



Appeal Decision

Site visit made on 17 October 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/X0360/W/24/3341373

The Point, London Road, Woodley, Wokingham RG6 1BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by T A Fisher Holdings Ltd against the decision of Wokingham Borough Council.
 - The application Ref is 232620.
 - The development proposed is demolition of 2 no. existing dwellings and erection of a drive-thru, landscaping and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has consulted on the emerging Wokingham Borough Local Plan Update 2023-2040 (LPU) under Regulation 19 of the Town and Country Planning (Local Plans) (England) Regulations 2012. The plan has not been submitted for examination and, therefore, there is uncertainty as to the extent of unresolved objections and its consistency with the National Planning Policy Framework (the Framework). Consequently, the LPU carries limited weight.
3. On 30 July 2024, the Government published a consultation on proposed reforms to the Framework. A Written Ministerial Statement (WMS) entitled "Building the homes we need" was also published. Whilst a direction of travel has been outlined within the WMS, the changes to the Framework carry limited weight at this stage because the document has not been finalised. I have had regard to the comments made by the parties with respect to the publications.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the supply of housing in the Borough;
 - the effect of the proposal on the character and appearance of the area; and,
 - the effect of the development on the living conditions of the occupants of neighbouring dwellings, including 38 Shepherds Hill and 711 London Road, with particular regard to security and disturbance.

Reasons

Supply of homes

5. The appeal site comprises the residential properties at 40 Shepherds Hill and 713 London Road, as well as The Point retail park and its parking area. The two dwellings would be demolished to facilitate the development.
6. Policy CP3 of the Wokingham Borough Core Strategy Development Plan Document (Adopted 29 January 2010) (CS) resists proposals that would lead to a net loss of dwellings. The policy does not differentiate between homes of different sizes, but rather applies to all dwellings in the area.
7. The two dwellings are leased on a short-term basis and could be in need of modernisation. However, I observed that the buildings were in a reasonable condition, and there is no substantive evidence to indicate the homes are not physically or functionally suitable for residential use in the longer term, or that there is not a continued demand for housing in this location. Therefore, the loss of the homes would clearly conflict with Policy CP3 of the CS.
8. The evidence does not include detailed information about housing sites and developments in the area. However, the evidence suggests that the Council is currently only able to demonstrate 3.95 years of deliverable housing sites, which is a shortfall against the Framework's requirement. Furthermore, both allocated and windfall housing sites would be expected to contribute towards future needs, rather than to compensate for the loss of housing on existing sites. Therefore, that other sites could be available for housing does not, in and of itself, justify the loss of the two residential units on the appeal site.
9. Overall, I conclude that the proposed development would have a harmful effect on the supply of housing in the Borough. Consequently, there would be conflict with Policy CP3 of the CS, which resists the net loss of dwellings, and with the Framework, insofar as it seeks to significantly boost the supply of housing. There would also be associated conflict with Policy TB06 of the Adopted Managing Development Delivery Local Plan (February 2014) (MDD), which resists the development of residential gardens where there would be harm caused to the local area.
10. The Council cites Policies CP1 and CP5 of the CS in its first reason for refusal. Policy CP1 does not refer to the quantity of housing. Whilst the underlying objective of Policy CP5 is to ensure residential developments provide an appropriate mix of housing, it is silent on proposals that lead to a loss of dwellings. For these reasons I have not found Policies CP1 or CP5 of the CS to be determinative to my consideration of this main issue.

Character and appearance

11. The appeal site lies in the centre of the Shepherds Hill roundabout, on the A4 London Road. The two dwellings on the site form the edge of a larger collection of homes, which are wrapped around on all sides by the Earley Local Centre. The dwellings are separated from the adjacent commercial buildings by a surface level car park and boundary wall. Other commercial buildings nearby include those at the East Reading Retail Centre, a Marks & Spencer Food Hall, and a petrol station. Overall, the local character comprises a mix of residential and commercial developments circumnavigated by busy roads.

12. Other than the tall signage, the proposed building would be single storey in height with a reasonably modest footprint, and its appearance would be functional, yet of a modern design. Whilst it would be located closer to residential properties than the existing commercial units, a spatial buffer would be retained owing to the proposed siting of the drive-through access road and adjacent landscaping. Moreover, the proposed parking area adjacent to 711 London Road (No 711) would reflect the existing scenario whereby the boundary of dwellings abuts a car park.
13. In that regard, the proposal would be responsive to local context and character, in accordance with the general principles for development set out in the Borough Design Guide Supplementary Planning Document (June 2012) (SPD) and the National Design Guide (January 2021).
14. Due to the orientation of 38 Shepherds Hill (no 38), there would be limited opportunity for direct views over the proposed development. Indeed, views from the ground floor windows and garden area would be obscured by boundary fencing, and visibility from the upper floor windows would be at an oblique angle. Furthermore, the deep garden to the rear of No 711 would ensure sufficient separation distance to prevent undue visual harm. The development would be observable from public vantage points, but those views would not be dissimilar to the existing situation, whereby commercial developments and their associated access and car parking areas are seen in close context with residential properties. Overall, there would be no significant or harmful change to the prevailing character of the area.
15. I conclude that there would not be unacceptable harm caused to the character and appearance of the area. Consequently, in respect of this main issue, there would be no conflict with Policies CP1 and CP3 of the CS and the Framework, which taken together and amongst other things, expect development to maintain or enhance the high quality of the environment and to be appropriate to the character of the area. Because I have found no harm arising to the character and appearance of the area, there would be no conflict with Policy TB06 of the MDD in respect of this main issue, insofar as it resists the harmful, inappropriate development of residential gardens.

Living conditions

16. No harm to neighbouring properties has been identified by the Council in respect of overlooking, loss of light, or outlook. Given the dimensions of the proposed building, and the orientation of its windows, there is no reason to conclude differently on these matters.
17. If the appeal were to be allowed, the details of boundary treatments could be secured through condition. This would enable the Council to ensure that there would be adequate screening between the development and neighbouring gardens to protect the security of residents, reflective of the existing situation. It follows that there would be no need for additional physical security measures, and the proposal would accord with the SPD expectation that developments avoid conflict between public and private spaces.
18. The drive-thru café would inevitably generate additional comings and goings near to the garden areas of Nos 38 and 711. However, the local area is already highly trafficked with comings and goings to the existing commercial

facilities, particularly during the daytime and early evening when residents are most likely to be enjoying their gardens.

19. The Noise Assessment (NA) shows that background noise levels are already high due to the consistent flow of traffic around the Shepherds Hill roundabout, which aligns with my own observations of the site. Consequently, and due to the proposed mitigation measures including an acoustic fence, there would be no increase in noise or disturbance to the degree that it would disrupt the ability of neighbouring residents from enjoying their gardens.
20. Overall, I conclude that there would be no unacceptable harm caused to the living conditions of the occupants of neighbouring properties, including Nos 38 and 711, with particular regard to security and disturbance. Therefore, with regard to this main issue, there would be no conflict with Policies CP1 and CP3 of the CS, Policy TB06 of the MDD, and the Framework, which taken together and amongst other things, seek to provide safe developments that secure a high standard of amenity for existing users and to avoid the need for additional physical security measures.

Other Considerations

21. In the terms of the Framework, achieving sustainable development means pursuing economic, social and environmental objectives in mutually supportive ways. Amongst other things, this includes creating the conditions in which businesses can invest, expand, and adapt whilst recognising the locational requirements of different sectors.
22. The entirety of the appeal site forms part of a Major Development Location, where development is generally considered to be acceptable through Policy CP9 of the CS. The Point retail park also forms part of the Shepherds Hill, Earley Local Centre, where town centre uses and those that would enhance the provision of day-to-day facilities are supported in principle through Policies CP13 of the CS and TB17 of the MDD.
23. However, the proposed drive-thru would be sited outside of the defined boundary of the Local Centre as shown on the proposals map, within a well-established residential area. Therefore, whilst the site is immediately adjacent to the Local Centre, it does not carry the explicit support for town centre uses offered by Policies CP13 of the CS and TB17 of the MDD.
24. There would undoubtedly be social and economic benefits arising from the proposal, which weigh in favour of the scheme. It is clearly the appellant's intention that the facility would be occupied by a major international brand. This would attract new customers to the area and would increase footfall and incidental spending in the wider locality. The occupiers of the existing commercial units at The Point retail park support the proposal and could benefit from the increased custom. The development could also provide a destination venue for visitors and local businesses to commune, providing support to the broader local economy.
25. Jobs would be created, both during the construction period, and in the longer term as part of the operation of the facility. The evidence suggests that the development could employ up to 35 people, who would benefit from ongoing training and development as part of these new roles. However, it is not clear from the evidence whether these roles would be full or part time. Further jobs

would be supported indirectly, including through the service industry and supply chain. There would also be an increase in local business rates.

26. However, whilst I attach significant weight to economic development as a matter of principle, the contribution that would be made by a single drive-thru café would be reasonably modest, even where there could be a growing demand for such facilities. Consequently, the economic benefits of the proposal carry moderate weight in the specific circumstances of this appeal.
27. Environmental benefits arising from the proposal would include ecological enhancements and a net-gain in biodiversity. Landscaping and sustainable drainage systems could enhance the public realm, and the proposed building would modernise the appearance of the area. The new building would be energy-efficient, and electric vehicle charging points would support the use of electric vehicles. These benefits carry moderate weight in support of the scheme. However, because I am not persuaded that the existing housing is of such poor quality that it is no longer suitable for habitation, I attach limited weight to the stated benefits associated with the replacement of these older buildings with more contemporary structures.
28. Unlike some other premises for the sale of food and drink, the proposed drive-thru facility has specific locational requirements, due to the need to be proximate to a main road whilst also providing sufficient on-site space for vehicles to move around the building. The appeal site would meet these needs. However, the evidence is not substantive in demonstrating that the appeal site is exclusive in this respect, and it is entirely feasible that other suitable sites could be available or redeveloped with potentially less harm. Therefore, I attach moderate weight to this matter.
29. The site would utilise land that has previously been developed, in an accessible location to which future customers could walk. However, as a drive-thru facility, it is reasonably likely that many customers would drive to the development by private car. Therefore, I do not find the site's accessibility by sustainable modes to be a factor that carries more than moderate weight in favour of the scheme.
30. No harm has been identified in respect of highways matters and parking, environmental health, flooding, or biodiversity in the reasons for refusal. From the evidence, and my own observations, there is no reason to take a different view on these matters. The absence of harm is a neutral matter that weighs neither for nor against the proposal.

Planning Balance

31. Case law¹ has found that proposals do not have to accord with each and every policy to be in accordance with the development plan when read as a whole. However, given that a key objective of the development plan is to ensure the supply of housing, the conflict with Policy CP3 of the CS is sufficient to bring the proposal into conflict with the development plan when read as a whole.
32. The appellant has invited me to consider the proposal under the provisions of paragraph 11(d) of the Framework. This paragraph is engaged when there are no relevant development plan policies, or the policies that are most important for determining the application are out-of-date.

¹ R v Rochdale Borough Council ex part Milne [2000] EWHC 650

33. I have not been directed to any relevant development plan policies that seek to enable economic development outside of town centres, local centres, and neighbourhood and village shops or that provide specific support for drive-thru developments. However, this is not a case where there are no relevant development plan policies because I have found Policy CP3 of the CS and Policy TB06 of the MDD to be relevant to my decision.
34. Because the appeal scheme does not involve the provision of housing, paragraph 11(d) is also not engaged on the basis of the Council's housing land supply shortfall as set out in Footnote 8 of the Framework.
35. In my judgement, the most important policy for determining this appeal is Policy CP3 of the CS, in particular its requirement that development should not result in a net loss of dwellings. This policy pre-dates the Framework. However, the Framework is clear that existing policies should not be considered out of date simply because of their age. Rather, due weight should be given to them according to their degree of consistency with the Framework. Given that a key objective of the Framework is to significantly boost the supply of homes, I find Policy CP3 of the CS to be broadly aligned with the Framework insofar as it is relevant to this appeal. Policy CP3 therefore remains pertinent to my decision.
36. It follows that paragraph 11(d) of the Framework is not engaged, and the proposal does not benefit from the presumption in favour of sustainable development.
37. Whilst I have found no harm in respect of the character and appearance of the area and the living conditions of neighbours, the proposal would lead to the loss of two dwellings contrary to Policy CP3 of the CS. I attach significant weight to this harm. Consequently, even if I were to consider the proposal under paragraph 11(d)(ii) of the Framework, the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

38. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Catcheside

INSPECTOR