



Appeal Decision

Hearing held on 6 and 7 August 2025

Site visits made on 6 and 7 August 2025

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2025.

Appeal Ref: APP/X0360/W/25/3359898

Land north of Broadwater Lane, Hurst Easting 479531 Northing 174133

- 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 Mr Stuart Garnett (Shorewood Homes) against the decision of Wokingham Borough Council.
 - The application Ref is 240583.
 - The development proposed is outline application for proposed erection of 9no. dwellings and associated access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Additional plans were submitted by the appellant at the appeal stage. The proposed site plan has been amended to be titled an illustrative site layout plan. An increased buffer zone is shown for T16, the plot 2 double garage is removed, plot 3 and 4 garages are changed to single garages and the plot 5 single garage is removed. The street scene has been re-labelled as illustrative whilst the site access arrangements have been re-labelled as proposed rather than potential.
3. Whilst it is not the purpose of the appeal process to evolve a scheme, the amendments are effectively only minor changes in wording to clarify their intended purpose as well as effectively proposing reductions to the scheme. As such the acceptance of those plans would not represent procedural unfairness to those with an interest in the scheme and I have considered those plans as part of the appeal.
4. The application is made in outline with all matters reserved except for access. Therefore, only the site location plan and plan detailing the access arrangements would form the approved plans. The other plans are illustrative. However, I was advised at the Hearing that those plans should be afforded substantial weight and much of the appellants case is made on the basis of the details of the scheme that are referenced within the illustrative plans. I have therefore considered the proposal on the basis of the scheme shown within the illustrative plans. The site plan shows that each dwelling would be served by one of three shared access points from Broadwater Lane.
5. The Council confirmed at the Hearing that it does not consider that the proposal would adversely affect the setting of nearby listed buildings. This is not the view taken by interested parties. The effect of the proposal on the setting of nearby listed buildings has been considered as a main issue.

Main Issues

6. The first main issue is whether Tree T14 can be considered veteran and the effect of the proposal on Trees T14 and T16. The second is the effect of the proposal on the setting of four nearby grade II listed buildings. These are known as Buttercups, Bower Cottage, Parkers Cottage and Elder Cottage. The third main issue is the effect of the proposal on the Village Centre (Hurst) Area of Special Character (AOSC).
7. The fourth main issue is the effect of the proposal on the character and appearance of the area with regard to the landscape. The fifth main issue is the suitability of the site for residential development having regard to the development strategy for the area including whether future occupants of the site would be reliant on private motor vehicles for access to day to day services and facilities.

Reasons

8. The site is located adjacent to Broadwater Lane from where Whistley Green can be located in one direction and Hurst in the other, the site being located outside of the Hurst/Whistley Green settlement boundary. The site is in agricultural use for the grazing of livestock. Two Oak Trees (T14 and T16) amongst other forms of planting are located close to the boundary of the site with Broadwater Lane. Residential properties are located opposite the site including the four listed buildings. Fields forming countryside interspersed with field boundary planting extend beyond the site to the rear.

Trees

9. The Council considers that the proposed northern and central accesses would significantly harm and lead to the degradation of trees T14 and T16. These are both English Oak Trees located between the appeal site and Broadwater Lane. It is common ground that the concerns of the Council with regard to trees relate to these trees only and that both trees are identified in the Wokingham District Veteran Tree Association Survey Map and the Woodland Trust Ancient Tree Inventory as veteran trees. The appellant considers only T16 as veteran.
10. The Framework¹ defines a veteran tree as a tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. T14 has an estimated age of 290 years with an estimated planting date of 1735. It has a girth of 4.8m which when referenced against the extract from Lonsdale² would see the tree fall within, albeit at the bottom of the light green shaded part of the chart labelled as veteran/notable. Therefore, T14 could be classed as veteran on account of its age and size.
11. The principal difference between the parties in terms of whether T14 should be classed as veteran is with regard to its condition. The appellants statement³ references that it is highly likely that there will be some decay at the base of the trunk albeit that this is not extensive or significant. It is further noted that T14 has vertical fluting of the trunk, one instance of delamination of wood high in the canopy and some minor deadwood. The deadwood was however at the time of the

¹ National Planning Policy Framework 2024.

² Detailed as figure 3 within SJA Trees Appeal Statement by Frank Spooner, April 2025.

³ SJA Trees Appeal Statement by Frank Spooner, April 2025, 4.2.37, 4.2.38, 4.2.40.

Arboricultural Impact Appraisal and Method Statement⁴ considered to be such an issue that the removal of deadwood over the road was considered a management recommendation.

12. My attention is further drawn to the Lonsdale Book⁵ and in particular p. 26/27 which is concerned with recognising ancient and veteran trees. Whilst it is clear that T14 does not have all the attributes listed, when I account for the above, I consider that there is nothing compelling within the evidence that excludes T14 from being considered veteran. I consider that a precautionary approach should be taken, and I consider that T14 should be considered veteran.
13. Regardless, the appellant indicates that a precautionary approach has been undertaken with veteran tree 'buffer zones' applied to both trees in any event and this is perhaps a reflection of the fine nature of the judgement with regard to the tree, a matter on which different experts in that field have not been able to agree.
14. The appellant maintained at the Hearing that the buffer zones around T14 and T16 do not need to be off set to account for the presence of Broadwater Lane which has the potential to have caused the growth of roots in an offset pattern.
15. However, the evidence indicates that a sewer was installed beneath it in 1975 and suggests that at least a 3m deep trench is likely to have been laid to accommodate this. This, combined with the generally inhospitable environment to tree roots provided by a metalled road, leads me to conclude that the tree roots are likely to have preferred the appeal site over the years in spite of its agricultural use and as such an increased buffer zone including an off-set should be provided as a result of the particular local characteristics to account for the likely spread of roots fostered by the particular location of this site.
16. Whilst I note the findings of the Tree Radar Root Investigations Report⁶, it was acknowledged at the Hearing that this survey method was unlikely to pick up on for example fine feeder roots. It is the case that upper levels of the soil often contain important roots for the health of a tree, and that mature trees are more at risk of decline and failure than young trees as a result of root damage.
17. I note the appellants position that standing advice does not suggest that buffer zones seek to protect all the roots of a tree. However, I consider that a cautionary approach should be taken here with regard to the buffer zones and subsequent protection of potential fine feeder roots.
18. The appellants evidence shows that if the buffer zones were to be off set, the central and western access would fall within these areas. The works associated with the construction of the accesses would subsequently be likely to result in the loss of roots within that area subsequently risking the health of T14 and T16, potentially leading to their deterioration. This potential harm would outweigh all of the suggested benefits put forward for the trees, relating to removal of the site from agricultural use, alleviation of soil compaction, habitat connectivity, management and succession planting.

⁴ Arboricultural Impact Appraisal and Method Statement, Land to NE of Broadwater Lane, Hurst, Technical Arboriculture, Kevin Cloud, October 2024.

⁵ Ancient Tree Forum/Woodland Trust - Ancient and other veteran trees: further guidance and management, David Lonsdale 2013.

⁶ Tree Root Mapping Report, Peter Barton Associates.

19. There would subsequently be conflict with Policy CC03 of the Wokingham Borough Managing Development Delivery Local Plan (2014) (MDLP) which states amongst other things that Development proposals should protect and retain existing trees. There would also be conflict with the Framework which states at paragraph 193 amongst other things that development resulting in the deterioration of irreplaceable habitats such as veteran trees should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Those are not before me.

Listed buildings

20. Buttercups is a grade II listed C17 timber framed dwelling, later altered. I accept that a substantial degree of its significance can be attributed to its early date and survival of early fabric. It has a slight degree of visual separation from the appeal site by reason of its set back from Broadwater Lane and the tall timber fence which forms its front boundary treatment.
21. Bower Cottage is another grade II listed C17 timber framed house, later extended. A substantial degree of its significance can be attributed to its early date and fabric and the example it provides of a smaller vernacular box-framed cottage. As with Buttercups, it has a slight degree of visual separation from the appeal site by reason of a brick wall and hedging which forms its front boundary treatment.
22. Parkers cottage is a C18 property, later extended. A substantial degree of its significance can be attributed to the earlier part of the building and its fabric including a thatched roof. It only has very limited visual separation from the site as it is set forward close to Broadwater Lane. The boundary treatment appeared to have been formed of low brick wall and railing at the time of the Heritage Statement⁷.
23. Elder Cottage has C16 Origins, C17 fabric with further extensions dating from later periods. A substantial degree of its significance can be attributed to its early date and surviving fabric. It has more separation from the appeal site by reason of its position on Broadwater Lane which does not fully front the site.
24. I note that the site is separated from these properties by Broadwater Lane and accept that the evidence does not indicate associative links between the listed buildings and the appeal site. I also note that the setting of the listed buildings has suffered some erosion through the introduction of more modern infill development on this side of Broadwater Lane.
25. However, from Broadwater Lane, these buildings are currently experienced and perceived within a largely quiet, open and rural environment because of the character and appearance of the appeal site. There is nothing to indicate any history of development on the appeal site and it is likely that these buildings will have always been set against that backdrop. This relationship can be appreciated both from within the appeal site and from Broadwater Lane.
26. The attributes of the site contribute positively to the setting and therefore the significance of the four listed buildings. Historic England guidance on the setting of Heritage Assets advises that settings of heritage assets which closely resemble

⁷ Asset Heritage Consulting, Heritage Statement, February 2024, p47.

the setting at the time the asset was constructed are likely to contribute particularly strongly to significance⁸.

27. That positive contribution would be significantly undermined through increased noise and activity on the site as well as the physical presence of nine well sized houses. This would be the case even if some dwellings were to be set back from Broadwater Lane and even if a scheme of landscaping were to be implemented.
28. The proposal would cause harm to the setting of Buttercups, Bower Cottage, Parkers Cottage and Elder Cottage. The arising harm to the significance of the assets would be less than substantial.
29. The harm would be towards the higher end within the less than substantial category for Bower Cottage & Parkers Cottage given they are fully opposite the appeal site and have a close relationship with it and because of the forward positioning of plots 6 and 7. The harm would be at the lower end within the less than substantial category for Buttercups given the development would be set further back at this end of the site and this would also be the case for Elder Cottage given its positioning slightly further along on Broadwater Lane not fully fronting the site.
30. Overall, there would be conflict with Policy TB 24 of the MDLP which amongst other things states that the Council will conserve and seek the enhancement of designated heritage assets in the Borough and their settings by requiring works to or affecting the setting of heritage assets to demonstrate that the proposals would at least conserve the important character and special architectural or historic interest of the building including its setting.
31. I must give considerable importance and weight to the desirability of preserving the setting of listed buildings. Harm should be weighed against the public benefits of the scheme.

AOSC

32. The AOSC, a non-designated heritage asset, encompasses part of Whistley Green and Hurst. Its significance in part sits with its buildings which are of a variety of ages, designs and materials including buildings and features that are designated and non-designated heritage assets in their own rights.
33. However, the AOSC also includes the land immediately on the boundary of the site adjacent to Broadwater Lane. Whilst the appeal site is not referred to as a component of the AOSC setting, details within the Historic Environment Topic Paper, where referring to this particular AOSC summarise amongst other things that Broadwater Lane is heavily vegetated on the stretch of road between Hurst Village and Whistley Green, with many mature trees and open fields on the northern side of the street. It can therefore be reasonably concluded that the planting on the boundary of the site including T14 and T16 makes a positive contribution to the significance of the AOSC as a backdrop which frames the buildings within it.
34. Whilst I note that the proposal would likely see the provision of substantial landscaping to the boundary as part of any approval, given the risk of deterioration

⁸ Historic England, The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) p4.

associated with the proposal to T14 and T16 on that boundary and the importance of those trees within the boundary planting, the proposal would subsequently cause moderate harm to the significance of the AOSC. The proposal would therefore conflict with Policy TB26 of the MDLP which amongst other things states that planning permission will only be granted for proposals affecting Areas of Special Character where they demonstrate that they retain and enhance the traditional, historical, local and special character of the area.

Landscape impact

35. The appeal site and the wider countryside beyond make for a pleasant backdrop to Broadwater Lane. The residential development on the opposite side of Broadwater Lane is largely continuous, linking Hurst and Whistley Green. This makes it difficult to assess when on the ground on this part of Broadwater Lane where these respective settlements begin and end meaning that there is no obvious gap between the two settlements in this particular location.
36. The Hurst River Terrace Landscape Character Area (HRTLCA) within which the site sits encompasses land from the A329 (M) to the south incorporating land a short distance to the north of Whistley Green.
37. Its key characteristics amongst other things include being a simple agricultural landscape of mainly arable farmland with pasture enclosed in relatively large straight-sided fields as well as being a rural and tranquil area. Its valuable landscape attributes amongst other things include the peaceful and open character of the undeveloped pastoral landscape. Amongst the key issues is demand for residential development increasing linear development along rural lanes and continuing to push towards the amalgamation of close settlements Whistley Green and Hurst impacting rural character.
38. The Landscape guidelines include amongst other things conserving the open and rural qualities of the landscape and maintaining the sparse settlement pattern of villages and dispersed farms through control of new development, avoiding further linear spread of development.
39. Considering the key characteristics, valuable attributes, key issues and guidelines of the HRTLCA against the characteristics of the site as described above, I consider that the proposals could be integrated into the landscape setting without any significant adverse landscape effects.
40. Whilst the appeal site is not currently within an area designated as a valued landscape, the Council has intentions to extend the Haines Hill valued landscape such that it would include the appeal site.
41. However, when referring to the Haines Hill Valued Landscape Narrative and a map which includes the appeal site, the Councils Valued Landscapes Assessment⁹ does not refer to the HRTLCA within which the appeal site sits despite referring to other landscape character areas. Whilst I note the site specific reassessment supplied by the Council¹⁰, on that basis, I am not confident that the appeal site should be considered as part of a valued landscape based on current evidence.

⁹ Wokingham Borough Council, Valued Landscapes Assessment, September 2024.

¹⁰ 240583 Land north-west of Hogmoor Lane Hurst Brief reassessment of Valued Landscape 13th September 2024.

42. Overall, in conclusion on this main issue there would be no significant adverse impact on the landscape. There would subsequently be no conflict with Policy TB21 of the MDLP which states that proposals must demonstrate how they have addressed the requirements of the landscape character assessment and shall at a minimum retain the condition, character and features that contribute to the landscape. Given my conclusions with regard to valued landscapes there would be no conflict with paragraph 187 which requires that planning decisions should contribute to and enhance the natural and local environment by amongst other things protecting and enhancing valued landscapes.

Development strategy

43. I noted that whilst the footpaths adjacent to the roads within Hurst are at some points narrow and require pedestrians to cross where only provided on one side it would nonetheless be entirely possible for future residents to access the primary school by walking to it. Further, I noted that the public house, the Elephant and Castle at Whistley Green was located close to the site. There is also a convenience store near to the site and although that is currently closed, confidence was expressed at the Hearing by various parties that this would be re-opening shortly.
44. Whilst bus services are somewhat limited, it was clarified at the Hearing that it would be entirely possible to, for example, catch a bus to Twyford, board a train, and arrive within central London in time for a day of work.
45. Therefore, whilst services and public transport options are more limited than would be the case within a more urban area, the development would not be for a large number of houses and those limited number of residents would have access to some services and facilities, whilst also being afforded the option of using an alternative means of travel to the car to access services and facilities elsewhere.
46. Nonetheless, there would be conflict with the development strategy for the area and with Policy CP9 of the Wokingham Borough Core Strategy (2010) (CS) along with Policy CCO2 of the MDLP which amongst other things seek to direct development to locations within settlement boundaries. The development is not of a type that is supported outside of development limits under Policy CP11 of the CS. The Council however could not articulate to me the harm that would arise from these policy conflicts at the Hearing and I afford limited weight to the conflict with these policies.

Other Matters

47. The proposal is accompanied by a planning obligation under S106 along with a unilateral undertaking. They include provision for an offsite affordable housing contribution of £250,000, Biodiversity net gain at 42.78% habitat units and 137.84% hedgerow units (minimum), pedestrian route, management company, SUDS and drainage. These address matters in the Councils refusal reasons 7-10 which related to the absence of a completed legal agreement to deal with these matters.
48. The evidence indicates that the provisions within the planning obligations are necessary to make the development acceptable in planning terms. They are

directly related to the development and fairly and reasonably related in scale and kind. They therefore meet the relevant tests¹¹.

49. The Councils Five Year Housing Land Supply (5YHLS) was originally agreed at 1.7 years as common ground. At the Hearing, the Council revised its 5YRHLS supply position to 2.5 years. The 5YRHLS therefore falls within a range of between 1.7 and 2.5 years. The Council cannot demonstrate a 5YHLS.
50. I have considered the appeal decisions that have been brought to my attention where relevant to the main issues. However, I do not consider that any of those appeals relate to exactly the same circumstances as those which are very particular to this site before me which limits the weight that I afford to them.

Planning Balance

51. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
52. There would be public benefits to the scheme. These would include the provision of 9 houses within a location that would not be unsustainable for a limited housing scheme. There would be an affordable housing contribution of £250,000. There would be a boost to housing supply within the context of a 5YHLS with a range between 1.7 and 2.5 years. This benefit is tempered given the limited number of houses proposed. Nonetheless, I afford these matters significant weight.
53. The properties could incorporate more sustainable methods of heating and power, with reduced water consumption and would offer support to a small and medium housebuilder. There would be direct and indirect economic benefits of the type which would normally always be associated with a development of this scale. There would be biodiversity net gain of 42.79% in habitat units and 137.84% for hedgerow units. The development would provide a contribution towards CIL at a rate of £551.02 per m². These benefits are afforded moderate weight.
54. There would be the provision of a pedestrian route onto Hogmoor Lane to provide some increased accessibility in the area, although the real world benefits of this are likely to be limited given the simplicity of the existing route. I afford this matter limited weight.
55. Set against the benefits, I have found that the construction of the accesses would risk the health of T14 and T16 which can be considered as veteran, potentially leading to their deterioration. Even were I to take a less cautious approach and only consider T16 as veteran as is common ground between the main parties, the offset buffer zone for that tree would include both accesses in any event. The conflict with Paragraph 193 of the Framework would remain.
56. I have found that the proposal would cause less than substantial harm to the significance of four grade II listed buildings. For Bower Cottage & Parkers Cottage the harm would be at the higher end of the spectrum within the less than substantial category and in respect of Buttercups and Elder Cottage the harm would be at the lower end of the spectrum within the less than substantial category. The harm would not be outweighed by the arising public benefits and there would be conflict with the Framework.

¹¹ Within Paragraph 58 of the National Planning Policy Framework 2024.

57. I have also found that the proposal would harm the significance of the AOSC and I have taken this into account.
58. The benefits would not outweigh the harms even on the basis that I was to agree with the appellant that the 5YHLS of the Council is 1.7 years and subsequently recognise the boost to housing supply within that context.
59. Given my findings with regard to irreplaceable habitats and designated heritage assets the application of Framework policies relating to those matters provide clear reasons for refusing the development proposed. The proposal does not therefore benefit from the presumption in favour of sustainable development.
60. The proposal would conflict with policies CC03, TB24 and TB26 of the MDLP. I afford the conflict with these policies substantial weight given their broad alignment with the Framework.
61. The proposal would conflict with the development plan and there are no material considerations which indicate a decision should be made otherwise than in accordance with it.

Conclusion

62. For the reasons given above the appeal should therefore be dismissed.

T Burnham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Henderson (of Counsel)

Mr Garnett

Stuart Graham Crickett (Planning Balance)

Gregory George Henry Nightingale (Ecology)

Francis Paul Spooner (Arboriculture)

Chris Jenkinson (Landscape)

Sarah Lucille Watt (Heritage)

Stacey Gander (Transport)

Mark Breen (Viability)

FOR THE LOCAL PLANNING AUTHORITY:

Benjamin Hindle (Wokingham Borough Council)

Mark Croucher (Wokingham Borough Council)

Chris Hannington (Landscape/Arboriculture)

Keith Frost (Built Heritage Officer)

Duncan Fisher (Ecology)

Benjamin Amey (Highways)

INTERESTED PARTIES:

Sebastian Charles

Edward Levy

Mr Manning

Ivor Fiennes

Penny Curry

Andrew Butler

Councillor Conway

Hal Appleyard

Jeremy Lade

Tony King

Jonathan Norris

DOCUMENTS SUBMITTED AT HEARING:

Appeal Decision Letter Ref: APP/C1435/W/24/3357954

Continuum Independent Viability Assessment Land North of Broadwater Lane, Hurst for Wokingham Borough Council (Local Planning Authority) June 2025

Draft Planning Obligation

Plan of 1998 application site for 5 houses

DOCUMENTS SUBMITTED AFTER HEARING:

Viability Note

Savills Financial Viability Assessment Report

Continuum Independent Viability Assessment

Monaghans Review of Cost Appraisal Prepared for Shorewood Homes Dated April 2025

Email from Continuum July 2025

Continuum Development Appraisal 1 Aug 2025

Completed planning obligations