



Appeal Decision

Hearing held on 15-16 March 2016

Site visit made on 16 March 2016

by **Elizabeth Hill BSc(Hons) BPhil MRTPI**

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

Decision date: 22 April 2016

Appeal Ref: APP/R0335/W/15/3139035 Land at Tilehurst Lane, Binfield, Berks

- 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 JPP Options Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 15/00452/OUT, dated 19 May 2015, was refused by notice dated 25 September 2015.
 - The development proposed is the erection of 28 No. dwellings, new open space, landscaping, together with new vehicular and pedestrian access from Tilehurst Lane.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application is in outline form, with only the means of access to be determined at this stage.
 3. A Statement of Common Ground (SoCG) and a signed S106 agreement were submitted at the hearing. The latter document covers open space of public value, sustainable drainage, affordable housing and translocation and mitigation for reptiles. This is discussed under the relevant main issue below.
 4. The appellant submitted an amended plan for the access with the appeal, Ref SK003revC, which shows changes to the radii of the access, with a maximum change of 0.95m, to accommodate larger vehicles. Although this would be a change to the application on which the Council made their decision, there are circumstances in which amended plans can be considered, in the light of the Wheatcroft principle. The highways witness for the informal residents' group, the residents of Tilehurst Lane, said that accepting amended plans could mean that important ecological and arboricultural matters were not taken into account. However, I consider the change to be minor, with only an additional sliver of land to be taken on each radius. There would be no change to the siting of the access, the effect on protected trees or the area of land to be cleared for visibility splays and hence little change to the ecological and arboricultural impacts as a result of accepting the amended plan.
 5. Whilst the changes could have been made during the planning application stage, the Council's view is also that the amendment is minor and would be
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capable of being secured by condition. I agree with this view and have based my decision on the amended plan.

6. At the hearing, the Council stated that they had had an opportunity to examine the amended plan and it would overcome their second reason for refusal. However, the local residents still object to the proposal on the grounds of highway safety and this is discussed under other matters, below.

Main Issues

7. In the light of the procedural matters above, I consider the main issues in this case are:
 - 1) the effect of the proposed development on the character and appearance of the area;
 - 2) the effect of the proposed development on infrastructure, affordable housing and wildlife; and,
 - 3) whether the proposed development constitutes sustainable development.

Reasons

Policy Background

8. The Council has confirmed that they do not have a 5 year housing land supply and they are progressing a new comprehensive Local Plan (LP), including site allocations to 2036. In the signed SoCG the supply was agreed to be 2.73 years. However, as part of the LP preparation a new Strategic Housing Market Assessment (SHMA) has been undertaken for Councils in the Thames Valley Berkshire Local Enterprise Partnership area, which was published in March 2016. The Council's view is that this represents the most up to date figure and shows a 3.59 year supply. However, this is based on the removal of the deficit prior to 2013. Such issues would need to be assessed at the LP examination and until that has taken place the SHMA has limited weight.
9. In cases where the Council cannot demonstrate a 5 year housing land supply, paragraph 49 of the National Planning Policy Framework (NPPF) says that relevant policies for the supply of housing cannot be considered to be up to date. In the SoCG it was agreed that saved policies EN8 and H5 of the Bracknell Forest Borough Local Plan (2002)(BLP) and policies CS2, CS9 and CS15 of the Bracknell Forest Core Strategy (2008)(CS) were out of date. The appellant's view is that section viii) of policy CS1 of the CS is also a blanket policy protecting local landscape and the wider countryside. However, I consider that is more in keeping with the core planning principle which seeks to recognise the intrinsic character and beauty of the countryside in paragraph 17 of the NPPF, rather than for the supply of housing. Paragraph 49 of the NPPF also requires that housing applications should be considered in the context of the presumption in favour of sustainable development in paragraph 14 of the NPPF and, in this case, policy CP1 of the Site Allocations Local Plan (2013)(SALP), which reiterates the presumption, also applies.

Character and appearance

10. The proposed development would take place on land which is bordered by Tilehurst Lane, Church Lane including Toll House, kennels and their access road and agricultural land. Tilehurst Lane is bordered on one side by mainly

detached houses with mature gardens, suburban in style. However, the opposite side of the lane is lined by mature trees, many of which are protected by a Tree Preservation Order (TPO). The lane, which does not have footways for most of its length and is unlit, retains its semi-rural character on the edge of the countryside. Church Lane is more rural in character, with development being more sporadic, with protected trees and a copse on the site boundary. The rural nature of this area is re-enforced by the other, more rural, land uses surrounding this part of the site, including the kennels and the equestrian uses at Toll House which, although not attractive, are intrinsic to its character.

11. In the previous appeal, it was found that the concept of the site as a valued landscape, as set out in paragraph 109 of the NPPF, was not particularly helpful in identifying areas which should or should not be developed. The Council has continued to advance the view that the site is a valued landscape in this appeal. I understand that local residents and those experiencing the views, especially from Tilehurst Lane as a promoted bridleway, of the land might appreciate its general qualities but in my view, since the land is not protected through local or national designations, it needs to have intrinsic quality that can only be undertaken through the examination of its character.
12. A number of landscape character studies have been undertaken at various scales. The site lies within National Character Area 115: Thames Valley and in the Berkshire Landscape Character Area (2003) is in area L1: Shurlock Row Open Clay Lowlands. Given the size of the site, the more recent local character studies are more pertinent to consideration of the proposal. In the Entec Study (2006) the site was placed in area CL2, Binfield Open Clay Farmlands, a large area to the north and west of Binfield, within which a moderate degree of change could be accommodated.
13. The Broad Areas Landscape Capacity Study 2010 placed the area in Area 5.C1 and also showed a moderate capacity for change, but required the retention and enhancement of key landscape characteristics. At the hearing, it was made clear that the Council regarded the 30% of the area (which is much larger than the site itself) which could be developed was based on previously-developed areas, like the garden centre and the kennels. In this case the majority of the development would be greenfield. However, the study also noted major landscape constraints including respecting the local settlement pattern and landscape features including the rural character of Tilehurst Lane, tree cover along Tilehurst Lane and Church Lane, the rural setting of Binfield Park, open views out to the countryside, views down Tilehurst Lane and the rural setting to east Binfield.
14. The site was also considered in the options for the SALP in 2011. The only options which were considered further in the process were numbers 7 and 10. These were subsequently rejected on the grounds that a major expansion had already been agreed for the village and the development of this site would mean that it was encircled, losing its rural context. However, these more favoured options were markedly different from that currently proposed in having development only bordering Tilehurst Lane and not including any development in depth, by excluding the land at Toll House and beyond.
15. The Borough Landscape Character Assessment (2015) is the most up to date assessment, published after the last appeal and replacing the Entec study. The landscape strategy for Area A, which covers Binfield and included similar valued

- features to that study which included: clusters of trees and tree groups; parkland landscapes including Binfield Park; the open and rural character of the landscape providing a buffer to the settlement of Binfield; the quiet and rural character and a sense of openness, including the rural character of villages and rural lanes. Having regard to the above landscape studies, the site and the wider surrounding area taken together appear to have some of the physical characteristics which would make it a valued landscape, but I do not find that the site in itself would be a valued landscape under the terms of paragraph 109 of the NPPF, given its inclusion of less attractive elements such as the equestrian activities at Toll House and the impact of the kennels and agricultural building in the immediate vicinity. Nevertheless, it still has many intrinsic landscape qualities and the development proposed needs to be considered against the relevant landscape and countryside policies of the development plan and the NPPF.
16. Both the Council and the appellant have carried out their own Landscape and Visual Impact Assessments (LVIAs), based on the current professional guidelines. The appellant's LVIA concluded that the site is visually contained and that the landform and trees prevent local and medium views of the site and, although there would be moderately significant short-term effects these would reduce to "not significant" after 15 years. It also found that the landscape is able to accommodate the change. The Council's view was there would be a significant adverse impact on the many of the sensitive receptors, including local residents, the users of the bridlepath and road on Tilehurst Lane and the rural approach to the village on Church Lane. It also indicates a significant impact on views of the rural character and appearance of the appeal site and this edge of Binfield, with a medium to high magnitude of change.
 17. Turning first to the character of Tilehurst Lane, it forms the edge of the settlement in respect of the policies which are now considered out of date. Nevertheless, the lane forms a strong visual break between the more suburban area of Binfield, represented by the dwellings on one side of the lane and the open, rural area beyond on the opposite side of the lane. In views this can be appreciated mainly from the lane itself through breaks in the hedgerow and trees, rather than elsewhere. However, the proposal would be a marked adverse change from the open, rural, pastoral character of the main area of the site, which I consider to be moderately attractive in its own right, to a developed residential area.
 18. The proposed development would be for 28 dwellings, a reduction on the previous appeal scheme (APP/R0335/A/14/2219888) for the site for 71 dwellings. The latter scheme was based around a relatively dense estate style of development on culs-de-sac off a spine road through the site. The current proposal would be less dense but would still comprise development across the whole of the site with housing, road and drainage infrastructure and private gardens, with public open space in the centre. The housing would be in two clusters which the appellant says is similar to development in the rural area. However, beyond Tilehurst Lane, development becomes more limited and sporadic and is not clustered in the way proposed. The development in depth on the site, including the land at Toll House, would not be in keeping with development patterns in the rural area, nor the development which was originally considered further under Options 7 and 10 in the SALP options. As such the proposal would not maintain the rural character of Tilehurst Lane and the landscape to the north east of Binfield.

19. The proposal would be set back from Tilehurst Lane with rear garden areas buffering the effect of the development and there would be a reduced number of houses backing onto the lane compared to the previous appeal. The trees along the lane would be preserved and the bramble undergrowth cleared but until the proposed underplanting on the site became established there would be some filtered views of the housing from the lane through the proposed stock fencing. In addition, whilst the style of fencing installed with the development could be controlled by condition, I consider that over time there might well be pressure for close boarded fencing to the end of rear gardens facing Tilehurst Lane and in areas close to the kennels and its access to protect privacy and screen views of traffic. This would be likely to give a hard edge to the development and introduce a suburban feature to the rural environment.
20. The clustering of the development away from the entrance would reduce views of the site from the lane by drivers but those walking or riding would be likely to see the development, especially the eastern group in views through the entrance. At present the site has such features as open wire fencing and field gates along Tilehurst Lane, in keeping with its rural character. The proposal would need a bellmouth road opening to the development in order to comply with highway requirements. Although it would not result in the removal of any trees, it would create a large open gap in the frontage to Tilehurst Lane and introduce an incongruous, suburban feature in the form of the bellmouth to the rural lane.
21. Although the appellant claims that it would be possible to retain views through the site to the rolling countryside and the features associated with Binfield Park beyond, the illustrative plan shows new tree planting within the site which would screen such views. It is proposed that a management company would be set up to manage things like sustainable urban drainage but also the common areas, including the area of public open space in the centre of the development. However, the maintenance company and not the Council would have control over how the area was managed after the initial planting and there is no certainty that future residents would not wish it to be mown or introduce other planting or suburban features to it.
22. There are currently views of the site through the trees from Church Lane, from which one of the clusters of housing would be visible. Even in summer, there is little undergrowth in this area to screen the site and, although the appellant has said that there would be further underplanting, the views and the harm would remain until the planting developed. Across the whole site there would be activity associated with its residential use, including noise, vehicle movements and lighting, at least within the housing, even if the access road and junction were not lit.
23. Although I have concluded that the site would not be valued landscape in the terms of paragraph 109 of the NPPF, in the main the site is attractive countryside in its own right and any development would need to be of a scale and design which would respect its qualities. In this case the scale of the development, its physical extent, elements of its design set out above and the level of activity associated with it would have a significant adverse effect on the character of the area and attempts to prevent an adverse effect on the appearance of the area would not be effective in the short-term.

24. Therefore, I conclude that the proposed development would be harmful to the character and appearance of the area, contrary to policy EN20 of LP, which requires development to be in sympathy with the appearance and character of the local environment and retain and, where reasonable, enhance landscape features, policies CS1 and CS7 of the CS, which include protecting and enhancing the character and quality of local landscapes and the wider countryside and build on local character, and bullet point 5 of paragraph 17 of the NPPF, which seeks to recognise the intrinsic beauty of the countryside.

Infrastructure, affordable housing and wildlife

25. The S106 agreement makes provision for sustainable drainage and on-site public open space. These would be required to comply with a Written Ministerial Statement and subsequent changes to and Planning Practice Guidance and policy R4 of the BLP, respectively. The affordable housing at 25% would be required by policies CS16 and CS17 of the CS, policy H8 of the BLP and the Planning Obligations SPD and this would result in 7 dwellings, 5 for Affordable Rent and 2 for Intermediate Housing. It would also conform to the Council's other requirements for affordable housing. Anecdotal reports of reptiles using the site have been received and the ecological survey has confirmed the suitability of the site for adders, which are protected under the Wildlife and Countryside Act 1981. The agreement provides for the translocation of any reptiles found and the improvement of an off-site area for mitigation approved by the Council. This proposal would comply with policies CS1 and CS7 of the CS.
26. In their evidence the Council said that they would no longer pursue reasons 3, 4 and 5 for refusal provided that suitable planning obligations were put in place to cover the above issues. The signed S106 agreement meets their requirements and I find the obligations to be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. As such they would meet the policy set out in paragraph 204 of the NPPF, CIL Regulation 122 and the development plan policies quoted above and have weight in this appeal. Therefore, I agree that reasons for refusal 3, 4 and 5 have been overcome.

Sustainable development

27. Paragraph 49 of the NPPF requires housing development to be considered in the context of sustainable development, with paragraph 7 saying that this has economic, social and environmental roles. The proposal would support the local economy by providing construction work and new residents would help to support shops and services in the local area. However, the Borough Council's view is that the local economy is buoyant with numerous housing construction projects underway along with the redevelopment of Bracknell town centre. The number of new residents would be small and local residents have said that currently local infrastructure is stretched, a situation which might continue until the large planned developments nearby provide improved services locally. Therefore I give any economic benefits of the development little weight.
28. In terms of its social role, the proposal would bring forward new housing, including affordable housing, in a situation where there is no 5-year housing land supply. Whilst the number of dwellings would be small, it would help to improve this situation provided that it would be built out during the 5-year period and this matter has moderate weight. The appellant also mentions high

quality living, footpath improvements and increased public open space, which exceeds the amount required by policy. However, the high quality living is required by policy in any event, the footpaths would only be likely to be used by those living on the site and a much larger area of public open space would be provided as part of the Blue Mountain development and I give very little weight to these matters. In consideration of the social role of the proposal I give moderate weight in support overall.

29. In terms of its environmental role, the appellant claims that the proposal would have limited impact on the countryside beyond the site or on views of Binfield looking inward and that the Inspector in the previous appeal came to a similar conclusion. Although that might be the case, the overall conclusion on that appeal was that there would be very considerable harm as a result of the proposal on the character and appearance of the area. I have concluded that overall there would be significant harm as a result of the proposal in terms of character and appearance. The lessening of the harm does not make the proposal acceptable and there is significant weight against it. The retention of protected trees, the lack of impacts on heritage assets, lack of harm to highway safety and the site's location outside the Green Belt retain the status quo and do not attract any positive weight. Low carbon homes and mitigation for reptiles would be required in any event by policy. The Inspector in the previous appeal accepted that it would be likely that most trips from the site would be by car, since public transport links are limited, which detracts from the sustainability of the proposal.
30. The proposal would attract little weight in terms of its economic impact and moderate weight in terms of its social impact. However, this would be more than outweighed by the significant harm to the environment. Therefore I conclude that the proposal would not be sustainable development in terms of paragraph 14 of the NPPF or policy CP1 of the SALP and the presumption in favour of sustainable development would not apply.

Other matters

31. The residents of Tilehurst Lane group commissioned their own highway safety evidence. Even if the amended plans are taken into account, their view was that the junction with Tilehurst Lane would be narrow and would be tight for a large HGV such as a refuse vehicle to turn into and out of the proposed development. In such situations, even with smaller refuse vehicles, it is likely that flow would be disrupted at the entrance while one vehicle waited for the other to pass. However, such situations would be infrequent with the number of houses now proposed and the highway authority's view is that with the additional width on the radii, any risk has been managed.
32. A similar situation exists due to the width of Tilehurst Lane, an Ancient Highway and promoted bridleway. The widths are such that large vehicles and cars cannot easily pass and one or the other slows and pulls over to pass. Such behaviour was witnessed on the site visit. Given the nature of Tilehurst Lane, with green verges, ditches and vegetation contributing to its character, widening with tarmac passing places and paved footways would not be acceptable. However, the width has some benefits in reducing speeds which assists with highway safety, including for pedestrians and other non-motorised users.

33. Tilehurst Lane is subject to a 30 mph speed limit. The residents' group claims that speed has been underestimated by the appellant (at about 30mph at 85%ile) by placing counters near to the difficult junction of Tilehurst Lane with Church Lane, near the Stag and Hounds public house. Near the proposed access they estimate it to be 34-35mph at the 85%ile, which would require 50m splays, rather than the 43m ones proposed by the appellant, which would cause further loss of vegetation. Local residents say that parking on Tilehurst Lane also takes place at times up to the proposed access when the public house is busy and this creates a further hazard. Nevertheless, the appellant has chosen the optimum point for visibility for the access and I consider that it would be suitable for the level of traffic and speeds on Tilehurst Lane, which is also the highway authority's view.
34. The appellant has made reference to Tilehurst Lane as being suitable for pedestrian use, having regard to the criteria in Quiet Lanes advice, although that designation does not apply to the road. However, increases in traffic from the proposal are small (about 1.2-1.5% at peak hours) and the use of the road by pedestrians and non-motorised users would not be adversely affected by such a minor increase. The pedestrian links which have been provided within the site would mainly be used by new residents since the route would be longer than Tilehurst Lane for other users. As such they do not provide improved links for pedestrians and cyclists which, as set out in the written representations of the Parish Council, is required on non-strategic sites by the Binfield Neighbourhood Plan, which has significant weight having passed its referendum stage. However, improvements could not be achieved without a widening scheme on Tilehurst Lane which would adversely affect its character. Finally, the residents have said that a safety audit should have been carried out for the scheme by the highway authority. At the hearing, the highway authority confirmed that an audit was not required by them in every case.
35. There are a number of strategic development sites being developed around Binfield and local people expressed their concern about the effects of the scale of development on the village and queried the need for further development, with issues of social cohesion and the management of large scale cumulative change being raised. However, most of the sites are coming forward as part of the development plan allocations, with the management of infrastructure and facilities coming forward as part of the development. Concerns were also raised about the potential for noise from the kennels to affect occupiers of the new dwellings. A noise survey commissioned by the appellant shows that noise can be adequately controlled through a suitably-worded condition.
36. None of the other matters put to me alter my conclusions on the main issues and are neutral in the balance on the sustainability of the proposal.

Conclusions

37. I have concluded that there would be significant harm to the character and appearance of the area and that this would not be outweighed by the benefits of the proposal. As such, it would not constitute sustainable development as defined by the NPPF and it would not be in accordance with the development plan, taken as a whole. Therefore for the reasons given above and having regard to all other matters raised, including a limited number of supporting representations, I conclude that the appeal should be dismissed.

E A Hill

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Douglas Bond, BA(Hons) MRPTI, Woolf Bond Planning
Alan Lewis, CMILT I.Eng FIHE, WSP Parsons Brinkerhoff
Julian Cooper BSc(Hons), DipLD, AILA, SLR

FOR THE LOCAL PLANNING AUTHORITY:

Martin Bourne, Planning Team Manager, Bracknell Forest Council
James Turner, BEng(Hons), MCIHT, Highways, Bracknell Forest Council
Bettina Kirkham, DipTP, BLD, CMLI, Kirkham Landscape Planning Ltd

INTERESTED PERSONS:

David Phillips C.Eng FIET BSc	Local resident
Lizzie Stunt, MIC DIC, CSP	Transport Planner for Residents of Tilehurst Lane
Cllr Terry Dilliway	Binfield Parish
Anne Phillips BA	Local resident
Cllr Chris Turrell	Local councillor
Cllr Sarah Peacey	Local councillor
Mr B Lewington	Local resident
Emma Taylor	Local resident
Karen and Duncan Fraser	Local residents
Joe Horan	Local resident
Carol Butler	Local resident
Sarah Cole	Local resident
Marlene Dougall	Local resident
Brian and Sally Colby	Local residents
Alison Collett	Local resident
Sue Page	Local resident
John and Dee Mitchell	Local residents

DOCUMENTS SUBMITTED AT THE HEARING

LA1 – Five year housing land supply update

APP1 - HM Treasury, Fixing the foundations, extract
APP2 - Report, Bracknell Forest council, land at rear of 4 Hayley Green Cottages
APP3 – Core Strategy Key Diagram
APP4 - Plan 1213-SK-004B, pedestrian connections

J1 – Signed S106 agreement
J2 – Signed Statement of Common Ground
J3 – Suggested conditions

IP1 – Map, Planned development within 2 mile radius of the appeal site, submitted by Cllr Peacey