
Appeal Decision

Hearing Held on 10 April 2018

Site visit made on 10 April 2018

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday 19th April 2018.

Appeal Ref: APP/X0360/W/17/3184847

Coppid Hill House, Barkham Road, Barkham RG41 4TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Joe Atkinson of Charlesgate Homes Limited against the decision of Wokingham Borough Council.
 - The application Ref 171276, dated 23 July 2016, was refused by notice dated 23 August 2017.
 - The development proposed is for outline application for an access road to serve 5 serviced custom build plots.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters other than access reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative, insofar as they relate to matters other than access.
3. A signed and completed legal agreement has been submitted by the appellant covering Planning Obligations relating to the custom build plots on the appeal site and securing contributions toward a local Strategic Green Space and mitigation measures on a local Special Protection Area (SPA) in the area. The Council confirmed in the submitted Statement of Common Ground and at the hearing, that the content of the legal agreement and the additional information submitted by the appellant now satisfactorily addresses the Council's concerns in the fourth and fifth reasons for refusal of the Council's decision notice and these matters were no longer in dispute. I have dealt with the appeal on this basis accordingly.

Main Issues

4. The main issues are the effect of the proposed development on
 - (i) the character and appearance of the area; and
 - (ii) the ecology and the protected species interest on the site.

Reasons

Character and appearance

5. The appeal site comprises of a predominantly open parcel of grassland at the junction of Barkham Road and Edneys Hill. A stable block is located in the south west corner of the site adjacent to Coppid Hill House, a detached property set back from the road behind the existing linear residential development running along Barkham Road to the north, east and west of the site. The indicative details show five individual custom build plots setback behind the existing linear residential development and a shared access road that would be accessed off an existing access point off Barkham Road.
6. A farmhouse and associated agricultural buildings are located to the south-east of the site and open fields to the south. The topography of the site is elevated above and slopes towards Edneys Hill, a narrow public road running along the eastern boundary of the site that possesses a distinctively appealing rural appearance leading to the open countryside to the rear of the site. This gives the area an open and generally semi-rural character and appearance, which is further enhanced by the presence of mature landscaping and established trees along the boundaries of the appeal site and within the surrounding gardens and the open countryside.
7. At the hearing, the parties agreed that the site lies outside any defined settlement boundary and therefore constitutes countryside in planning policy terms. Policy CC02 of the Wokingham Borough Managing Development Delivery Local Plan February 2014 (MDD) does allow for some development on the edge of settlements providing that they respect the transition between the built up area and the countryside and landscape. However, this only applies when sites are located within the development limit which is not the case here.
8. Policy CP11 of the Wokingham Borough Core Strategy Development Plan Document 2010 (CS) deals with proposals outside of the development limits and seeks to protect the separate identity of settlements and maintain the quality of the environment. It states that proposals outside of these limits will not normally be permitted. Whilst this policy does allow for some exceptions to this, none of the specified exceptions apply in these cases. MDD Policy TB21 seeks to ensure that proposals address the requirements of the Council's Landscape Character Assessment and that the proposals should retain or enhance the character that contributes to the landscape.
9. I note that the site is not subject to any particular landscape designations and that it does not include specific landscape features of particular identified merit. However, the site has a largely undeveloped appearance and currently offers a significant break in the built frontage along Barkham Road. At the time of my site visit, views into the front part of the site were readily available from the road and footway and due to the elevated and sloping nature of the site, the appeal site was partially visible over longer distances from Edneys Hill across the open fields behind the site. Whilst I recognise that the boundary trees and vegetation provide some visual containment, the degree of visibility will vary according to the seasons. Nonetheless, the site offers a significant green openness, which contributes individually and together with the other less-developed areas nearby to the more rural aspect of this semi-rural street scene.

10. The introduction of five detached dwellings on the site would inevitably substantially erode the overriding open character of the site. I note that the proposal has been redesigned following the previously dismissed linked appeals for five and eight custom build plots at the appeal site in March 2017¹. Whilst I recognise that the proposed development density of the custom build plots would be low and the retention and enhancement of the hedgerows and boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.
11. At the hearing, the appellant stated that the impacts of the development could be mitigated by restricting the height of the buildings and controlling the scale, layout, landscaping and appearance through the reserved matters and the proposed plot passports to be agreed between the appellant and the Council. However, this does not diminish my concerns above in relation to the harm that would arise by the introduction of the proposed built form. These shortcomings would be exacerbated by the potential use of close boarded fencing around the site's perimeter as illustrated in the submitted photomontages of the proposed development and the associated shared access road across the front of the site that would add further to the urbanising effect of the site.
12. Furthermore, the existing views of the countryside located behind the site, albeit partially restricted, would be likely to be almost entirely lost as a result. While the site does not have an agricultural appearance, it's green, open and generally undeveloped and rural character would give way to a more urbanised, residential character and appearance. This would be detrimental to the semi-rural character of the site and its surroundings, as well as the intrinsic countryside character of the area more widely. I consider that the development would adversely harm rather than positively contribute to the open and verdant semi-rural character and appearance of the area.
13. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The development conflicts with CS Policy CP11 and MDD Policy CC02 for the reasons set out above. It would also conflict with CS Policy CP3 and MDD Policy TB21, which set out amongst other things, design principles for development that seek to protect the character of the area and ensure development proposals contribute to the sense of place and the landscape character in the area.

Ecology and Protected Species interest

14. The findings of an updated Extended Phase 1 Ecological Survey (February 2018) submitted by the appellant, show the stable block on the site has the potential to support roosting bats and an individual small sized bat dropping was found during the survey on the west facing gable end of the stable building. The appellant's ecological consultants also indicate that pre-existing records show that three pipistrelle bat species have been recorded previously in close proximity to the site on the eastern boundary in the trees along Edneys Hill². Given the nature of the site and its surroundings, the Council recommend that three further dusk emergence and pre-dawn re-entry surveys should be carried out between May and September to establish the extent to which bats may be affected and to inform any appropriate mitigation.

¹ APP/X0360/W/16/3154856 and APP/X0360/W/16/3161362

² John Wenham Ecological consultancy updated Extended Phase 1 Ecological Survey (R1853/a February 2018)

15. The appellant has indicated that the additional survey work would have been submitted as part of the processing of the planning application if it had been requested and would be happy for a condition to be imposed if this appeal were to be allowed, to cover the additional survey work and mitigation measures if required. The appellant also indicated during the hearing that the description of the development does not include the demolition of the stable block and, that the updated appellant's ecological consultants survey report includes recommended mitigation and compensation measures³ that would cover the worst case scenario should bats be found roosting on the site and the stable block is demolished as part of the proposed development.
16. Whilst this maybe so, I note the Council's approach in accordance with local and national guidance makes it clear that the impact of a development on protected species should be considered as part of an planning application, otherwise all relevant material considerations may not have been addressed in making the decision. In the absence of the additional protected species survey work and any convincing evidence to the contrary, there is a potential that the proposal could impact on protected species interest on the site.
17. Consequently, I conclude that the proposal would be contrary to CS Policy CP7, MDD Policy TB23, paragraphs 109 and 118 of the National Planning Policy Framework (the Framework) and Paragraph 99 of the Government Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and their impact within the Planning System, that seek, amongst other things, to conserve biodiversity, ensure significant harm from the development is avoided and incorporate measures to maintain and enhance opportunities for biodiversity and protected species in the development.

Other Matters

18. A signed and completed legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 111 of the Local Government Act 1972 has been provided by the appellant covering the Planning Obligations relating to the custom build plots and contributions towards the Rooks Nest Wood Strategic Suitable Alternative Green Spaces and mitigation measures relating to the Thames Basin Heath SPA in the area. Based on the evidence before me, I am satisfied that the Planning Obligations and contributions are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with the Framework and the Community Infrastructure Levy Regulations 122 and 123. I have therefore attached weight to this legal agreement in reaching my decision.
19. I have considered the appellant's comments that the appeal site is brownfield. I saw from my site visit that whilst the appeal site includes the stable block and part of the hardstanding areas around Coppid Hill House, the majority of the appeal site consists of open grassland and as such would be excluded from the definition of Brownfield or Previously Developed Land as defined in Annex 2 of the Framework. I therefore accord this matter limited weight.
20. My attention was drawn by the appellant to the judgment in *Braintree District Council v Secretary of State for Communities and Local Government [2018]*.

³ John Wenham Ecological consultancy covering letter dated 1 March 2018 to updated Extended Phase 1 Ecological Survey (R1853/a February 2018)

However, this judgment relates to isolated homes in the countryside and the application of Paragraph 55 of the Framework to such developments and as such does not appear to be directly relevant to the proposal before me.

21. CS Policy CP11 does not make specific provision for self-build and custom housebuilding (SBCH) schemes in the countryside and I am advised that there are no other specific policies or site allocations in the development plan that make direct provision for this type of development. CS Policy CP5, which relates to housing mix, sets out that the Council will seek a range of house types and sizes to meet the housing needs across the borough. The Council outlined that policies relating to SBCH would be incorporated into the emerging Local Plan and at the hearing also provided a list of SBCH sites being promoted through the emerging Local Plan, including the appeal site and a number of generic housing sites including the option for self-build. However, the emerging Local Plan is at an early consultation stage and as such I can only afford limited weight to these matters in making my decision.
22. Nonetheless, whilst the CS development plan policies pre-date the Framework, I consider that the Council's housing policies are sufficiently flexible to take into account the changing circumstances over time and the needs to plan for a mix of housing needs in accordance with the Framework (Paragraph 50), including plots for SBCH. Although it may not be as specific as the appellant may wish on SBCH, the development plan policies in CS and MDD in relation to housing and the location of development are not silent and/or absent in this case. The development plan when taken as a whole provides decision makers and applicants with a clear means of assessing and making judgments about the acceptability of development proposals for residential development in the area, including SBCH schemes.
23. Government policy is strongly supportive of SBCH, with the 2015 Act⁴ requiring a local planning authority to keep a Register of those interested in acquiring serviced plots for SBCH in its area, which it must then have regard to in carrying out its planning functions. The Planning Practice Guidance sets out that SBCH demand is to be measured by the Register with the relevant authority having a duty⁵ to grant permission within three years to sufficient suitable serviced plots for SBCH, to meet the number of entries on the Register for a given base period. There is disagreement between the parties as to when the three year period expires for the first accounting period. The appellant considers it to be May 2019 and the Council considers it to be October 2019. Either way, there would be at least a year still to run for the Council to permit sufficient SBCH plots to meet the demand established in the first base period.
24. At the hearing it was essentially common ground that there is significant demand for SBCH plots in the borough, as evidenced by the Council's SBCH Register which stood at 200 entries at the time of the hearing. Conversely, the Council's current SBCH supply of suitable permitted plots for the current three year period appears extremely weak, with the Council indicating at the hearing that there are no permitted plots specifically for self-build at present, although the Council were currently promoting a Council owned plot of land for around 21 affordable self-build dwellings at Wheatsheaf Close, Sindlesham⁶. At the hearing, the Council was unable to provide details of the number of any other

⁴ Self-build and Custom Housebuilding Act 2015

⁵ Housing and Planning Act 2016 Part 1 Chapter 2 Section 10

⁶ Wokingham Borough Council Capital 10 Year Vision 2018/2028

permitted plots that might be deliverable for SBCH, even if not expressly identified as such at application.

25. I have reviewed the appeal decisions⁷ and recent judgement⁸ submitted by the appellant relating to weight to be given to SBCH as a material consideration and I accept that material weight should be attached to development proposals making provision for SBCH. The other appeal decisions⁹ submitted by the appellant relate to residential developments in the borough and elsewhere that have different development and locational characteristics to the appeal scheme before me. On the basis of the limited evidence provided I am not convinced that the circumstances are compellingly similar to those of the present appeal proposal. I therefore accord them limited weight as precedents in this case.
26. I have given careful consideration to the provision of five SBCH plots, which would make a very useful contribution to the Council's required supply of suitable permitted plots. I have attributed significant weight in this appeal to the benefit of this contribution, having regard to the identified demand for SBCH plots, government support for SBCH and the extremely limited current identified supply of suitable permitted plots in the borough. However, I am not persuaded that this outweighs the substantial harm that would arise from the conflict with the identified development plan policies set out above. Moreover, the Council is currently able to demonstrate a five year housing land supply and there is still a reasonable amount of time left in the first three-year period for permitting suitable plots for SBCH.
27. I recognise that there is some significant doubt in relation to the ability of the Council and developers to bring forward suitable, permitted SBCH plots to meet supply requirements within the three-year period, particularly given that at the hearing the Council was not aware of any such schemes including SBCH plots in the pipeline, apart from the one site at Wheatsheaf Close, Sindlesham. I also accept that self-build plots forming part of a large residential development scheme may not meet the wants of all potential self-builders and that lead-in times may be significant. Nevertheless, I consider that there is still time available for other plots to come forward at sites that would accord with the development plan policies in CS and MDD. In my view, the proposed SBCH scheme therefore does not justify the release of the appeal site for residential development in the current circumstances.
28. I have also considered the various other benefits that the proposal would bring, including supporting the local economy and mixed communities and, that it would provide housing in an accessible location. While I have given them some weight in favour of the appeal, these modest benefits would not be sufficient to outweigh the harm I have identified.
29. I have noted the objections raised by the Barkham Parish Council and the local residents to the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on these matters.

⁷ APP/C1570/A/14/2223280, APP/Y3940/W/16/3150774 and APP/W0340/W/15/3051146

⁸ Charlegate Homes Ltd v Secretary of State for Communities and Local Government and West Berkshire Council [2017]

⁹ APP/R0660/W/17/3177499, APP/X0360/W/15/3130829, APP/X0360/W/16/3155455, APP/X0360/W/16/3165765 APP/X0360/W/17/3170340 and APP/X0360/W/17/3177248

Conclusion

30. The development would provide a benefit of five custom build houses to the local supply for this type of development, making a positive, albeit modest contribution to housing mix and choice and the local economy, amongst other things. However, I have found above that taken overall the development would result in harm that would arise from the conflicts I have identified with the development plan, particularly in relation to the character and appearance of the area and the ecology and protected species interest on the site. This harm would be sufficient to significantly outweigh the scheme's benefits when assessed against the policies in the development plan taken as a whole.
31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Joe Atkinson	Appellant - Charlesgate Homes Limited
Ben Atkinson	Charlesgate Homes Limited
Mark Flaherty	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

Simon Taylor	Senior Planning Officer
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INTERESTED PARTIES:

Graham Dexter	Barkham Parish Council
Chris Heyliger	Barkham Parish Council
Hazel Burges	Local resident

DOCUMENTS SUBMITTED DURING THE HEARING

- Doc 1 Proposed Access Road Entrance Drawing ref. CPH1/2 submitted by the Local Planning Authority.
- Doc 2 Appeal Decision Ref. APP/R0660/W/17/31774899 Land at Shavington Villa, Shavington submitted by the Appellant.
- Doc 3 Court of Appeal Judgment in *Braintree District Council v Secretary of State for Communities and Local Government [2018]* EWCA Civ 610 submitted by the Appellant.
- Doc 4 Additional Ecology Condition submitted by the Local Planning Authority.
- Doc 5 Wokingham Borough Council Supplementary Statement showing Five Year Housing Land Supply at 30 November 2017 submitted by the Local Planning Authority.
- Doc 6 Wokingham Borough Council Capital 10 Year Vision 2018/2028 submitted by the Local Planning Authority.
- Doc 7 Wokingham Borough Council Local Plan Update Promoted Sites List submitted by the Local Planning Authority.
- Doc 8 Wokingham Borough Council Custom and Self- Build Housing Register Criteria – Report to the Executive 29 March 2018 submitted by the Local Planning Authority.