
14. Having regard to the above, the proposed dwelling would not provide a satisfactory living environment for the new homeowners and the occupiers of No 146. Consequently, the proposed development would have a harmful effect on the living conditions of the occupiers No 146 and, the proposed dwelling would not provide

¹ Except for No 146

suitable living conditions for its future occupiers. Therefore, there would be conflict with Policies L 28 and L 50 of the LP, which include that development should achieve a high standard of design that does not adversely affect the amenity of surrounding properties and provide acceptable levels of amenity, including in relation to shadowing and overlooking.

Thames Basin Heaths SPA

15. The appeal site is within the 5km designated zone of influence for the Thames Basin Heaths SPA, which is a network of heathland sites designated for their ability to provide a habitat for the internationally important bird species of Woodlark, Nightjar and Dartford Warbler. A Habitats Regulations Assessment carried out by the Council and confirmed by Natural England, identifies that any net increase in dwellings in the zone of influence is likely to have a significant adverse effect on the integrity of the SPA, either alone or in combination with other plans or projects, due to disturbance caused to ground-nesting birds by recreational pressure.
16. Based on the evidence provided, the proposal for an additional dwelling would have a likely adverse effect of the SPA and so, appropriate avoidance and mitigation measures are required. As set out within the Council's Thames Basin Heaths SPA Supplementary Planning Document (SPD) there is a joint strategy in place to make financial contributions towards the provisions of Suitable Alternative Natural Greenspaces (SANGs) as an alternative recreation location to the SPA and financial contributions towards Strategic Access Management and Monitoring (SAMM) measures.
17. As undisputed by the appellants such avoidance and mitigation measures are required to protect the integrity of the SPA and so, the appellants are willing to enter into a legal agreement to secure the relevant payment towards such. However, only draft versions of a planning obligation have been provided. Furthermore, the draft agreements are unilateral, yet the Council would have certain obligations in terms of the mitigation measures employed from the payments to be made therein. Therefore, without an appropriately secured legal agreement in place, this would not ensure the required mitigation measures would be implemented and maintained.
18. Even though the appellants are agreeable to a negatively worded condition to secure the legal agreement for the relevant mitigation payments towards the SANG and SAMM, this would not mean that the required mitigation is secured at the time of decision-making. Consequently, as no mechanism is in place to ensure appropriate mitigation, the proposed development would adversely affect the integrity of the SAC. Therefore, having regard to the Conservation of Habitats and Species Regulations 2017, as amended (the Habitat Regulations), permission should not be granted.
19. Notwithstanding the above, as I have found the proposal would be unacceptable for other reasons, including the harm caused to the character and appearance of the surrounding area and living conditions, it is not necessary for me to consider any harm and/or mitigation further as the competent authority.
20. In view of the unacceptable adverse effect on the integrity of the SPA, the proposal would conflict with Policy LP 32 of the LP and Policy NRM6 of the South East Plan (May 2009), which require development to avoid and mitigate any potential adverse

effects on the Thames Basin Heaths SPA and would fail to adhere to the Habitat Regulations.

Flooding

21. The appeal site is within Flood Zone 1, which is an area at low risk of fluvial flooding, although is at the second highest risk category for groundwater flooding. The appellants have submitted a Sequential Test with their appeal submission. This sets out that the sequential and exception tests are satisfied. This is not disputed by the Council and I have no substantive evidence to the contrary in regard to such.
22. Therefore, the proposal would not have a harmful effect in terms of flooding and so, there would be no conflict with Policy LP 33 of the LP, which permits development at areas at risk of flooding where the sequential test is applied and passed.

Other Matters

23. The proposed development would provide social and economic benefits through the construction and occupation of the dwelling. Also, the appeal site is in a residential area in a sustainable location, with access to several modes of transport and services and facilities nearby.
24. The proposal would be a windfall dwelling in a borough where there are spatial restrictions on much of its' area, including Green Belt land and SSSIs/SPAs. Also, the Council cannot demonstrate a current 5 year housing land supply, with its supply said to be 4.49 years as of 1st April 2025 in its latest position statement (June 2025). Although, the contribution of one additional dwelling would not be significant. Additionally, the appeal example in Tring, ref APP/A1910/W/24/3343381 relates to a different site and proposal, in a different local authority area, where the housing land supply differs to that in this appeal.
25. While it is asserted by the appellants that the proposal uses previously developed land, the glossary of the National Planning Policy Framework (the Framework) excludes land in built-up areas, such as residential gardens as previously developed land. Also, even though it is intended that the new dwelling would be a self-build property, no mechanism is in place to secure such.
26. The actions of the Council and its' pre-application advice, that the dwelling would be of a high quality design, as asserted by the appellant and, that it is demonstrated the proposal would not cause harm to wildlife and highway safety, with no concerns raised by the local highway authority, are matters which do not affect my findings on the main issues.

Planning Balance

27. The proposal would contribute to housing supply in an area where there is currently a shortage. There would also be social and economic benefits associated with the construction and occupation of the dwelling and the site is in a sustainable location. However, even if the site were previously developed land, given the scale of the scheme, the benefits and weight I give such matters is limited. The lack of objection on certain matters unrelated to the main issues, are neutral matters I do not give weight to. Also, even though it is advanced that the proposal would be a self-build dwelling, with no suitable mechanism in place to secure such, I give limited weight to this matter.

28. The proposal would cause harm to the character and appearance of the surrounding area and would not provide suitable living conditions for occupiers of the new dwelling and would be harmful to the living conditions of an existing dwelling. Furthermore, without mitigation secured at the time of decision-making, the proposal would harm the integrity of the SPA. These harms are contrary to the development plan and so, I give significant weight to such and the conflict arising therefrom.
29. Even though the Council cannot demonstrate a 5-year supply of housing land, having regard to the harm caused to the SPA, paragraph 11di of the Framework sets out that the application of policies in the Framework that protect areas or assets of particular importance provides strong reason for refusing development. Therefore, paragraph 11dii is not engaged and so, the presumption in favour of sustainable development does not apply in this instance.

Conclusion

30. For the reasons given above, the proposal would conflict with the development plan as a whole and material considerations do not indicate a decision should be made other than in accordance with it.
31. Accordingly, the appeal should be dismissed.

C Billings

INSPECTOR