



Appeal Decision

Site visit made on 4 December 2018

by Baljit K Muston BA(Hons) PGDip MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2019

Appeal Ref: APP/W0340/W/18/3211943

**Land north of Stretton Close, Bradfield Southend, Reading, Berkshire
RG7 6EN**

- 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 Westbuild Homes Ltd against the decision of West Berkshire Council.
 - The application Ref 17/03411/OUTMAJ, dated 6 December 2017, was refused by notice dated 23 May 2018.
 - The development proposed is outline permission for 11 dwellings, with layout, means of access and scale to be determined.
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Decision

1. The appeal is allowed and outline planning permission is granted for 11 dwellings on land north of Stretton Close, Bradfield Southend, Reading, Berkshire RG17 6EN, in accordance with the terms of the application, Ref 17/03411/OUTMAJ, dated 8 December 2017, and the plans submitted with it, subject to the conditions contained in the schedule of conditions set out below.

Procedural Matters

2. The application is in outline form and the submitted plans are to be treated as indicative in relation to appearance and landscaping.
3. The Council's statement was received after the due date and the appellant has queried this and requested that I give further consideration to this issue. It is clear to me from the Council's refusal reason, submitted by the appellant, and from the appellant's grounds of appeal, what the Council's case amounts to. I do not consider that the appellant was prejudiced by the Council's statement of case, which set out their case more fully, being before me for consideration.

Main Issue

4. The main issue is whether the appeal site is suitable for housing, with regard to the character and appearance of the area, the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and the policies of the West Berkshire Housing Site Allocations Development Plan Document 2006-2026 (adopted 2017) (HSADPD).

Reasons

5. The appeal site is allocated by Policy HSA22 of the HSADPD, for "*approximately 10 dwellings*". This policy includes requirements that the site will be developed in accordance with the Landscape Capacity Assessment (2014), that an arboricultural survey will be required to inform its delivery, that it will include the retention and enhancement of the existing tree belt and woodland group in the north western corner, and that the small woodland group in the eastern corner will be retained. Many of these trees are protected by a Tree Preservation Order (TPO). It appears that at the time the site was allocated, the developable area was defined, which excluded the north-western corner of the site. The defined settlement boundary of Bradfield Southend was then drawn to exclude that corner of the site. Policy C1 of the HSADPD says that "*there will be a presumption against new residential development outside of the settlement boundaries*".
6. It is clear from the evidence before me that the proposed layout in the appeal scheme has been informed by an Arboricultural Impact Assessment (AIA) and by a Landscape and Visual Impact Assessment (LVIA). It has therefore taken full account of the constraints that caused the Council to draw the settlement boundary as it did.
7. I noted on my site visit that the appeal site as a whole is visually contained by the protected trees along its south-western and north-western boundaries. Other than being to the west of some outlying trees within the field, there is little to differentiate that part of the field outside the settlement boundary, where plots 7 and 8 are proposed, from the rest of the field within the settlement boundary. The protected trees will all be retained and the proposed dwellings logically constrained by the appeal site's well defined boundaries. The development would not result in visually isolated or sporadic dwellings in the countryside, as they would be seen as part of the existing settlement. The layout of the dwellings would be in keeping with the pattern of development in Bradfield Southend. I am satisfied that, subject to the control that exists at reserved matters stage, the dwellings could be designed to be sensitive to local character and architectural styling.
8. In relation to the wider AONB, paragraph 172 of the National Planning Policy Framework (the Framework) says that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. It also says that planning permission should be refused for major development, other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. In footnote 55, it explains that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
9. The Council's Committee report says that, "*taking into account the amount of development, comparative to the size of the settlement, the location on the edge of the settlement, along with Bradfield Southend's relationship with Newbury, Pangbourne Reading and Thatcham's built up areas, it is considered that the proposed development does not amount to major development in terms of paragraph 116*" of the Framework. I agree with this assessment that the appeal proposal does not amount to major development within the AONB.

10. Taking into account all of the above, the proposal would be seen as a limited extension of the existing settlement that would be visually contained by mature landscaping that is within the site. As such, the scheme would have a neutral impact on the sense of remoteness and tranquillity associated with the AONB and its landscape and scenic beauty would be preserved.
11. I accept that the appeal proposal is contrary to Policy C1 of the HSADPD, by including residential development outside the settlement boundary. Section 38(6) of the Planning and Compulsory Purchase Act (P&CPA) 2004 says that *"if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*. In this case, the whole site is allocated for housing by Policy HSA22 of the HSADPD, the appeal proposal has been informed by an AIA and LVIA, the TPO trees would be retained, and the character and appearance of the area would not be harmed. I consider these to be significant material considerations that indicate that a decision otherwise than in accordance with Policy C1 of the HSADPD is appropriate in this case.
12. The Framework supports a plan-led approach to development. However, in my opinion, allowing this appeal is in line with the approach set out in the Framework and would not undermine the purposes of the development plan.
13. I conclude that the appeal site, including plots 7 and 8, is suitable for housing, and that the proposal would not harm the character and appearance of the area and would preserve the landscape and scenic beauty of the AONB.

Other Matters

14. Local residents have raised other matters, including the possibility of flooding, the inadequacy of the water supply and the proposed access, and harm to wildlife on the site. However, I note that none of the relevant consultees have objected on these grounds and nothing that I have read or seen on site persuades me that these matters outweigh my conclusion on the main issue.

Unilateral Undertaking

15. The appellants have submitted a signed and dated unilateral undertaking (UU), which provides for 4 of the 11 new dwellings to be affordable housing, 3 as social rented dwellings and 1 as a shared ownership dwelling. This is in line with that sought by the Council as set out in its Committee report, and no further comments on the UU have been received from the Council.
16. Regulation 122(2) of the Community Infrastructure Levy Regulations and paragraph 56 of the Framework both set out the three tests for a planning obligation constituting a reason for granting planning permission. These are that the obligation should be necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development.
17. Policy CS6 of the West Berkshire Core Strategy (2006 – 2026) (CS), adopted in 2012, deals with affordable housing. It explains the need for affordable housing in West Berkshire. It seeks, by negotiation, on development sites of 15 dwellings or more (or 0.5 hectares or more) 30% provision on previously developed land and 40% on greenfield land. The appellant's UU satisfies this policy, which is itself in line with the Framework's advice on providing adequate

affordable housing. The UU is necessary to comply with Policy CS6 and to make the development acceptable in planning terms. By providing the affordable housing as a proportion of a development of market housing, the UU is directly related to the development. By meeting Policy CS6 of the CS, but not providing more affordable housing than has been sought, it is related in scale and kind to the development. The UU therefore meets the three tests and is appropriate.

Conditions

18. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.
19. The wording of the time limit condition has been altered to reflect that of S92(2) of the Town and Country Planning Act 1990 (as amended). A condition relating to compliance with the approved plans is necessary, in the interests of providing clarity and certainty. The suggested hours of work condition is also necessary, to protect nearby residential occupiers, as is a condition requiring the appellants to notify the Council of any unexpected contamination.
20. I agree that it is necessary to agree details of construction management and methods and, given that this deals with what may happen on and around the site as soon as development starts, that this needs to be agreed prior to work commencing. I do however agree with the appellants that the two proposed conditions can be combined and need not be prescriptive, as the Council can reject proposals that do not deal with relevant areas. As suggested by the appellants, I have also combined the two conditions requiring details of surfacing of the access to be submitted.
21. I agree with the Council that conditions are necessary to require the provision of parking and cycle parking in the interests of highway safety and promoting sustainable means of transport respectively. A condition is needed to ensure the provision of sustainable drainage, although this need not be as prescriptive as suggested by the Council. I am imposing a condition requiring ecological mitigation to take place, as set out in the submitted Phase 1 Habitat Survey Report, in the interests of the ecology of the area. Given the importance of the protected trees on and around this site, I consider it necessary to impose a condition requiring development to take place in accordance with the AIA. Landscaping is a reserved matter, so a separate condition requiring a landscaping scheme is not required.
22. The appellants have suggested that, as the site is largely level and well screened, a condition requiring details of any spoil removal to be agreed is not relevant. However, I note that part of the Council's reasons for suggesting this condition is "*to ensure appropriate disposal of spoil from the development*". I agree that this is a valid reason for imposing the condition, which I have amended to only apply if spoil is to be removed, and to be less prescriptive.
23. The Council has also suggested a condition removing many permitted development rights from the new dwellings. However, paragraph 53 of the Framework says that "*planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do*

so". I have not been provided with such clear justification and have therefore not imposed this condition.

24. The appellants in their final comments have stated that they are "*generally in agreement with the planning conditions proposed by the LPA*". They have not objected to any of these proposed conditions being pre-commencement conditions. I have therefore taken this as agreement to that element of the relevant conditions.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed and planning permission should be granted.

Baljit K Muston

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) The development hereby permitted shall be carried out in accordance with drawing number 5085/201 REVISION B; 16.48-105; 16.48-106; 16.48-107 and CV8160478/SK01 REVISION P2 received on 18 December 2017, drawing number 16.48-101 REVISION F; 16.48-102 REVISION B; 16.48-104 REVISION A and 16.48-103 REVISION D received 27 February 2018; 903-02 and any plans and details approved under any subsequent approval of reserved matters applications and any conditions attached to such approvals.
- 4) Demolition or construction works shall take place only between 07:30 and 18:00 on Mondays to Fridays, between 08:30 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) Should any unforeseen contamination be encountered during the development, the developer shall inform the Local Planning Authority immediately. Any subsequent investigation/remedial/protective works deemed necessary by the Local Planning Authority shall be carried out to agreed timescales and approved by the Local Planning Authority in writing. If no contamination is encountered during the development, a letter confirming this fact shall be submitted to the Local Planning Authority upon completion of the development.
- 6) No development shall commence until a Construction Management Plan/Method Statement has been submitted to the Local Planning Authority. The plan/statement shall be implemented in full and retained until the

development has been constructed. Any deviation from this Statement shall be first agreed in writing with the Local Planning Authority.

- 7) No development shall take place until details of the surfacing arrangements for the vehicular access to the highway have been submitted to and approved in writing by the Local Planning Authority. Thereafter the surfacing arrangements shall be constructed in accordance with the approved details.
- 8) No dwelling shall be occupied until the vehicle parking and/or turning space have been surfaced, marked out and provided in accordance with the approved plans. The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.
- 9) No dwelling shall be occupied until details of the cycle parking and storage space have been submitted to and approved in writing by the Local Planning Authority. No dwelling without a garage shall be occupied until the cycle parking and storage space has been provided in accordance with the approved details and shall be retained for this purpose at all times.
- 10) No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted to and approved in writing by the Local Planning Authority. These details should be in accordance with the principles of the Glanville Flood Risk Assessment (dated 4 December 2017).
- 11) No development shall commence until a scheme of ecological mitigation and management including a plan showing locations of any proposal has been submitted to and approved by the Local Planning Authority. The scheme of mitigation shall be informed by the conclusions and recommendations within the submitted Phase 1 Habitat Survey Report dated November 2017 by Ecoconsult Wildlife Consultancy. The approved mitigation shall be retained thereafter.
- 12) The development shall be carried out in accordance with the Arboricultural Impact Assessment prepared by S J Stephens ref 903 and dated 29 September 2017.
- 13) No spoil shall be removed from the site until full details of how any spoil arising from the development will be used and/or disposed have been submitted to and approved in writing by the Local Planning Authority.