
Appeal Decision

Site visit made on 13 June 2017

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 August 2017

Appeal Ref: APP/X0360/W/17/3171083

Valley Nurseries, Whistley Green, Hurst RG10 0DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Hicks Developments Ltd against the decision of Wokingham Borough Council.
 - The application Ref 162219, dated 4 August 2016, was refused by notice dated 22 December 2016.
 - The development proposed is described on the application form as "Demolition of derelict greenhouses. Erection of 16 No dwellings with garages and parking spaces. New access to Whistley Green."
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Decision

1. The appeal is allowed and planning permission is granted for "Demolition of derelict greenhouses. Erection of 16 No dwellings with garages and parking spaces. New access to Whistley Green." at Valley Nurseries, Whistley Green, Hurst RG10 0DX in accordance with the terms of the application, Ref 162219, dated 4 August 2016, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Hicks Developments Ltd against Wokingham Borough Council. This application is the subject of a separate Decision.

Background, planning policy and preliminary matters

3. The appeal site comprises a plot of land associated with a former horticultural nursery. It is located within the settlement boundary of Hurst, as defined within the Wokingham Borough Adopted Managing Development Delivery Local Plan 2014 (Local Plan). Hurst is defined as a Limited Development Location (LDL) within Policy C9 of the Wokingham Borough Adopted Core Strategy 2010 (Core Strategy). This policy allows development within such settlements.
4. It also forms part of an Allocated Reserve Housing Site (ARHS) for around 16 dwellings, as defined within Policy SAL03 of the Local Plan. This policy sets out that ARHSs are allocated for residential development and should only be used for this purpose. However, it goes on to say that on ARHSs there shall be no dwelling completions until after 1 April 2026 unless one of three listed criteria is met. These criteria are: firstly, when the overall dwelling requirement for 13,230 additional dwellings within the Borough between 1 April 2006 and 31 March 2026 is unlikely to be met; secondly, when there is a 5 year housing

land supply deficit; and thirdly, when an approved Neighbourhood Plan confirms that residential development can occur before 1 April 2026. Policy CP17 of the Core Strategy also allows the early release of sites to assist in achieving a 5 year housing land supply and requires that sites in LDLs should not generally exceed 25 dwellings.

5. The Council's first reason for refusal on its Decision Notice makes reference to the appeal site being located outside of settlement limits and, on the basis that it can demonstrate a 5 year housing land supply, that the proposal is unacceptable in principle. The reason for refusal cites conflict with the National Planning Policy Framework (the NPPF); Policies CP3 and CP11 of the Core Strategy; and Policy CC01 of the Local Plan.
6. However, the Council has confirmed that this reason for refusal is incorrect and was added in error. Instead, the Council considers that the first reason for refusal should be substituted with the following: *'The Council can demonstrate a robust 5 year housing land supply and the proposal will result in the premature development of a reserve housing site within a limited development location with limited access to essential facilities and services, contrary to Policy CP1, CP3, CP9 and CP17 of the Core Strategy, CC01 and SAL03 of the MDD Local Plan and section 4, 6 and 7 of the NPPF.'* The appellant was informed of this via a letter from the Council shortly before lodging the appeal and this matter is reiterated within the Council's appeal statement.
7. In addition, the Council's second reason for refusal refers to harm to the countryside and landscape, in conflict with the NPPF, Policies CP3 and CP11 of the Core Strategy and Policy CC03 of the Local Plan. However, the Council has confirmed that any reference to countryside should be ignored. Consequently, Policy CP11 of the Core Strategy which relates to development outside development limits and in the countryside is not of relevance.
8. Notwithstanding the above, during the course of the appeal, the Council requested that the appeal should be held in abeyance. This was to allow it the opportunity to consider the release of the appeal site. The appellant agreed to this request. The Council's executive committee resolved to release the appeal site on 27 July 2017 for the purposes of maintaining a healthy housing land supply. On this basis, the Council has accepted the principle of the proposed development for 16 dwellings and has withdrawn its first 'substituted' reason for refusal and also its second reason for refusal. I have considered the appeal on this basis.
9. There is dispute between the main parties in respect of whether or not the Council can demonstrate a 5 year supply of housing land. This matter would initially have been integral to the outcome of the appeal. However, as the Council has subsequently resolved to release the appeal site for housing development, I do not consider it necessary for me to consider this matter in any further detail here.
10. The Council's third reason for refusal relates to the failure to make adequate provision for affordable housing. The appellant has submitted a completed Unilateral Undertaking (UU) under section 106 of the Act to address this matter. Whilst the Council has not formally withdrawn this reason for refusal, it has confirmed that the provisions of the UU meet its affordable housing requirements. I have considered the UU in the 'other matters' section below.

Main issues

11. On the basis that the Council accepts the principle of development and has withdrawn its first 'substituted' reason for refusal and its second reason for refusal, combined with its views on the submitted UU, there are no main issues to consider in the determination of this appeal.

Other matters

12. I have had regard to the concerns of interested parties, including in respect of character and appearance, access to local services and facilities, pressure on local services, the planning history of the appeal site, highway safety, flooding, ecology, pollution, outlook, noise and disturbance, proximity to a gas producing site and housing mix.
13. In respect of character and appearance, the appeal site contains a number of derelict buildings and greenhouses, areas of overgrown vegetation and areas of managed grassland. It is broadly contained by tightly spaced residential development to the north along Whistley Green (road), to the east along Broadwater Lane and to the west along Lodge Road. Whilst many of these dwelling front these roads, others are setback a considerable distance from them and there are some examples of backland development in the area. As such, there is a varied pattern of development in the locality. Dwellings in the area also display a diverse range of architectural forms and styles and a range of plot shapes and sizes. A dense hedgerow runs along the southern boundary of the appeal site, beyond which lies open countryside. This open countryside provides some physical separation between development within this part of Hurst, known as Whistley Green, and development within the main part of the settlement to the south and south-east.
14. The proposal would maintain a considerable degree of separation from the main part of Hurst and would not extend development any further south than existing dwellings along Lodge Road. The siting of the three terraced dwellings proposed at the front of the appeal site would be consistent with existing frontage development along this road and would not appear out of context as a result. All the proposed dwellings would be of a traditional appearance and would be constructed of materials to reflect the materials of surrounding dwellings. They would be laid out in an informal arrangement and would be of a density similar to that of other dwellings in the area. The hedgerow along the southern boundary of the appeal site would be retained with rear gardens backing on to it. In addition, the incorporation of soft landscaping throughout, including new tree planting, would soften the overall appearance of the proposal. These factors would greatly assist with the integration of the proposal with surrounding dwellings to the north, east and west and with the open countryside to the south. Moreover, given the presence of existing derelict buildings on the appeal site, overgrown vegetation and managed grassland areas, it contributes little to the wider agricultural landscape characteristics of Landscape Character Area (LCA) C2 'Hurst River Terrace'. This, in my view, considerably reduces the sensitivity of this part of the LCA to any change.
15. Consequently, whilst the proposal would result in a reduction in the openness of the appeal site, I do not consider that the measure of incremental change, within the wider context of its surroundings, would constitute any material harm to the character and appearance of the area.

16. The appeal site also partly adjoins a Special Area of Character (SAC), as defined within the Local Plan, which includes a number of properties along Whistley Green (road) and Broadwater Lane. Paragraph 135 of the NPPF requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account. On the basis that I find that the proposal would integrate well with surrounding dwellings and that I find no material harm to the character and appearance of the area, there would be no harm to the significance of the SAC non-designated heritage asset.
17. Hurst has a number of facilities to cater for the daily needs of its residents, including a local shop, a post office, a bakery, a playground, a church, a cricket club and a public house. I was able to walk, at a moderate pace, to all of these facilities from the appeal site within approximately 5 minutes. This would not be an unreasonable distance for any future occupiers of the proposal to access these facilities on foot or by bicycle. In addition, these facilities are mostly accessible along level roadside footpaths. There are also some bus stops within a similar walking distance from the appeal site. These provide an hourly service on Mondays to Fridays and a two hourly service on Saturdays to the larger settlements of Reading and Wokingham. I consider that this would provide any future occupiers of the proposal a reasonable alternative to the use of a private motor vehicle for most days of the week to access the range of services and facilities available within these settlements. I therefore consider that any future occupiers of the proposal would have an acceptable level of access to local services and facilities to cater for their daily needs without the over reliance on a private motor vehicle. In addition, there is no substantive evidence to demonstrate that there would be any undue pressure on such services and facilities.
18. I am aware that a previous planning application for two dwellings within the northern part of the appeal site was refused by the Council and subsequently dismissed on appeal¹. However, that case would have been considered by the Council and the Inspector under a now out dated planning policy context. As such, the circumstances surrounding it are not helpfully comparable to those of the case I am to consider and I afford limited weight to it.
19. With regard to the other matters, these did not form part of the Council's reasons for refusal and on the basis of the evidence before me and my own observations of the appeal site and its surroundings, I have no substantive reasons to consider that they weigh against the proposal.
20. The eastern boundary of the appeal site adjoins the rear garden boundary of Buttercups, a Grade II listed building, located along Broadwater Lane. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission, special regard shall be had to the desirability of preserving the listed building or its setting. A single dwelling, of a single storey in height, is proposed within the eastern part of the appeal site. It would be set within grounds of a generous size and would be sited away from the boundary with Buttercups and a considerable distance from this listed building. All of the other proposed dwellings would be set substantially further away. On this basis, I consider that the proposal would have no detrimental effect on the setting of Buttercups.

¹ Appeal Ref APP/X0360/A/05/1188218

21. Policy CP5 of the Core Strategy requires the provision of 40% affordable housing for the type of development proposed. This equates to 6.4 units in total. Policy TB05 of the Local Plan requires that affordable housing should provide an appropriate mix of accommodation. The completed UU provides for 3, 2-bed, shared ownership housing units on-site and a commuted sum of £417,613.28 towards off-site affordable housing in lieu of the remaining requirement of 3.4 affordable units. This provision accords with the advice of the Council's Senior Strategy Officer and the Council has confirmed that such provision is acceptable. In addition, the evidence indicates a need for affordable housing in the District. I am satisfied that the UU would secure the provision of this affordable housing and that it is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind. Thus, it satisfies the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Paragraph 204 of the NPPF. It also complies with Policy CP5 of the Core Strategy and Policy TB05 of the Local Plan. The provision of affordable housing weighs in favour of the proposal.
22. The proposal would boost the supply of high quality housing in the Borough. It would create a number of construction jobs and would generate additional Community Infrastructure Levy and New Homes Bonus payments for the Council. In addition, it would increase local spending in the area. These benefits also weigh in favour of the proposal.

Conditions

23. I have considered the planning conditions suggested by the Council. I have amended some of these for clarity and conciseness. In addition to the statutory time limit condition, a condition specifying the relevant drawings is necessary as this provides certainty. Conditions relating to finished levels, materials and landscaping are necessary in the interest of character and appearance. Conditions relating to boundary treatment, working hours, construction management, highway construction, garages and vehicular access are necessary in the interests of highway safety and/or living conditions. A condition relating to contamination is necessary in the interests of health and safety. A condition relating to archaeology is necessary in the interests of the historic environment. I also agree that a condition relating to bicycle parking is necessary in the interests of sustainable transport.
24. However, given that the working hours and construction management conditions would limit any disturbance to neighbours, I consider that a condition to require a Communications Plan would be both onerous and unnecessary. In addition, the construction management condition includes provision to minimise dust. As such, a separate condition in this regard is also unnecessary. It is also unnecessary to impose a condition relating to access surfacing as this would be covered within the highway construction condition. Furthermore, I am not persuaded that there are any exceptional circumstances to remove permitted development rights in respect of windows. Finally, as the approved plans do not appear to show any obscure glazed windows and neighbour living conditions has not been raised as a concern by the Council, I consider that a condition to require obscure glazing as shown on the approved plans is unnecessary.

Planning balance and conclusion

25. The Council has resolved to release the appeal site for housing development. Thus, the proposal is acceptable in principle. On the basis of the evidence before me, I consider that there are no other matters which would weigh against the proposal. Moreover, the proposal would provide a number of benefits. There would therefore be no conflict with the development plan for the Borough. The proposal would also fulfil the social, economic and environmental roles of sustainable development as envisaged by Paragraph 7 of the NPPF. Accordingly, for the reasons set out above and having regard to all other matters, I conclude that the development of the appeal site as proposed would be acceptable and that the appeal should be allowed.

Alex Hutson

INSPECTOR

SCHEDULE OF CONDITIONS:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2327 112J; 2327 02; 2327 03; 2327 04; 2327 05A; 2327 06A; 2327 07A; 2327 08; 2327 09; 2327 10A; 2327 11A; 2327 12; 2327 13; 2327 14; and 2327 15.
- 3) No development shall take place until full details of the finished ground floor and roof levels, above ordnance datum, of the buildings hereby permitted, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 5) No development shall take place until details of boundary treatment have been submitted to and approved in writing by the local planning authority. Boundary treatment shall be implemented in accordance with the approved details prior to the occupation of the development hereby permitted and shall be retained and maintained thereafter.
- 6) Demolition or construction works shall take place only between the hours of 0800 and 1800 on Mondays to Fridays and 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No demolition or development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with the relevant British Standard, has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 8) No development shall take place until full details of the drainage system for the site have been submitted to and approved in writing by the local planning authority. The details shall include:

1. Results of intrusive ground investigations demonstrating seasonal high groundwater levels for the site and infiltration rates in accordance with current best practice;
2. A drainage strategy plan with appropriately sized sustainable drainage features;
3. Demonstration that the base of sustainable drainage system features are at least 1 metre above seasonal groundwater level;
4. Full calculations demonstrating the performance of soakaways or capacity of attenuation features to cater for a 1 in 100 year flood event with a 40% allowance for climate change; and
5. A maintenance arrangement for the sustainable drainage features throughout the lifetime of the development.

The drainage system shall be implemented in accordance with the approved details prior to the occupation of the development hereby permitted and shall be maintained in accordance with the approved details thereafter.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), the garage accommodation as shown on the approved plans shall be kept available for the parking of vehicles ancillary to the residential use of the site at all times.
- 10) No development shall take place until details of secure and covered bicycle parking facilities for the occupants of and visitors to the development hereby permitted have been submitted to and approved in writing by the local planning authority. The bicycle parking facilities shall be implemented in accordance with the approved details prior to the occupation of the development hereby permitted and shall be permanently retained in the approved form thereafter.
- 11) Prior to the occupation of the development hereby permitted, the vehicular access and visibility splays as shown on the approved plans shall be provided and land within the visibility splays shall be maintained clear of any obstruction exceeding 0.4 metres in height thereafter.
- 12) No demolition or development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall provide for:
 1. The parking of vehicles of site operatives and visitors;
 2. The loading and unloading of plant and materials;
 3. The storage of plant and materials;
 4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 5. Wheel washing facilities;
 6. Measure to control the emission of dust and dirt; and
 7. A scheme for the recycling/disposal of waste.

The CMS shall be adhered to throughout the demolition and construction period.

- 13) No development shall take place until details of the construction of roads and footways, including levels, widths, construction materials, depths of construction and any lighting has been submitted to and approved in writing by the local planning authority. Roads and footways shall be constructed in accordance with the approved details to road base level prior to the occupation of the development hereby approved and the final wearing course and any lighting shall be provided within 3 months of the occupation of the development hereby permitted.
- 14) No development shall take place until details of a landscape scheme has been submitted to and approved in writing by the local planning authority. The details shall include the species, sizes and numbers of trees and plants and their spacing and the details of any existing trees and plants to be retained. The landscape scheme shall be implemented in accordance with the approved details within the first planting and seeding seasons following the occupation of the development hereby permitted.

Any trees or plants which, within a period of 5 years from the date of planting (or within a period of 5 years of the occupation of the development in the case of any retained trees or plants) die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

- 15) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation, which shall have first been submitted to and approved in writing by the local planning authority.