



Appeal Decision

Site visit made on 3 March 2026

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2026

Appeal Ref: APP/X0415/W/25/3366471

**Land at rear of former Landrecies, Oxford Road, Gerrards Cross,
Buckinghamshire SL9 7AT**

- 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 Mrs Sophie Brewster on behalf of Drexl Developments Ltd against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref is PL/24/2545/OA.
 - The development proposed is described as 'Outline planning application, all matters reserved, for 4 detached dwellinghouses'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all detailed matters reserved for a subsequent reserved matters application. Therefore, I have treated the drawings showing the layout and appearance of the development as indicative only.
3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024, after the determination of the planning application by the Council. In addition to those previously set out, the revised Framework introduced further types of development which should not be regarded as inappropriate, including the development of homes, where specific criteria apply. Considering this, the Council has indicated that the proposal is not inappropriate development within the Green Belt, and based on the evidence before me, I have no reason to take another view. Consequently, the Council no longer wishes to pursue the first reason for refusal.

Main Issues

4. In light of the above the main issues are therefore:
 - whether or not it has been demonstrated that the proposal would be acceptable with respect to its impact on biodiversity, including protected species;
 - the effect of the proposed development on the living conditions of the occupiers of 3 and 4 Phoenix Close with particular regard to privacy and outlook; and
 - whether the proposal would include suitable arrangements for surface water drainage.

Reasons

Biodiversity

5. The application form describes the site as rough, overgrown farmyard land. It is currently used for the storage of building materials and topsoil and is also occupied by several small scale buildings in various states of repair and a mobile home. The land is set back from Fulmer Lane and is bounded by residential properties on one side, with agricultural land to the rear and opposite side boundary. The boundaries of the site comprise a number of mature trees, hedging and timber fencing.
6. A Preliminary Ecological Appraisal (PEA) to identify all likely ecological constraints, any mitigation, additional survey requirements and opportunities to deliver ecological enhancement, was not submitted as part of the application or appeal. In place of this, the appellant's submissions indicate that a site walkover was carried out by a qualified ecologist, whereby it was concluded that there were no European protected species present on site and the closest Protected and Priority Habitat, a deciduous woodland, was some 350m from the eastern edge of the site.
7. However, the Council indicate that part of the site is located within the Red Impact Risk Zone and part is within the Amber risk zone for Great Crested Newts (GCN) where there is highly suitable/suitable habitat and great crested newts are likely to be present. Furthermore, according to the Council's records, the site is located within approximately 21m of a pond. There is therefore a reasonable prospect of a GCN, a European protected species, being present. Guidance from Natural England¹ is clear that evidence should be provided to either demonstrate that a proposal poses no risk to GCN, or an assessment of the risk to GCN and set out any measures proposed to safeguard against significant risks and compensate for any impacts, including through licencing.
8. In addition to the mature trees to the site boundary, the Council highlight that the site is also bordered by native hedgerows which are NERC Act Section 41 listed Habitat of Principal Importance (priority habitat), and therefore contains habitats which may support nesting birds, badgers, reptiles, hedgehogs, and may also be a key commuting habitat for bats.
9. Circular 06/2005 is clear that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It sets out that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. As such, given the characteristics of the site and in the absence of a detailed PEA, required given the types of habitats and species that are likely to be affected, there is no substantive evidence before me to demonstrate that European protected species including GCN and their habitats, together with bats, would be protected. Accordingly, I must take a precautionary approach. Given the circumstances in this case, I therefore conclude the proposed development would be likely to have an adverse effect on ecological interests in the locality.
10. Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) requires development to deliver at least a 10% increase in biodiversity value

¹ Natural England Interim Guidance on District Level Licensing (January 2020)

relative to the pre-development biodiversity value of the onsite habitat. Planning Practice Guidance (PPG) sets out that under this statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met. It is clear that biodiversity net gain (BNG) has been designed as a post-permission matter to ensure that the biodiversity gain objective will be met for development granted planning permission and that once planning permission has been granted, unless exempt, a Biodiversity Gain Plan (BGP) must be submitted and approved prior to the commencement of that development.

11. The application was accompanied by evidence² which indicates a BNG of 34.98% Habitats and 289% Hedgerows would be achieved. While I note the Council's contention that the submitted metric cannot be relied upon as it fails to take into account the existing water body that lies to the south of the site, I have not been presented with any clear reason as to why the site would not have the capacity to accommodate BNG or that the requisite BNG could not be secured through the provision of a BGP as part of the discharge of the mandatory BNG condition.
12. Therefore, while there is no substantive evidence that the proposal could not make adequate provision for BNG, it has not been demonstrated that it would be acceptable with respect to its impact on biodiversity, including with regard to protected species. Consequently, it would conflict with the aims of Core Policy CP9 of the South Bucks Core Strategy, adopted February 2011 (CS) in so far as it seeks to conserve and enhance biodiversity resources as part of development proposals and resists development that would harm nature conservation interests.

Living conditions

13. The appeal site comprises land adjoining Phoenix Close, a small cul-de-sac of contemporary detached dwellings. The Council allege that, given the proximity and siting of the adjoining residential properties at 3 and 4 Phoenix Close (No. 3 and 4), the proposal would have an adverse effect upon the living conditions of the occupiers of these properties through loss of privacy and harm to outlook.
14. As the appearance, layout and scale of the dwellings are a reserved matter, control could be exercised over the siting and orientation of the dwellings, as well as the size and position of windows to avoid undue overlooking or harm to the outlook from neighbouring properties. Even if the dwellings were akin to the development at Phoenix Close, in terms of design, height and density, as suggested in the appellant's Design and Access Statement, given the overall size of the site, and having regard to the siting and design of the adjoining properties, there is no substantive evidence that the number of dwellings proposed could not be delivered in a way so as to avoid harm to the living conditions of the occupiers of No. 3 and 4.
15. Accordingly, the proposal would not conflict with the combined aims of Policies EP3 and H9 of the South Bucks District Local Plan, adopted March 1999, which set out that permission will not be granted for uses which would be detrimental to the amenities of nearby properties by reason of, among other things, visual intrusion, overdominance, obtrusiveness or loss of privacy.

² Small Sites Metric (The Statutory Biodiversity Metric) dated July 2024 and a Biodiversity Net Gain (BNG) Feasibility & Design Report September 2024

Drainage

16. Core Policy 13 of the CS seeks to ensure the prudent and sustainable management of the District's environmental resources through a range of means, including that all new development must be water efficient and incorporate Sustainable Drainage Systems (SuDs) where feasible. The Environment Agency flood map shows that the site lies within Flood Zone 1, an area which has a low probability of flooding. The appellant's Sustainable Drainage Statement sets out that the proposed development will incorporate soakaway crates, also known as attenuation tanks or stormwater crates, that allow surface water to be stored and gradually released back to the ground or sewer network slowly. These are shown on an indicative 'Proposed SuDS Layout' plan.
17. The Council's main concern is that, in the absence of infiltration rate testing, it has not been demonstrated that the use of soakaways would be feasible in this case. In that regard, it contends that it has not been demonstrated that an appropriate surface water drainage scheme would be incorporated into the development to ensure the development would not be at risk of flooding and to ensure that flood risk is not increased elsewhere.
18. However, I have not been provided with any compelling evidence that a satisfactory surface water drainage scheme would not be achievable. Moreover, details of such could be secured by a suitable planning condition to require details of a scheme to be agreed prior to the commencement of the development. Consequently, subject to a planning condition to agree a drainage scheme, the development could incorporate suitable arrangements for surface water drainage to ensure that the proposal would not give rise to increased flood risk either for future occupiers of the dwellings or elsewhere. Thus, it would not conflict with the aims of Core Policy 13 of the CS in that regard.

Other Matters

19. Pinstone Cottage, a Grade II listed building, lies close to the site. I am required to have special regard to the desirability of preserving the setting of the listed building. The Council indicate that, due to the slope of the land away from the boundary with the listed building and the low-rise nature of the proposed houses, the setting and significance of the listed building would not be adversely affected. Given my observations on site and having regard to the scale and position of the development in relation to the listed building, I am not drawn to reach a different conclusion.
20. I note the appellant's frustration with the way in which the Council dealt with the planning application; however, this is not determinative to the appeal, which I have assessed on the planning merits of the case and the evidence before me.

Planning Balance

21. The Council is not able to demonstrate a 5 year supply of deliverable housing sites. In such instances paragraph 11 d) of the Framework falls to be considered. In so far as this appeal is concerned, this indicates 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, individually or in combination.

22. The proposed development would offer benefits in terms of housing supply, which is a key objective of the Framework, which seeks to significantly boost the supply of housing. It would also align with the aims of the Framework which encourage the use of underutilised land and recognise the important contribution small and medium sized sites can make to meeting the housing requirement of an area. Future occupiers of the development would benefit from accessibility to services and amenities by means other than the private car, and the proposal would also offer benefits in terms of support for local services which would enhance or maintain the vitality of nearby rural communities. Although the benefits would be limited given the relatively modest scale of the development, the proposal would nonetheless make a positive contribution, in the context of a housing supply shortfall, which weighs heavily in favour of the scheme.
23. From my observations on site, it was evident that it is not particularly unsightly and consequently, any perceived benefits with regards to the appearance of the land would be of very limited weight. The proposal may be compliant with various other provisions of the development plan, including sustainable construction, character and appearance and highway safety. However, the absence of harm or conflict with other relevant development plan policies is matter of neutral weight.
24. Set against this, In the absence of a competent PEA, it is not possible to fully assess the impact of the proposed development on biodiversity, including European protected species, which is a matter of primary importance. As such, it has not been demonstrated that the proposal would not give rise to harm in that regard. Consequently, the proposal would conflict with Core Policy CP9 of the CS, and the aims of the Framework that seek to conserve and enhance the natural environment. I attribute significant weight to this policy conflict and to the associated harm that would be caused to biodiversity, including protected species. Thus, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development outlined at paragraph 11 of the Framework does not, therefore, apply.

Conclusion

25. I have found that the proposed development would not give rise to harm to the living conditions of the occupiers of No. 3 and 4 or be at risk of or exacerbate the risk of flooding elsewhere. However, while there is no compelling evidence that appropriate BNG would not be provided, it has not been demonstrated that the proposal would not have a harmful impact on biodiversity including European protected species. It would therefore conflict with the development plan as a whole, and material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it.
26. The appeal is therefore dismissed.

E Worley

INSPECTOR