
Appeal Decision

Hearing held on 18 and 19 November 2025

Site visit made on 19 November 2025

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2025

Appeal Ref: APP/K0425/W/24/3345099

Woodland, Fieldhead Gardens, Bourne End, Buckinghamshire SL8 5RN

- 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 Marcus Solomon Management Ltd against the decision of Buckinghamshire Council.
 - The application Ref is 23/07458/OUT.
 - The development proposed is erection of 3 no. detached dormer bungalows and ancillary works.
 - This decision supersedes that issued on 12 February 2025. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of 3 no. detached dormer bungalows and ancillary works at Woodland, Fieldhead Gardens, Bourne End, Buckinghamshire SL8 5RN in accordance with the terms of the application, Ref 23/07458/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. Applications for costs were made by the appellant against the Council and by the Council against the appellant. Those applications are the subject of separate Decisions.

Preliminary Matters

3. The application sought outline planning permission with all matters reserved for subsequent consideration. Plans have been submitted suggesting a potential layout and landscaping solution for the site, as well as the potential form and appearance of the houses. While the site constraints may limit available layout options, I have nevertheless treated these drawings as purely illustrative. Matters such as the detailed design of houses, precise layouts and landscaping, including measures for protecting trees relevant to those detailed designs, are not before me.

Main Issues

4. The site is an area of woodland that is covered by a Tree Preservation Order ("TPO") and designated in the Wycombe District Delivery and Site Allocations Plan 2013 ("DSAP") as 'Green Space'. Although the evidence and previous appeal decisions have often considered these two related matters together, I suggested at the Hearing that there were two distinct issues here. Indeed, the Council's

evidence indicates that the TPO seeks to protect the character of the area, whereas DSAP Policy DM12 seeks to prevent the loss, fragmentation or reduction in size of the Green Space.

5. Therefore, as set out at the Hearing, and not challenged by the parties, I regard the main issues to be:
 - a) The effect of the proposal on the character and appearance of the area; and
 - b) The effect of the proposal on the designated Green Space.

Reasons

Character and appearance

6. Fieldhead gardens is a cul-de-sac within a built-up area. Most of the dwellings on the road are terraced, but the area closest to its junction with Station Road is characterised by a looser built form, with detached dwellings amongst large, parkland-style trees and the woodland block that forms the appeal site. The area has been described by others as leafy, verdant and sylvan, which I agree are accurate descriptors for this part of Bourne End.
7. Other than from the adjoining railway station car park and around the junction of Fieldhead Gardens with Station Road, there is little visibility of the site beyond its immediate environs. Nevertheless, at a local level, it provides a valuable softening effect and break from the built form. Thus, it contributes positively to the character and appearance of Fieldhead Gardens and the immediate townscape. The site is clearly valued for its appearance and relative tranquillity by local residents and visitors alike.
8. Until recently, the site had a dense wooded appearance. From Station Road, the block of vegetation, particularly that retained on the roadside boundary, continues to soften and contribute to the visual qualities of the area. However, from the road immediately outside the site and station car park, authorised tree management works have resulted in a somewhat barren appearance.
9. Given the recent planning history, I can appreciate why some local residents believe that tree works have been undertaken purely to facilitate the development. I have some sympathy with the sentiment that one should not be able to remove valuable constraints from a site in order to lessen objections to a development proposal. However, the Council has confirmed that applications for the removal of, or works to, trees have been considered on their own individual merits. They are said to have been allowed solely for the purposes of good woodland management. I understand that there may have been some other consequences of the tree removals, such as increased wind speeds and water levels, but that has little to do with the proposal before me.
10. Whether or not it was done in a timely manner, new trees have been planted to replace the authorised removals, and two that were felled without consent. The Council's officers confirmed at the Hearing that they are content with the locations in which they have been planted and that all required replanting is now in place. While currently young, the replacement trees are predicted to grow to substantial sizes providing a more dense, regenerated woodland at ground level, and strong canopy cover over much of the site.

11. No further tree removal is planned to accommodate the proposed development. There are sizeable gaps, broadly aligned with the suggested positions of the dwellings and accesses. While roots from on- and off-site trees could be present within those areas, there is no dispute that engineering solutions could allow building work without further damage to the older and new replacement trees. That said, without development, depending on any future management regime, it is likely that further self-seeding may result in vegetation cover in these areas.
12. Conversely, with the proposed development, the gaps would necessarily remain. The new trees would be able to establish, but their ability to grow may be compromised by the buildings and general domestic activity. Examples of dwellings within woodlands provided by the appellant seem to be based on the bespoke desires of particular occupiers, or holiday accommodation. Their report lacks the rigour of independent analysis and so, in itself, is of little weight. Nevertheless, trees do coexist close to buildings in numerous locations, including elsewhere in Fieldhead Gardens. While I have no information about the health of those trees, with appropriate building design, I equally have no substantive evidence to suggest that the newly planted trees would not be able to reach a significant size.
13. The proximity to future residences and the pressure this may place for the future management of trees has been a consistent theme throughout the planning history of this site. It has contributed to the reasons for dismissing appeals by previous Inspector's since 2019, albeit from the decision letters, the extent to which there was any particular evidence relating to this is unclear.
14. At the Hearing, the Council were unable to produce any substantive evidence that it has been unable to resist substantial works or felling of trees in close proximity to houses. Rather, I heard anecdotal comments that a large number of applications were made per year, especially after storms, when homeowners became concerned about safety. That may be the case, but it has not been shown that this goes beyond the management of dead or decaying branches, for example, or the authorising of works slightly in advance of a natural failure. The trees at the site would remain covered by the TPO, such that the Council's agreement to any management works would be required.
15. The appellant has been unable to evidence the effect that the trees would have on daylight levels within any new dwellings. This is attributed to advice to discount the effect of trees in assessment guidance, perhaps because leaf cover is lower in the winter, and shade is often appreciated in the summer. While I understand there may be legitimate reasons not to model the shading effects, it is likely that the dense tree cover at this site would have an appreciable effect. I am not convinced that exclusion from a standard methodology is indicative of no effect at a site like this one.
16. That said, there is also no particular evidence that the Council has felt compelled to authorise tree management or felling in response to nuisance from leaf litter, daylight, or any other matter. At the Hearing, the Council accepted that there would be scope to ensure detailed designs were responsive to the shading constraints and sought to maximise light into the dwellings.
17. It may well be that some future management and occasional felling is required, but given the TPO, that will likely be alongside requirements for tree replacement as

part of any ongoing management regime. Thus, there might be piecemeal tree-replacement, as opposed to the substantial and widespread clearance of the last few years. That approach would maintain as much tree cover at the site as possible, reducing the visual effects of ongoing management activities on the locality. Overall, I have no clear reason to find that harmful living conditions would result for future occupiers, such that they would lead to irresistible requests to permanently remove, or significantly reduce trees.

18. The proposed development would see houses placed on the site, between and surrounded by mature trees. That resulting change would be entirely compatible with the character and appearance of Fieldhead Gardens where houses exist within the heavily treed setting. It would remain a housing area with a leafy, verdant and sylvan setting. Subject to detailed designs, the development would, therefore, adequately integrate into the locality and, ultimately, would not appear out of place.
19. Nevertheless, the development would result in houses where there are currently none. The perimeter planting, mature as it is, is insufficient to prevent views into the site. Even with supplementary planting on the front boundary, the character of the site would change from one of a woodland to a housing development.
20. I am mindful that, in the first, quashed, appeal decision against this scheme in 2019, the Inspector found there would be no erosion of the site's woodland character, such that its appearance would be maintained. However, whether or not the tree removal proposed then is exactly the same as that ultimately carried out, it was abundantly clear at my site visit that there are now clear views through the side site boundary from the Station Road direction, across the area indicated as Plot C, to the new trees that have been planted beyond it. My personal observations as to the condition of the site now, following the various works, allow me to reach a different conclusion here.
21. This means that a house in the location of suggested plot C is likely to be seen clearly alongside 1 Fieldhead Gardens, with the woodland area appearing beyond that, slightly further from the view of an observer passing through the village. No substantive new planting is suggested in this location. From Fieldhead Gardens, the accesses, and visibility of the houses through them, would give a more domestic, suburban appearance to the site, with greater human activity.
22. Therefore, while the new development would not ultimately look out of place, it would have occurred at the expense of the contribution that the undeveloped site brings to the character, appearance and tranquillity of the area. It would no longer be an obvious, consolidated break in the built form and wooded backdrop to the entrance to Fieldhead Gardens. Overall, that would result in a conflict with those aims of DSAP Policy DM11, and Wycombe District Local Plan 2019 ("LP") Policies CP9, CP10, DM34 and DM35 that seek to protect, conserve and enhance the green infrastructure network and natural environment, directing development to areas of lower environmental value, and improve the character of the area, including through the retention of existing positive characteristics.

Designated Green Space

23. The Council's decision notice refers to Policy WBE/HH6 of the Wooburn and Bourne End Neighbourhood Development Plan 2013-2033 ("NP"). It is common ground that this should be a reference to Policy WBE/PD6, titled Designation of

Local Green Spaces and Separation of Settlements in Wooburn & Bourne End Neighbourhood Area. I understand that during preparation of the NP, advice was received that sites identified within other development plan documents should not be included. Whatever the reason, the Policy lists various sites that do not include the appeal site.

24. NP Policy WBE/PD6 begins 'The Plan designates the following parcels of land...', and concludes that 'Proposals for development on the local green spaces will only be supported in very special circumstances' (my emphasis). While the Council believes the policy can apply to any designated green space, the title of the policy and reference to 'the' land parcels and spaces in both the opening and closing statements indicates that it can only apply to those spaces designated by NP Policy WBE/PD6. It does not, therefore, apply to the appeal proposal. The Council confirmed at the Hearing that there would be no conflict with any other NP policy.
25. The site is, nevertheless, designated as Green Space in the DSAP and shown on its Policies Map. DSAP Policy DM12 sets out that development that would result in the loss, fragmentation or reduction in size of green spaces shown on the Policies Map will be refused, except in exceptional circumstances.
26. In dealing with previous appeals at this site, Inspectors have reached varied conclusions as to whether there would be a fragmentation of the Green Space. However, although a small percentage of the site area, significant parts of the site would have to be given over to buildings, accesses and parking. While the overall site dimensions would remain unaltered, and the space would still be 'green' up to all of its boundaries, it would inevitably reduce in overall size. The Policy also seeks to prevent this.
27. Even if a contribution towards addressing a significant shortfall in housing supply could be considered an exceptional circumstance, such that development within the green space was necessary, Policy DM12 goes on to require a substantial element of green space to be retained and the overall character and quality of the space maintained. While the future development would be compatible in appearance with the wider residential area, I have already found that the overall character of the space would not be maintained: it would change to one with a more residential character.
28. Therefore, the proposal would conflict with DSAP Policy DM12, the aims of which are clearly to protect the quantum, character and quality of green spaces.

Other Matters

29. Broadly contemporary with the application subject of this appeal being determined by the Council, the site was added to Natural England's inventory of Biodiversity Action Plan Priority Habitat sites. It is unclear whether the site was surveyed for its biodiversity value as part of this process, or whether it was simply accepted that deciduous woodland sites are of value.
30. Nevertheless, while, as has been suggested by some, it is not a 'Habitats Site' for the purposes of the National Planning Policy Framework ("the Framework"), its status as a BAP site does mean that DSAP Policy DM13 now clearly applies. It seeks to ensure that development proposals that may affect important habitats need to be accompanied by appropriate reports. There is no up to date ecological information before me.

31. From previously provided evidence, it has been consistently held by Inspectors over the last 6 years that biodiversity interests would not be harmed by the development and could be adequately safeguarded through planning conditions. While the site is now included on the inventory and current usage by any species is unknown, there is no substantive evidence of any practical change to the biodiversity value of the site. I understand that previous surveys established that protected species would not be harmed. While certain species may have been sighted at and around the site, there is no reason to depart from previous conclusions, especially as no further works to any of the landscape features at the site are proposed now.
32. At the Hearing, the Council confirmed its position that planning conditions can be imposed to ensure that new ecological surveys are undertaken and a scheme to mitigate any ecological harm is put in place. That approach is consistent with the recent planning history and will ensure that there would be no harm to biodiversity, including any protected species that may be present at the site. Accordingly, there would be no conflict with DSAP Policy DM13.
33. There is some unrestricted parking along the site frontage on Fieldhead Gardens. The creation of new accesses would result in some loss of parking spaces here. However, the extent to which these are used by local residents as opposed to others, including walkers, railway station or town centre users, is unclear and there is no substantive evidence that significant inconvenience for residents would arise. Moreover, there is no objection from the Local Highway Authority and, therefore, I find that no demonstrable harm would arise in this regard.
34. I have been told that the thinning of the woodland has resulted in elevated noise, light and other pollution, including from the railway, for existing residents. However, no further removal is proposed and the trees will now begin to regrow. The presence of buildings on the site would add further physical structures between the railway and houses. There would be increased domestic activity, primarily close to Nos 1 and 2 Fieldhead Gardens. However, while the site itself would currently be quiet, the scale of development proposed is unlikely to create significant noise above and beyond that within the existing residential area. Accordingly, there is no obvious reason why the proposal would result in unacceptable noise disturbance to existing residents.
35. The drawings indicate that a private footpath could be provided for use of the residents of Fieldhead Gardens, through the site, to the station car park. It would shorten the route to the station and also to a path from the car park towards the River Thames. However, it would not make a significant time saving and so would be of limited benefit. Claims of a historic right of way or access to the site for recreation are not substantiated by detailed evidence. Therefore, providing a route through the site has not been shown to be necessary to make the development acceptable in planning terms. Moreover, there is no clear mechanism to secure it or control its operation before me, so I give this suggestion no weight in my decision.

Scheme Benefits

36. It is common ground that the Council can only demonstrate a 1.98 year supply of deliverable housing land. The development would make a contribution towards meeting housing needs, in an accessible location, close to facilities and a variety

of transport modes. The concern of some local residents that those facilities and services cannot accommodate the small increase in residents that would arise from these dwellings is not shared by the Council, and I have nothing substantive to indicate any problematic deficiency.

37. The benefits arising from a small number of houses cannot be as great as those arising from a large number. That is consistent with a number of other appeal decisions. Nevertheless, while the contribution in this case would be small, given the extremely low supply, any additional housing should be seen as a clear benefit. The relatively worse housing supply position now compared to the appellant's suggested position in the 2022 appeal means that greater weight should be given to the benefits now than then.

Planning Balance

38. In respect of the main issues, I have found conflicts with relevant development plan policies. There are various other development plan policies with which the proposal may comply, including those that give support to delivering new homes and directing development to sustainable locations, such as Wooburn and Bourne end, which is a major housing development area. However, the objectives of the development plan must be read as a whole. It is clearly not the plan's intention for development to be provided at the expense of all other considerations.
39. LP Policy CP1 seeks to ensure the delivery of sustainable development by contributing to the main objectives of the plan. The conflicts with those LP policies that I have identified means that the proposal would not achieve that, notwithstanding its location. Accordingly, the proposal also conflicts with that policy, and the development plan, taken as a whole.
40. Nevertheless, the housing land supply situation means that Framework Paragraph 11 d) must be considered and the most important development plan policies, being those with which I have found conflict, should be deemed to be out of date. In the first instance, Paragraph 11 d) indicates that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development. One such policy is that relating to Local Green Space.
41. Framework Paragraphs 106-108 deal with Local Green Space. They set out that Local Green Space designations through local and neighbourhood plans allow communities to identify and protect green areas of particular importance to them, along with three criteria for the only scenarios when such a designation should be used.
42. The Green Space designated in the DSAP is not described as a Local Green Space. Moreover, while it may be arguable that the Framework's criteria could be applied to the appeal site, the designation criteria for Green Space in the DSAP bare no relation to those in the Framework. The DSAP Policy DM12 test for when development can occur – 'exceptional circumstances' – is also different to that which would result from a space designated in accordance with the Framework. The latter refers to consistency with Green Belt policy, where 'very special circumstances' would have to be demonstrated following a particular, prescribed, approach to the balancing exercise.

43. I appreciate that this may seem a somewhat technical analysis, based upon semantics, of two designations with very similar names that appear to be seeking to achieve a similar purpose. However, for the reasons given, I find that the site, as Green Space in the DSAP is not a Local Green Space for the purposes of Framework paragraphs 106-108. That means that none of the stated policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed.
44. In this scenario, Framework Paragraph 11 goes on to indicate that permission should be granted unless any adverse impacts of doing so 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.
45. There would be some minor conflict with those policies of the Framework that seek to ensure that developments are sympathetic to local character and landscape setting, as well as the maintenance of a strong sense of place. However, as the resulting development would not, ultimately, be at odds with its immediate context and would reflect other parts of the surrounding built environment, I attribute limited weight to this matter and find that a well-designed place could still be achieved. The accessibility of the site means that the proposal accords with those policies that seek to direct development to sustainable locations, within the meaning of the Framework.
46. Therefore, even if the benefits of three houses were small, taking the policies of the Framework as a whole, and having particular regard to those listed within Paragraph 11d) ii, I find that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of doing so. Accordingly, the proposal benefits from the presumption in favour of sustainable development outlined in Framework Paragraph 11. As Government policy, that is a material consideration of substantial weight.
47. It is clear that building houses on the appeal site would undermine some of the aims of the development plan. Green spaces are important for a number of reasons and this one is clearly valued by local residents. The need to deliver housing should not be at all costs. However, the site would still contain substantial green infrastructure, with its mature trees continuing to contribute to the character and appearance of the locality. Its function within the area is a visual one, and that would continue to an appreciable extent.
48. On this basis, and because those policies with which I have found conflict – being the most important for this decision – should be deemed out of date, I find that material considerations, including the Framework, indicate that a decision should be taken otherwise than in accordance with the development plan. Planning permission should be granted.

Conditions

49. In addition to conditions requiring the submission and approval of reserved matters, conditions are required to secure a drainage scheme to avoid any increase in off-site flood risk, and an ecological mitigation scheme to prevent any harm to biodiversity interests in accordance with LP Policy DM14.

50. To protect the living conditions of future residents from railway noise, a condition is required to secure a noise mitigation scheme. To reduce the environmental impact of the development, conditions are required to ensure a high water efficiency standard and the provision of electric vehicle charging infrastructure. It was agreed between the parties at the Hearing that the Building Regulations do not go far enough to secure the latter in perpetuity. Given the landscape constraints on the site and their contribution to the character and appearance of the area, exceptional circumstances exist to justify the removal of permitted development rights, which would facilitate control over future development at the site.
51. The Council also seeks a condition setting out that the development should be built in accordance with various submitted plans and documents. However, the proposal is in outline with all matters reserved. It is unreasonable and unnecessary to impose a condition relating to illustrative plans that could result in various matters not before me being fixed now. I have made some alterations to the wording of the suggested conditions in the interests of clarity and to ensure compliance with the Framework.

Conclusion

52. For the reasons given, the appeal is allowed.

M Bale

INSPECTOR

APPEARANCES

For the appellant:

Rowan Clapp – Barrister

Jonathan Clay – Barrister

Tristram Bushby BA (Hons) BSc (Hons) MA CMLI – Allen Pyke, Landscape Architects

Michael Holland – Appellant

Barrie Stanley – Architect

Simon Trueick BA (Hons) DipTP MRTPI – Chapman Lily Planning

For the Local Planning Authority:

Stephanie Penney – Enforcement Team Leader

Heather Smith – Principal Planning Officer

Sean Wilkinson – Senior Planning Enforcement Officer

Interested parties:

Cllr Penny Drayton

James Mortimer (for Wooburn & Bourne End Parish Council)

Cllr Larisa Townsend

Cllr Stuart Wilson

DOCUMENTS SUBMITTED AT THE HEARING

- HD1 Signed Statement of Common Ground
- HD2 Wycombe District Delivery and Site Allocations Plan 2013 Map Extracts and Legend
- HD3 Drawing 347-003V7 – Outline Landscape Proposals
- HD4 Transcript of oral submission of Wooburn and Bourne End Parish Council
- HD5 Statement of Stephen J Cooper, read to the Hearing
- HD6 Statement on behalf of the Fieldhead Woodland Preservation Group, tabs 1, 2, 3, and 5
- HD7 Statement on behalf of the Fieldhead Woodland Preservation Group, tab 4
- HD8 Wycombe District Local Plan 2019 Policy DM42
- HD9 Wycombe District Local Plan 2019 Principles for Bourne End and Wooburn
- HD10 Updated Costs Rebuttal Statement on behalf of the Council

SCHEDULE

- 1) Details of the access, appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the commencement of development, a scheme to mitigate against any ecological harm which could be caused by the proposals and to enhance the ecological value of the site shall be submitted to and approved in writing by the local planning authority. All works shall then proceed in accordance with the approved scheme or any amendments first agreed in writing by the local planning authority with any physical measures installed in accordance with timings set out within the scheme and thereafter maintained as such.
- 5) Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied and shall thereafter be maintained as such.
- 6) Prior to the occupation of any part of the development, details shall be submitted to and approved in writing by the local planning authority which demonstrate how the indoor ambient noise levels in living rooms and bedrooms meet the standards in BS 8233:2014. The development shall be undertaken in accordance with the approved details, unless otherwise first agreed in writing by the local planning authority and thereafter maintained as such.
- 7) Prior to the first occupation of the development hereby permitted, a 32amp electric car charging point shall be installed, adjacent to the approved parking area for each property, and thereafter retained for the lifetime of the development.
- 8) The development, hereby permitted, shall be designed, constructed and thereafter maintained to meet a water efficiency standard of 110 litres per person per day.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), no development falling within Classes A, B, C, D, E and F of Part 1 of Schedule 2 shall be carried out without the prior express grant of planning permission.

END OF CONDITIONS